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# Congressional Record

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# House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. LARSEN of Washington).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*May 13, 2008.*

I hereby appoint the Honorable RICK LARSEN to act as Speaker pro tempore on this day.

NANCY PELOSI,
*Speaker of the House of Representatives.*

## MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2007, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 32 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. POMEROY) at 2 p.m.

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, today, the ancient but bold wisdom of Solomon speaks to the Members of Congress and awakens a Nation to what is happening.

''Love justice, you rulers of the Earth. Set your mind upon the Lord as is your duty. Seek the Lord with simplicity of heart; for the Lord is found by those who trust Him without question. The Lord makes Himself known to those who never doubt Him. Dishonest thinking cuts people off from God and if such fools take liberties with His power, the Lord reveals them for what they are.''

Lord, grant us wisdom. There is no hiding from You. Help us to truly see who we are as individuals and as a Nation, both now and forever.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Mrs. NAPOLITANO) come forward and lead the House in the Pledge of Allegiance.

Mrs. NAPOLITANO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Williams, one of his secretaries.

## WE NEED TO PROTECT AMERICAN FAMILIES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, it has been 86 days since the Protect America Act expired, and the Democrat leadership refuses to bring a permanent extension to a vote. Our intelligence community has stated unequivocally that our ability to track and spy on potential enemies has been degraded.

The Senate passed a fair and commonsense extension to the Protect America Act months ago, and it has received vocal bipartisan support in the House of Representatives. That is why it is particularly disappointing that the Democrat leadership has failed to bring the bill to the floor. They refuse to do so because they know it will pass. For leadership to deny a vote on such an important piece of legislation, because they know it will pass, is an insult to the majority in this House who want to defeat terrorists overseas.

With each day, our intelligence community is being told to do their job without the tools and resources we can and should provide for them. This is unacceptable to keep American families at risk.

In conclusion, God bless our troops, and we will never forget September the 11th.

## CONFERENCE REPORT ON H.R. 2419, FOOD, CONSERVATION, AND ENERGY ACT OF 2008

Mr. PETERSON of Minnesota submitted the following conference report and statement on the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes:

CONFERENCE REPORT (H. REPT. 110–627)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2419), to provide for the continuation of agricultural programs through fiscal year 2012,

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

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

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

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


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

*TITLE I—COMMODITY PROGRAMS*

*Sec. 1001. Definitions.*

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

*Sec. 1101. Base acres.*
*Sec. 1102. Payment yields.*
*Sec. 1103. Availability of direct payments.*
*Sec. 1104. Availability of counter-cyclical payments.*
*Sec. 1105. Average crop revenue election program.*
*Sec. 1106. Producer agreement required as condition of provision of payments.*
*Sec. 1107. Planting flexibility.*
*Sec. 1108. Special rule for long grain and medium grain rice.*
*Sec. 1109. Period of effectiveness.*

*Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments*

*Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.*
*Sec. 1202. Loan rates for nonrecourse marketing assistance loans.*
*Sec. 1203. Term of loans.*
*Sec. 1204. Repayment of loans.*
*Sec. 1205. Loan deficiency payments.*
*Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.*
*Sec. 1207. Special marketing loan provisions for upland cotton.*
*Sec. 1208. Special competitive provisions for extra long staple cotton.*
*Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.*
*Sec. 1210. Adjustments of loans.*

*Subtitle C—Peanuts*

*Sec. 1301. Definitions.*
*Sec. 1302. Base acres for peanuts for a farm.*
*Sec. 1303. Availability of direct payments for peanuts.*
*Sec. 1304. Availability of counter-cyclical payments for peanuts.*
*Sec. 1305. Producer agreement required as condition on provision of payments.*
*Sec. 1306. Planting flexibility.*
*Sec. 1307. Marketing assistance loans and loan deficiency payments for peanuts.*
*Sec. 1308. Adjustments of loans.*

*Subtitle D—Sugar*

*Sec. 1401. Sugar program.*
*Sec. 1402. United States membership in the International Sugar Organization.*
*Sec. 1403. Flexible marketing allotments for sugar.*
*Sec. 1404. Storage facility loans.*
*Sec. 1405. Commodity Credit Corporation storage payments.*

*Subtitle E—Dairy*

*Sec. 1501. Dairy product price support program.*
*Sec. 1502. Dairy forward pricing program.*
*Sec. 1503. Dairy export incentive program.*
*Sec. 1504. Revision of Federal marketing order amendment procedures.*
*Sec. 1505. Dairy indemnity program.*
*Sec. 1506. Milk income loss contract program.*
*Sec. 1507. Dairy promotion and research program.*
*Sec. 1508. Report on Department of Agriculture reporting procedures for nonfat dry milk.*
*Sec. 1509. Federal Milk Marketing Order Review Commission.*
*Sec. 1510. Mandatory reporting of dairy commodities.*

*Subtitle F—Administration*

*Sec. 1601. Administration generally.*
*Sec. 1602. Suspension of permanent price support authority.*
*Sec. 1603. Payment limitations.*
*Sec. 1604. Adjusted gross income limitation.*
*Sec. 1605. Availability of quality incentive payments for covered oilseed producers.*
*Sec. 1606. Personal liability of producers for deficiencies.*
*Sec. 1607. Extension of existing administrative authority regarding loans.*
*Sec. 1608. Assignment of payments.*
*Sec. 1609. Tracking of benefits.*
*Sec. 1610. Government publication of cotton price forecasts.*
*Sec. 1611. Prevention of deceased individuals receiving payments under farm commodity programs.*
*Sec. 1612. Hard white wheat development program.*
*Sec. 1613. Durum wheat quality program.*
*Sec. 1614. Storage facility loans.*
*Sec. 1615. State, county, and area committees.*
*Sec. 1616. Prohibition on charging certain fees.*
*Sec. 1617. Signature authority.*
*Sec. 1618. Modernization of Farm Service Agency.*
*Sec. 1619. Information gathering.*
*Sec. 1620. Leasing of office space.*
*Sec. 1621. Geographically disadvantaged farmers and ranchers.*
*Sec. 1622. Implementation.*
*Sec. 1623. Repeals.*

*TITLE II—CONSERVATION*

*Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation*

*Sec. 2001. Definitions relating to conservation title of Food Security Act of 1985.*
*Sec. 2002. Review of good faith determinations related to highly erodible land conservation.*
*Sec. 2003. Review of good faith determinations related to wetland conservation.*

*Subtitle B—Conservation Reserve Program*

*Sec. 2101. Extension of conservation reserve program.*
*Sec. 2102. Land eligible for enrollment in conservation reserve.*
*Sec. 2103. Maximum enrollment of acreage in conservation reserve.*
*Sec. 2104. Designation of conservation priority areas.*
*Sec. 2105. Treatment of multi-year grasses and legumes.*
*Sec. 2106. Revised pilot program for enrollment of wetland and buffer acreage in conservation reserve.*
*Sec. 2107. Additional duty of participants under conservation reserve contracts.*
*Sec. 2108. Managed haying, grazing, or other commercial use of forage on enrolled land and installation of wind turbines.*
*Sec. 2109. Cost sharing payments relating to trees, windbreaks, shelterbelts, and wildlife corridors.*
*Sec. 2110. Evaluation and acceptance of contract offers, annual rental payments, and payment limitations.*
*Sec. 2111. Conservation reserve program transition incentives for beginning farmers or ranchers and socially disadvantaged farmers or ranchers.*

*Subtitle C—Wetlands Reserve Program*

*Sec. 2201. Establishment and purpose of wetlands reserve program.*
*Sec. 2202. Maximum enrollment and enrollment methods.*
*Sec. 2203. Duration of wetlands reserve program and lands eligible for enrollment.*
*Sec. 2204. Terms of wetlands reserve program easements.*
*Sec. 2205. Compensation for easements under wetlands reserve program.*
*Sec. 2206. Wetlands reserve enhancement program and reserved rights pilot program.*
*Sec. 2207. Duties of Secretary of Agriculture under wetlands reserve program.*
*Sec. 2208. Payment limitations under wetlands reserve contracts and agreements.*
*Sec. 2209. Repeal of payment limitations exception for State agreements for wetlands reserve enhancement.*
*Sec. 2210. Report on implications of long-term nature of conservation easements.*

*Subtitle D—Conservation Stewardship Program*

*Sec. 2301. Conservation stewardship program.*

*Subtitle E—Farmland Protection and Grassland Reserve*

*Sec. 2401. Farmland protection program.*
*Sec. 2402. Farm viability program.*
*Sec. 2403. Grassland reserve program.*

*Subtitle F—Environmental Quality Incentives Program*

*Sec. 2501. Purposes of environmental quality incentives program.*
*Sec. 2502. Definitions.*
*Sec. 2503. Establishment and administration of environmental quality incentives program.*
*Sec. 2504. Evaluation of applications.*
*Sec. 2505. Duties of producers under environmental quality incentives program.*
*Sec. 2506. Environmental quality incentives program plan.*
*Sec. 2507. Duties of the Secretary.*
*Sec. 2508. Limitation on environmental quality incentives program payments.*
*Sec. 2509. Conservation innovation grants and payments.*
*Sec. 2510. Agricultural water enhancement program.*

*Subtitle G—Other Conservation Programs of the Food Security Act of 1985*

*Sec. 2601. Conservation of private grazing land.*
*Sec. 2602. Wildlife habitat incentive program.*
*Sec. 2603. Grassroots source water protection program.*
*Sec. 2604. Great Lakes Basin Program for soil erosion and sediment control.*
*Sec. 2605. Chesapeake Bay watershed program.*
*Sec. 2606. Voluntary public access and habitat incentive program.*

*Subtitle H—Funding and Administration of Conservation Programs*

*Sec. 2701. Funding of conservation programs under Food Security Act of 1985.*
*Sec. 2702. Authority to accept contributions to support conservation programs.*
*Sec. 2703. Regional equity and flexibility.*
*Sec. 2704. Assistance to certain farmers and ranchers to improve their access to conservation programs.*
*Sec. 2705. Report regarding enrollments and assistance under conservation programs.*
*Sec. 2706. Delivery of conservation technical assistance.*
*Sec. 2707. Cooperative conservation partnership initiative.*
*Sec. 2708. Administrative requirements for conservation programs.*
*Sec. 2709. Environmental services markets.*
*Sec. 2710. Agriculture conservation experienced services program.*
*Sec. 2711. Establishment of State technical committees and their responsibilities.*

*Subtitle I—Conservation Programs Under Other Laws*

*Sec. 2801. Agricultural management assistance program.*
*Sec. 2802. Technical assistance under Soil Conservation and Domestic Allotment Act.*
*Sec. 2803. Small watershed rehabilitation program.*
*Sec. 2804. Amendments to Soil and Water Resources Conservation Act of 1977.*
*Sec. 2805. Resource Conservation and Development Program.*
*Sec. 2806. Use of funds in Basin Funds for salinity control activities upstream of Imperial Dam.*
*Sec. 2807. Desert terminal lakes.*

*Subtitle J—Miscellaneous Conservation Provisions*

*Sec. 2901. High Plains water study.*
*Sec. 2902. Naming of National Plant Materials Center at Beltsville, Maryland, in honor of Norman A. Berg.*
*Sec. 2903. Transition.*
*Sec. 2904. Regulations.*

*TITLE III—TRADE*

*Subtitle A—Food for Peace Act*

*Sec. 3001. Short title.*
*Sec. 3002. United States policy.*
*Sec. 3003. Food aid to developing countries.*
*Sec. 3004. Trade and development assistance.*
*Sec. 3005. Agreements regarding eligible countries and private entities.*
*Sec. 3006. Use of local currency payments.*
*Sec. 3007. General authority.*
*Sec. 3008. Provision of agricultural commodities.*
*Sec. 3009. Generation and use of currencies by private voluntary organizations and cooperatives.*
*Sec. 3010. Levels of assistance.*
*Sec. 3011. Food Aid Consultative Group.*
*Sec. 3012. Administration.*
*Sec. 3013. Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable prepackaged foods.*
*Sec. 3014. General authorities and requirements.*
*Sec. 3015. Definitions.*
*Sec. 3016. Use of Commodity Credit Corporation.*
*Sec. 3017. Administrative provisions.*
*Sec. 3018. Consolidation and modification of annual reports regarding agricultural trade issues.*
*Sec. 3019. Expiration of assistance.*
*Sec. 3020. Authorization of appropriations.*
*Sec. 3021. Minimum level of nonemergency food assistance.*
*Sec. 3022. Coordination of foreign assistance programs.*
*Sec. 3023. Micronutrient fortification programs.*
*Sec. 3024. John Ogonowski and Doug Bereuter Farmer-to-Farmer Program.*

*Subtitle B—Agricultural Trade Act of 1978 and Related Statutes*

*Sec. 3101. Export credit guarantee program.*
*Sec. 3102. Market access program.*
*Sec. 3103. Export enhancement program.*
*Sec. 3104. Foreign market development cooperator program.*
*Sec. 3105. Food for Progress Act of 1985.*
*Sec. 3106. McGovern-Dole International Food for Education and Child Nutrition Program.*

*Subtitle C—Miscellaneous*

*Sec. 3201. Bill Emerson Humanitarian Trust.*
*Sec. 3202. Global Crop Diversity Trust.*
*Sec. 3203. Technical assistance for specialty crops.*
*Sec. 3204. Emerging markets and facility guarantee loan program.*
*Sec. 3205. Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products.*
*Sec. 3206. Local and regional food aid procurement projects.*

*Subtitle D—Softwood Lumber*

*Sec. 3301. Softwood lumber.*

*TITLE IV—NUTRITION*

*Subtitle A—Food Stamp Program*

*PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM*

*Sec. 4001. Renaming of Food Stamp Act and program.*
*Sec. 4002. Conforming amendments.*

*PART II—BENEFIT IMPROVEMENTS*

*Sec. 4101. Exclusion of certain military payments from income.*
*Sec. 4102. Strengthening the food purchasing power of low-income Americans.*
*Sec. 4103. Supporting working families with child care expenses.*
*Sec. 4104. Asset indexation, education, and retirement accounts.*
*Sec. 4105. Facilitating simplified reporting.*
*Sec. 4106. Transitional benefits option.*
*Sec. 4107. Increasing the minimum benefit.*
*Sec. 4108. Employment, training, and job retention.*

*PART III—PROGRAM OPERATIONS*

*Sec. 4111. Nutrition education.*
*Sec. 4112. Technical clarification regarding eligibility.*
*Sec. 4113. Clarification of split issuance.*
*Sec. 4114. Accrual of benefits.*
*Sec. 4115. Issuance and use of program benefits.*
*Sec. 4116. Review of major changes in program design.*
*Sec. 4117. Civil rights compliance.*
*Sec. 4118. Codification of access rules.*
*Sec. 4119. State option for telephonic signature.*
*Sec. 4120. Privacy protections.*
*Sec. 4121. Preservation of access and payment accuracy.*
*Sec. 4122. Funding of employment and training programs.*

*PART IV—PROGRAM INTEGRITY*

*Sec. 4131. Eligibility disqualification.*
*Sec. 4132. Civil penalties and disqualification of retail food stores and wholesale food concerns.*
*Sec. 4133. Major systems failures.*

*PART V—MISCELLANEOUS*

*Sec. 4141. Pilot projects to evaluate health and nutrition promotion in the supplemental nutrition assistance program.*
*Sec. 4142. Study on comparable access to supplemental nutrition assistance for Puerto Rico.*

*Subtitle B—Food Distribution Programs*

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*Sec. 4201. Emergency food assistance.*
*Sec. 4202. Emergency food program infrastructure grants.*

*PART II—FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS*

*Sec. 4211. Assessing the nutritional value of the FDPIR food package.*

*PART III—COMMODITY SUPPLEMENTAL FOOD PROGRAM*

*Sec. 4221. Commodity supplemental food program.*

*PART IV—SENIOR FARMERS' MARKET NUTRITION PROGRAM*

*Sec. 4231. Seniors farmers' market nutrition program.*

*Subtitle C—Child Nutrition and Related Programs*

*Sec. 4301. State performance on enrolling children receiving program benefits for free school meals.*
*Sec. 4302. Purchases of locally produced foods.*
*Sec. 4303. Healthy food education and program replicability.*
*Sec. 4304. Fresh fruit and vegetable program.*
*Sec. 4305. Whole grain products.*
*Sec. 4306. Buy American requirements.*
*Sec. 4307. Survey of foods purchased by school food authorities.*

*Subtitle D—Miscellaneous*

*Sec. 4401. Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows.*
*Sec. 4402. Assistance for community food projects.*
*Sec. 4403. Joint nutrition monitoring and related research activities.*
*Sec. 4404. Section 32 funds for purchase of fruits, vegetables, and nuts to support domestic nutrition assistance programs.*
*Sec. 4405. Hunger-free communities.*
*Sec. 4406. Reauthorization of Federal food assistance programs.*
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*TITLE V—CREDIT*

*Subtitle A—Farm Ownership Loans*

*Sec. 5001. Direct loans.*
*Sec. 5002. Conservation loan and loan guarantee program.*
*Sec. 5003. Limitations on amount of farm ownership loans.*
*Sec. 5004. Down payment loan program.*
*Sec. 5005. Beginning farmer or rancher and socially disadvantaged farmer or rancher contract land sales program.*

*Subtitle B—Operating Loans*

*Sec. 5101. Farming experience as eligibility requirement.*
*Sec. 5102. Limitations on amount of operating loans.*
*Sec. 5103. Suspension of limitation on period for which borrowers are eligible for guaranteed assistance.*

*Subtitle C—Emergency Loans*

*Sec. 5201. Eligibility of equine farmers and ranchers for emergency loans.*

*Subtitle D—Administrative Provisions*

*Sec. 5301. Beginning farmer and rancher individual development accounts pilot program.*
*Sec. 5302. Inventory sales preferences; loan fund set-asides.*
*Sec. 5303. Loan authorization levels.*
*Sec. 5304. Transition to private commercial or other sources of credit.*
*Sec. 5305. Extension of the right of first refusal to reacquire homestead property to immediate family members of borrower-owner.*
*Sec. 5306. Rural development and farm loan program activities.*

*Subtitle E—Farm Credit*

*Sec. 5401. Farm Credit System Insurance Corporation.*
*Sec. 5402. Technical correction.*
*Sec. 5403. Bank for cooperatives voting stock.*
*Sec. 5404. Premiums.*
*Sec. 5405. Certification of premiums.*
*Sec. 5406. Rural utility loans.*
*Sec. 5407. Equalization of loan-making powers of certain district associations.*

*Subtitle F—Miscellaneous*

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*TITLE VI—RURAL DEVELOPMENT*

*Subtitle A—Consolidated Farm and Rural Development Act*

*Sec. 6001. Water, waste disposal, and wastewater facility grants.*
*Sec. 6002. SEARCH grants.*
*Sec. 6003. Rural business opportunity grants.*
*Sec. 6004. Child day care facility grants, loans, and loan guarantees.*
*Sec. 6005. Community facility grants to advance broadband.*

*Sec. 6006. Rural water and wastewater circuit rider program.*
*Sec. 6007. Tribal College and University essential community facilities.*
*Sec. 6008. Emergency and imminent community water assistance grant program.*
*Sec. 6009. Water systems for rural and native villages in Alaska.*
*Sec. 6010. Grants to nonprofit organizations to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate incomes.*
*Sec. 6011. Interest rates for water and waste disposal facilities loans.*
*Sec. 6012. Cooperative equity security guarantee.*
*Sec. 6013. Rural cooperative development grants.*
*Sec. 6014. Grants to broadcasting systems.*
*Sec. 6015. Locally or regionally produced agricultural food products.*
*Sec. 6016. Appropriate technology transfer for rural areas.*
*Sec. 6017. Rural economic area partnership zones.*
*Sec. 6018. Definitions.*
*Sec. 6019. National rural development partnership.*
*Sec. 6020. Historic barn preservation.*
*Sec. 6021. Grants for NOAA weather radio transmitters.*
*Sec. 6022. Rural microentrepreneur assistance program.*
*Sec. 6023. Grants for expansion of employment opportunities for individuals with disabilities in rural areas.*
*Sec. 6024. Health care services.*
*Sec. 6025. Delta Regional Authority.*
*Sec. 6026. Northern Great Plains Regional Authority.*
*Sec. 6027. Rural Business Investment Program.*
*Sec. 6028. Rural Collaborative Investment Program.*
*Sec. 6029. Funding of pending rural development loan and grant applications.*

*Subtitle B—Rural Electrification Act of 1936*

*Sec. 6101. Energy efficiency programs.*
*Sec. 6102. Reinstatement of Rural Utility Services direct lending.*
*Sec. 6103. Deferment of payments to allows loans for improved energy efficiency and demand reduction and for energy efficiency and use audits.*
*Sec. 6104. Rural electrification assistance.*
*Sec. 6105. Substantially underserved trust areas.*
*Sec. 6106. Guarantees for bonds and notes issued for electrification or telephone purposes.*
*Sec. 6107. Expansion of 911 access.*
*Sec. 6108. Electric loans for renewable energy.*
*Sec. 6109. Bonding requirements.*
*Sec. 6110. Access to broadband telecommunications services in rural areas.*
*Sec. 6111. National Center for Rural Telecommunications Assessment.*
*Sec. 6112. Comprehensive rural broadband strategy.*
*Sec. 6113. Study on rural electric power generation.*

*Subtitle C—Miscellaneous*

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*Sec. 6202. Value-added agricultural market development program grants.*
*Sec. 6203. Agriculture innovation center demonstration program.*
*Sec. 6204. Rural firefighters and emergency medical service assistance program.*
*Sec. 6205. Insurance of loans for housing and related facilities for domestic farm labor.*
*Sec. 6206. Study of rural transportation issues.*

*Subtitle D—Housing Assistance Council*

*Sec. 6301. Short title.*
*Sec. 6302. Assistance to Housing Assistance Council.*
*Sec. 6303. Audits and reports.*
*Sec. 6304. Persons not lawfully present in the United States.*
*Sec. 6305. Limitation on use of authorized amounts.*

*TITLE VII—RESEARCH AND RELATED MATTERS*

*Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977*

*Sec. 7101. Definitions.*
*Sec. 7102. National Agricultural Research, Extension, Education, and Economics Advisory Board.*
*Sec. 7103. Specialty crop committee report.*
*Sec. 7104. Renewable energy committee.*
*Sec. 7105. Veterinary medicine loan repayment.*
*Sec. 7106. Eligibility of University of the District of Columbia for grants and fellowships for food and agricultural sciences education.*
*Sec. 7107. Grants to 1890 schools to expand extension capacity.*
*Sec. 7108. Expansion of food and agricultural sciences awards.*
*Sec. 7109. Grants and fellowships for food and agricultural sciences education.*
*Sec. 7110. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.*
*Sec. 7111. Policy research centers.*
*Sec. 7112. Education grants to Alaska Native-serving institutions and Native Hawaiian-serving institutions.*
*Sec. 7113. Emphasis of human nutrition initiative.*
*Sec. 7114. Human nutrition intervention and health promotion research program.*
*Sec. 7115. Pilot research program to combine medical and agricultural research.*
*Sec. 7116. Nutrition education program.*
*Sec. 7117. Continuing animal health and disease research programs.*
*Sec. 7118. Cooperation among eligible institutions.*
*Sec. 7119. Appropriations for research on national or regional problems.*
*Sec. 7120. Animal health and disease research program.*
*Sec. 7121. Authorization level for extension at 1890 land-grant colleges.*
*Sec. 7122. Authorization level for agricultural research at 1890 land-grant colleges.*
*Sec. 7123. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.*
*Sec. 7124. Grants to upgrade agriculture and food sciences facilities at the District of Columbia land-grant university.*
*Sec. 7125. Grants to upgrade agriculture and food sciences facilities and equipment at insular area land-grant institutions.*
*Sec. 7126. National research and training virtual centers.*
*Sec. 7127. Matching funds requirement for research and extension activities of 1890 institutions.*
*Sec. 7128. Hispanic-serving institutions.*
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*Sec. 7130. International agricultural research, extension, and education.*
*Sec. 7131. Competitive grants for international agricultural science and education programs.*
*Sec. 7132. Administration.*
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*Sec. 7135. Extension Service.*
*Sec. 7136. Supplemental and alternative crops.*
*Sec. 7137. New Era Rural Technology Program.*
*Sec. 7138. Capacity building grants for NLGCA Institutions.*
*Sec. 7139. Borlaug international agricultural science and technology fellowship program.*
*Sec. 7140. Aquaculture assistance programs.*
*Sec. 7141. Rangeland research grants.*
*Sec. 7142. Special authorization for biosecurity planning and response.*
*Sec. 7143. Resident instruction and distance education grants program for insular area institutions of higher education.*

*Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990*

*Sec. 7201. National genetics resources program.*
*Sec. 7202. National Agricultural Weather Information System.*
*Sec. 7203. Partnerships.*
*Sec. 7204. High-priority research and extension areas.*
*Sec. 7205. Nutrient management research and extension initiative.*
*Sec. 7206. Organic Agriculture Research and Extension Initiative.*
*Sec. 7207. Agricultural bioenergy feedstock and energy efficiency research and extension initiative.*
*Sec. 7208. Farm business management and benchmarking.*
*Sec. 7209. Agricultural telecommunications program.*
*Sec. 7210. Assistive technology program for farmers with disabilities.*
*Sec. 7211. Research on honey bee diseases.*
*Sec. 7212. National Rural Information Center Clearinghouse.*

*Subtitle C—Agricultural Research, Extension, and Education Reform Act of 1998*

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*Sec. 7302. Partnerships for high-value agricultural product quality research.*
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*Sec. 7304. Biobased products.*
*Sec. 7305. Thomas Jefferson Initiative for Crop Diversification.*
*Sec. 7306. Integrated research, education, and extension competitive grants program.*
*Sec. 7307. Fusarium graminearum grants.*
*Sec. 7308. Bovine Johne's disease control program.*
*Sec. 7309. Grants for youth organizations.*
*Sec. 7310. Agricultural biotechnology research and development for developing countries.*
*Sec. 7311. Specialty crop research initiative.*
*Sec. 7312. Food animal residue avoidance database program.*
*Sec. 7313. Office of pest management policy.*

*Subtitle D—Other Laws*

*Sec. 7401. Critical Agricultural Materials Act.*
*Sec. 7402. Equity in Educational Land-Grant Status Act of 1994.*
*Sec. 7403. Smith-Lever Act.*
*Sec. 7404. Hatch Act of 1887.*
*Sec. 7405. Agricultural Experiment Station Research Facilities Act.*
*Sec. 7406. Agriculture and food research initiative.*
*Sec. 7407. Agricultural Risk Protection Act of 2000.*
*Sec. 7408. Exchange or sale authority.*
*Sec. 7409. Enhanced use lease authority pilot program.*
*Sec. 7410. Beginning farmer and rancher development program.*
*Sec. 7411. Public education regarding use of biotechnology in producing food for human consumption.*
*Sec. 7412. McIntire-Stennis Cooperative Forestry Act.*

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***SEC. 2. DEFINITION OF SECRETARY.***

*In this Act, the term ''Secretary'' means the Secretary of Agriculture.*

## *TITLE I—COMMODITY PROGRAMS*

***SEC. 1001. DEFINITIONS.***

*In this title (other than subtitle C):*

*(1) AVERAGE CROP REVENUE ELECTION PAYMENT.—The term ''average crop revenue election*

*payment'' means a payment made to producers on a farm under section 1105.*

*(2) BASE ACRES.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(13) PRODUCER.—*

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

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

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

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

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

*(15) STATE.—The term ''State'' means—*

*(A) a State;*

*(B) the District of Columbia;*

*(C) the Commonwealth of Puerto Rico; and*

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

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

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

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

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

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

*(a) ADJUSTMENT OF BASE ACRES.—*

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

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

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

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

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

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

*(b) PREVENTION OF EXCESS BASE ACRES.—*

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

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

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

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

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

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

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

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

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

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

*(c) REDUCTION IN BASE ACRES.—*

*(1) REDUCTION AT OPTION OF OWNER.—*

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

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

*(2) REQUIRED ACTION BY SECRETARY.—*

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

*(i) remains devoted to commercial agricultural production; or*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(2) ADJUSTMENT FOR PAYMENT YIELD.—*

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

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

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

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

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

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

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

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

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

*(1) Wheat, $0.52 per bushel.*

*(2) Corn, $0.28 per bushel.*

*(3) Grain sorghum, $0.35 per bushel.*

*(4) Barley, $0.24 per bushel.*

*(5) Oats, $0.024 per bushel.*

*(6) Upland cotton, $0.0667 per pound.*

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

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

*(9) Soybeans, $0.44 per bushel.*

*(10) Other oilseeds, $0.80 per hundredweight.*

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

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

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

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

*(d) TIME FOR PAYMENT.—*

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

*(2) ADVANCE PAYMENTS.—*

*(A) OPTION.—*

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

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

*(B) MONTH.—*

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

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

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

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

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

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

***SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.***

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

*(b) EFFECTIVE PRICE.—*

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

*(A) The higher of the following:*

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

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

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

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

*(A) The higher of the following:*

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

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

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

*(c) TARGET PRICE.—*

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

*(A) Wheat, $3.92 per bushel.*

*(B) Corn, $2.63 per bushel.*

*(C) Grain sorghum, $2.57 per bushel.*

*(D) Barley, $2.24 per bushel.*

*(E) Oats, $1.44 per bushel.*

*(F) Upland cotton, $0.7125 per pound.*

*(G) Long grain rice, $10.50 per hundredweight.*

*(H) Medium grain rice, $10.50 per hundredweight.*

*(I) Soybeans, $5.80 per bushel.*

*(J) Other oilseeds, $10.10 per hundredweight.*

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

*(A) Wheat, $3.92 per bushel.*

*(B) Corn, $2.63 per bushel.*

*(C) Grain sorghum, $2.57 per bushel.*

*(D) Barley, $2.24 per bushel.*

*(E) Oats, $1.44 per bushel.*

*(F) Upland cotton, $0.7125 per pound.*

*(G) Long grain rice, $10.50 per hundredweight.*

*(H) Medium grain rice, $10.50 per hundredweight.*

*(I) Soybeans, $5.80 per bushel.*

*(J) Other oilseeds, $10.10 per hundredweight.*

*(K) Dry peas, $8.32 per hundredweight.*

*(L) Lentils, $12.81 per hundredweight.*

*(M) Small chickpeas, $10.36 per hundredweight.*

*(N) Large chickpeas, $12.81 per hundredweight.*

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

*(A) Wheat, $4.17 per bushel.*

*(B) Corn, $2.63 per bushel.*

*(C) Grain sorghum, $2.63 per bushel.*

*(D) Barley, $2.63 per bushel.*

*(E) Oats, $1.79 per bushel.*

*(F) Upland cotton, $0.7125 per pound.*

*(G) Long grain rice, $10.50 per hundredweight.*

*(H) Medium grain rice, $10.50 per hundredweight.*

*(I) Soybeans, $6.00 per bushel.*

*(J) Other oilseeds, $12.68 per hundredweight.*

*(K) Dry peas, $8.32 per hundredweight.*

*(L) Lentils, $12.81 per hundredweight.*

*(M) Small chickpeas, $10.36 per hundredweight.*

*(N) Large chickpeas, $12.81 per hundredweight.*

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

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

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

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

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

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

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

*(f) TIME FOR PAYMENTS.—*

*(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under*

*subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the covered commodity, the Secretary shall make the counter-cyclical payments for the crop.*

*(2) AVAILABILITY OF PARTIAL PAYMENTS.—*

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

*(B) ELECTION.—*

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

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

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

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

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

*(4) AMOUNT OF PARTIAL PAYMENT.—*

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

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

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

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

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

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

*(a) AVAILABILITY AND ELECTION OF ALTERNATIVE APPROACH.—*

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

*(2) LIMITATION.—*

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

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

*(3) ELECTION; TIME FOR ELECTION.—*

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

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

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

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

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

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

*(b) PAYMENTS REQUIRED.—*

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

*(2) ACRE PAYMENT.—*

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

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

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

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

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

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

*(3) TIME FOR PAYMENTS.—In the case of each of the 2009 through 2012 crop years, the Secretary shall make ACRE payments beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity or peanuts.*

*(c) ACTUAL STATE REVENUE.—*

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

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

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

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

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

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

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

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

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

*(d) ACRE PROGRAM GUARANTEE.—*

*(1) AMOUNT.—*

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

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

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

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

*(2) BENCHMARK STATE YIELD.—*

*(A) IN GENERAL.—For purposes of paragraph (1)(A)(i), subject to subparagraph (B), the benchmark State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal the average yield per planted acre for the covered commodity or peanuts in the State for the most recent 5 crop year yields, excluding each of the crop years with the highest and lowest yields, using National Agricultural Statistics Service data.*

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

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

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

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

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

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

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

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

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

*(1) the amount determined by multiplying—*

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

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

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

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

*(1) the lesser of—*

*(A) the difference between—*

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

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

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

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

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

*(3) the quotient obtained by dividing—*

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

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

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

*(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—*

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

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

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

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

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

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

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

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

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

*(1) TERMINATION.—*

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

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

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

*(c) REPORTS.—*

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

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

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

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

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

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

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

*(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—*

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

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

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

*(A) Fruits.*

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

*(C) Wild rice.*

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

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

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

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

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

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

*(d) PLANTING TRANSFERABILITY PILOT PROJECT.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(6) RECALCULATION OF BASE ACRES.—*

*(A) IN GENERAL.—If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production*

*of a crop of a commodity specified in paragraph (1) on base acres for which a temporary reduction was made under this section shall be considered to be the same as the planting and production of a covered commodity.*

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

*(7) PILOT IMPACT EVALUATION.—*

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

*(i) fresh fruits and vegetables; and*

*(ii) fruits and vegetables for processing.*

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

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

*(ii) existing production capacities are being supplanted.*

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

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

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

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

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

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

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

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

***SEC. 1109. PERIOD OF EFFECTIVENESS.***

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

***Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments***

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

*(a) NONRECOURSE LOANS AVAILABLE.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(A) Sunflower seed.*

*(B) Rapeseed.*

*(C) Canola.*

*(D) Safflower.*

*(E) Flaxseed.*

*(F) Mustard seed.*

*(G) Crambe.*

*(H) Sesame seed.*

*(I) Other oilseeds designated by the Secretary.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(A) Sunflower seed.*

*(B) Rapeseed.*

*(C) Canola.*

*(D) Safflower.*

*(E) Flaxseed.*

*(F) Mustard seed.*

*(G) Crambe.*

*(H) Sesame seed.*

*(I) Other oilseeds designated by the Secretary.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(A) Sunflower seed.*

*(B) Rapeseed.*

*(C) Canola.*

*(D) Safflower.*

*(E) Flaxseed.*

*(F) Mustard seed.*

*(G) Crambe.*

*(H) Sesame seed.*

*(I) Other oilseeds designated by the Secretary.*

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

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

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

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

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

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

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

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

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

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

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

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

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

*(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a*

*loan commodity (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) at a rate that is the lesser of—*

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

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

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

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

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

*(A) minimize potential loan forfeitures;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(i) minimize potential loan forfeitures;*

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

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

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

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

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

*(3) GUIDELINES FOR ADDITIONAL ADJUSTMENTS.—In making adjustments under this subsection, the Secretary shall establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the United States market.*

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

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

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

*(g) PAYMENT OF COTTON STORAGE COSTS.—*

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

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

*(h) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—*

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

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

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

*(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—*

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

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

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

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

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

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

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

*(c) PAYMENT RATE.—*

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

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

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

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

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

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

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

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

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

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

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

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

*(a) ELIGIBLE PRODUCERS.—*

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

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

*(b) PAYMENT AMOUNT.—*

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

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

*(B) the payment quantity determined by multiplying—*

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

*(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in*

*the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).*

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

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

*(B) the payment quantity determined by multiplying—*

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

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

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

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

*(2) AVAILABILITY.—*

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

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

*(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.—A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

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

*(a) SPECIAL IMPORT QUOTA.—*

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

*(2) ESTABLISHMENT.—*

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

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

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

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

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

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

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

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

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

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

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

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

*(1) DEFINITIONS.—In this subsection:*

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

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

*(ii) production of the current crop; and*

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

*(B) DEMAND.—The term ''demand'' means—*

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

*(ii) the larger of—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(2) VALUE OF ASSISTANCE.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(2) the lowest priced competing growth of extra long staple cotton (adjusted to United*

*States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.*

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

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

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

*(a) HIGH MOISTURE FEED GRAINS.—*

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

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

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

*(B) present—*

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

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

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

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

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

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

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

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

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

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

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

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

*(c) ADJUSTMENT ON COUNTY BASIS.—*

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

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

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

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

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

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

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

*(i) the elimination of warehouse location differentials;*

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

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

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

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

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

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

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

*(3) CONSULTATION WITH PRIVATE SECTOR.—*

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

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

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

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

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

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

***Subtitle C—Peanuts***

***SEC. 1301. DEFINITIONS.***

*In this subtitle:*

*(1) BASE ACRES FOR PEANUTS.—*

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

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

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

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

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

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

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

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

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

*(7) PRODUCER.—*

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

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

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

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

*(8) STATE.—The term ''State'' means—*

*(A) a State;*

*(B) the District of Columbia;*

*(C) the Commonwealth of Puerto Rico; and*

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

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

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

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

*(a) ADJUSTMENT OF BASE ACREAGE FOR PEANUTS.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(c) REDUCTION IN BASE ACRES.—*

*(1) REDUCTION AT OPTION OF OWNER.—*

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

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

*(2) REQUIRED ACTION BY SECRETARY.—*

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

*(i) remains devoted to commercial agricultural production; or*

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

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

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

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

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

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

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

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

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

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

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

***SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.***

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

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

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

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

*(2) The payment acres on the farm.*

*(3) The payment yield for the farm.*

*(d) TIME FOR PAYMENT.—*

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

*(2) ADVANCE PAYMENTS.—*

*(A) OPTION.—*

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

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

*(B) MONTH.—*

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

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

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

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

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

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

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

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

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

*(1) The higher of the following:*

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

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

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

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

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

*(1) the target price for peanuts; and*

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

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

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

*(2) The payment acres on the farm.*

*(3) The payment yield for the farm.*

*(f) TIME FOR PAYMENTS.—*

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

*(2) AVAILABILITY OF PARTIAL PAYMENTS.—*

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

*(B) ELECTION.—*

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

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

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

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

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

*(4) AMOUNT OF PARTIAL PAYMENTS.—*

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

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

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

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

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

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

*(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—*

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

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

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

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

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

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

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

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

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

*(1) TERMINATION.—*

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

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

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

*(c) ACREAGE REPORTS.—*

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

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

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

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

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

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

*(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—*

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

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

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

*(A) Fruits.*

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

*(C) Wild rice.*

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

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

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

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

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

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

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

*(a) NONRECOURSE LOANS AVAILABLE.—*

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

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

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

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

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

*(B) the Farm Service Agency.*

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

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

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

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

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

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

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

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

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

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

*(c) TERM OF LOAN.—*

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

*the first month after the month in which the loan is made.*

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

*(d) REPAYMENT RATE.—*

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

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

*(B) a rate that the Secretary determines will—*

*(i) minimize potential loan forfeitures;*

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

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

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

*(2) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—*

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

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

*(e) LOAN DEFICIENCY PAYMENTS.—*

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

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

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

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

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

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

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

*(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.*

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

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

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

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

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

*(c) ADJUSTMENT ON COUNTY BASIS.—*

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

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

***Subtitle D—Sugar***

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

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

***"SEC. 156. SUGAR PROGRAM.***

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

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

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

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

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

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

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

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

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

*''(c) TERM OF LOANS.—*

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

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

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

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

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

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

*''(d) LOAN TYPE; PROCESSOR ASSURANCES.—*

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

*''(2) PROCESSOR ASSURANCES.—*

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

*''(B) MINIMUM PAYMENTS.—*

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

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

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

*''(e) LOANS FOR IN-PROCESS SUGAR.—*

*''(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term 'in-process sugars and syrups' does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).*

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

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

*''(4) FURTHER PROCESSING ON FORFEITURE.—*

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

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

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

*''(i) the difference between—*

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

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

*''(ii) the quantity of sugar transferred to the Secretary.*

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

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

*''(f) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—*

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

*''(2) INVENTORY DISPOSITION.—*

*''(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in*

*conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.*

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

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

*''(g) INFORMATION REPORTING.—*

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

*''(2) DUTY OF PRODUCERS TO REPORT.—*

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

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

*''(3) DUTY OF IMPORTERS TO REPORT.—*

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

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

*''(4) COLLECTION OF INFORMATION ON MEXICO.—*

*''(A) COLLECTION.—The Secretary shall collect—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*''(3) MARKET.—*

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

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

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

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

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

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

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

***''SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.***

*''(a) SUGAR ESTIMATES.—*

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

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

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

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

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

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

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

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

*''(b) SUGAR ALLOTMENTS.—*

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

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

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

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

*''(c) COVERAGE OF ALLOTMENTS.—*

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

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

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

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

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

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

*''(A) made prior to May 1; and*

*''(B) reported to the Secretary.*

*''(d) PROHIBITIONS.—*

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

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

*''(B) to facilitate the exportation of the sugar.*

*''(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil*

*penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.''.*

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

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

*''(b) OVERALL ALLOTMENT QUANTITY.—*

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

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

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

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

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

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

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

*(3) in subsection (g)(1)—*

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

*''(1) ADJUSTMENTS.—*

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

*(B) by adding at the end the following:*

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

*(4) by striking subsection (h).*

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

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

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

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

*''(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.*

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

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

*''(II) during each subsequent crop year.*

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

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

*''(i) DEFINITION OF NEW ENTRANT.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(1) by striking paragraph (8);*

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

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

*''(1) DEFINITION OF SEED.—*

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

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

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

*(A) in the first sentence—*

*(i) by striking ''paragraph (1)'' and inserting ''paragraph (2)''; and*

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

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

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

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

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

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

*''(a) TRANSFER OF ACREAGE BASE HISTORY.—*

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

*''(2) CONVERTED ACREAGE BASE.—*

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

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

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

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

*''(i) be notified; and*

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

*''(E) POOL DISTRIBUTION.—*

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

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

*''(iii) ASSIGNMENT.—The county committee shall assign the acreage base to other farms in*

*the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).*

*''(F) STATEWIDE REALLOCATION.—*

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

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

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

*''(i) remain on the farm; and*

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

*(2) in subsection (d)—*

*(A) in paragraph (1)—*

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

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

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

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

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

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

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

*(2) by striking subsection (c).*

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

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

***''SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.***

*''(a) ESTABLISHMENT.—*

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

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

*''(b) ADJUSTMENT.—*

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

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

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

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

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

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

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

***''SEC. 359l. PERIOD OF EFFECTIVENESS.***

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

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

***SEC. 1404. STORAGE FACILITY LOANS.***

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

*(1) in paragraph (1), by striking ''and'' at the end;*

*(2) by redesignating paragraph (2) as paragraph (3);*

*(3) by inserting after paragraph (1) the following:*

*''(2) not include any penalty for prepayment; and''; and*

*(4) in paragraph (3) (as redesignated by paragraph (2)), by inserting ''other'' after ''on such''.*

***SEC. 1405. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.***

*Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:*

***''SEC. 167. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.***

*''(a) INITIAL CROP YEARS.—Notwithstanding any other provision of law, for each of the 2008 through 2011 crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in an amount that is not less than—*

*''(1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and*

*''(2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.*

*''(b) SUBSEQUENT CROP YEARS.—For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.''.*

***Subtitle E—Dairy***

***SEC. 1501. DAIRY PRODUCT PRICE SUPPORT PROGRAM.***

*(a) DEFINITION OF NET REMOVALS.—In this section, the term ''net removals'' means—*

*(1) the sum of—*

*(A) the quantity of a product described in subsection (b) purchased by the Commodity Credit Corporation under this section; and*

*(B) the quantity of the product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less*

*(2) the quantity of the product sold for unrestricted use by the Commodity Credit Corporation.*

*(b) SUPPORT ACTIVITIES.—During the period beginning on January 1, 2008, and ending December 31, 2012, the Secretary shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.*

*(c) PURCHASE PRICE.—To carry out subsection (b) during the period specified in that subsection, the Secretary shall purchase—*

*(1) cheddar cheese in blocks at not less than $1.13 per pound;*

*(2) cheddar cheese in barrels at not less than $1.10 per pound;*

*(3) butter at not less than $1.05 per pound; and*

*(4) nonfat dry milk at not less than $0.80 per pound.*

*(d) TEMPORARY PRICE ADJUSTMENT TO AVOID EXCESS INVENTORIES.—*

*(1) ADJUSTMENTS AUTHORIZED.—The Secretary may adjust the minimum purchase prices established under subsection (c) only as permitted under this subsection.*

*(2) CHEESE INVENTORIES IN EXCESS OF 200,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 200,000,000 pounds of cheese, but do not exceed 400,000,000 pounds, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 10 cents per pound.*

*(3) CHEESE INVENTORIES IN EXCESS OF 400,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 400,000,000 pounds of cheese, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 20 cents per pound.*

*(4) BUTTER INVENTORIES IN EXCESS OF 450,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 450,000,000 pounds of butter, but do not exceed 650,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 10 cents per pound.*

*(5) BUTTER INVENTORIES IN EXCESS OF 650,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 650,000,000 pounds of butter, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 20 cents per pound.*

*(6) NONFAT DRY MILK INVENTORIES IN EXCESS OF 600,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 600,000,000 pounds of nonfat dry milk, but do not exceed 800,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 5 cents per pound.*

*(7) NONFAT DRY MILK INVENTORIES IN EXCESS OF 800,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 800,000,000 pounds of nonfat dry milk, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 10 cents per pound.*

*(e) UNIFORM PURCHASE PRICE.—The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (b) shall be uniform for all regions of the United States.*

*(f) SALES FROM INVENTORIES.—In the case of each commodity specified in subsection (c) that is available for unrestricted use in the inventory of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (c) for that commodity.*

***SEC. 1502. DAIRY FORWARD PRICING PROGRAM.***

*(a) PROGRAM REQUIRED.—The Secretary shall establish a program under which milk producers*

*and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.*

*(b) MINIMUM MILK PRICE REQUIREMENTS.—Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be treated as satisfying—*

*(1) all uniform and minimum milk price requirements of subparagraphs (B) and (F) of paragraph (5) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and*

*(2) the total payment requirement of subparagraph (C) of that paragraph.*

*(c) MILK COVERED BY PROGRAM.—*

*(1) COVERED MILK.—The program shall apply only with respect to the marketing of federally regulated milk that—*

*(A) is not classified as Class I milk or otherwise intended for fluid use; and*

*(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.*

*(2) RELATION TO CLASS I MILK.—To assist milk handlers in complying with paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the obligations of the handler with regard to Class I milk usage.*

*(d) VOLUNTARY PROGRAM.—*

*(1) IN GENERAL.—A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers.*

*(2) PRICING.—A producer or cooperative association described in paragraph (1) may continue to have their milk priced in accordance with the minimum payment provisions of the Federal milk marketing order.*

*(3) COMPLAINTS.—*

*(A) IN GENERAL.—The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts.*

*(B) ACTION.—If the Secretary finds evidence of coercion, the Secretary shall take appropriate action.*

*(e) DURATION.—*

*(1) NEW CONTRACTS.—No forward price contract may be entered into under the program established under this section after September 30, 2012.*

*(2) APPLICATION.—No forward contract entered into under the program may extend beyond September 30, 2015.*

***SEC. 1503. DAIRY EXPORT INCENTIVE PROGRAM.***

*(a) EXTENSION.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking ''2007'' and inserting ''2012''.*

*(b) COMPLIANCE WITH TRADE AGREEMENTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended—*

*(1) in subsection (c), by striking paragraph (3) and inserting the following:*

*''(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511) is exported under the program each year (minus the volume sold under section 1163 of this Act during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value permitted under subsection (f); and''; and.*

*(2) in subsection (f), by striking paragraph (1) and inserting the following:*

*''(1) FUNDS AND COMMODITIES.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511), minus the amount expended under section 1163 of this Act during that year.''.*

***SEC. 1504. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.***

*Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking subsection (17) and inserting the following:*

*''(17) PROVISIONS APPLICABLE TO AMENDMENTS.—*

*''(A) APPLICABILITY TO AMENDMENTS.—The provisions of this section and section 8d applicable to orders shall be applicable to amendments to orders.*

*''(B) SUPPLEMENTAL RULES OF PRACTICE.—*

*''(i) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall issue, using informal rulemaking, supplemental rules of practice to define guidelines and timeframes for the rulemaking process relating to amendments to orders.*

*''(ii) ISSUES.—At a minimum, the supplemental rules of practice shall establish—*

*''(I) proposal submission requirements;*

*''(II) pre-hearing information session specifications;*

*''(III) written testimony and data request requirements;*

*''(IV) public participation timeframes; and*

*''(V) electronic document submission standards.*

*''(iii) EFFECTIVE DATE.—The supplemental rules of practice shall take effect not later than 120 days after the date of enactment of this subparagraph, as determined by the Secretary.*

*''(C) HEARING TIMEFRAMES.—*

*''(i) IN GENERAL.—Not more than 30 days after the receipt of a proposal for an amendment hearing regarding a milk marketing order, the Secretary shall—*

*''(I) issue a notice providing an action plan and expected timeframes for completion of the hearing not more than 120 days after the date of the issuance of the notice;*

*''(II)(aa) issue a request for additional information to be used by the Secretary in making a determination regarding the proposal; and*

*''(bb) if the additional information is not provided to the Secretary within the timeframe requested by the Secretary, issue a denial of the request; or*

*''(III) issue a denial of the request.*

*''(ii) REQUIREMENT.—A post-hearing brief may be filed under this paragraph not later than 60 days after the date of an amendment hearing regarding a milk marketing order.*

*''(iii) RECOMMENDED DECISIONS.—A recommended decision on a proposed amendment to an order shall be issued not later than 90 days after the deadline for the submission of post-hearing briefs.*

*''(iv) FINAL DECISIONS.—A final decision on a proposed amendment to an order shall be issued not later than 60 days after the deadline for submission of comments and exceptions to the recommended decision issued under clause (iii).*

*''(D) INDUSTRY ASSESSMENTS.—If the Secretary determines it is necessary to improve or expedite rulemaking under this subsection, the Secretary may impose an assessment on the affected industry to supplement appropriated funds for the procurement of service providers, such as court reporters.*

*''(E) USE OF INFORMAL RULEMAKING.—The Secretary may use rulemaking under section 553 of title 5, United States Code, to amend orders, other than provisions of orders that directly affect milk prices.*

*''(F) AVOIDING DUPLICATION.—The Secretary shall not be required to hold a hearing on any amendment proposed to be made to a milk marketing order in response to an application for a hearing on the proposed amendment if—*

*''(i) the application requesting the hearing is received by the Secretary not later than 90 days after the date on which the Secretary has announced the decision on a previously proposed amendment to that order; and*

*''(ii) the 2 proposed amendments are essentially the same, as determined by the Secretary.*

*''(G) MONTHLY FEED AND FUEL COSTS FOR MAKE ALLOWANCES.—As part of any hearing to adjust make allowances under marketing orders commencing prior to September 30, 2012, the Secretary shall—*

*''(i) determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area;*

*''(ii) consider the most recent monthly feed and fuel price data available; and*

*''(iii) consider those prices in determining whether or not to adjust make allowances.''.*

***SEC. 1505. DAIRY INDEMNITY PROGRAM.***

*Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking ''2007'' and inserting ''2012''.*

***SEC. 1506. MILK INCOME LOSS CONTRACT PROGRAM.***

*(a) DEFINITIONS.—In this section:*

*(1) CLASS I MILK.—The term ''Class I milk'' means milk (including milk components) classified as Class I milk under a Federal milk marketing order.*

*(2) ELIGIBLE PRODUCTION.—The term ''eligible production'' means milk produced by a producer in a participating State.*

*(3) FEDERAL MILK MARKETING ORDER.—The term ''Federal milk marketing order'' means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.*

*(4) PARTICIPATING STATE.—The term ''participating State'' means each State.*

*(5) PRODUCER.—The term ''producer'' means an individual or entity that directly or indirectly (as determined by the Secretary)—*

*(A) shares in the risk of producing milk; and*

*(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.*

*(b) PAYMENTS.—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.*

*(c) AMOUNT.—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—*

*(1) the payment quantity for the producer during the applicable month established under subsection (e);*

*(2) the amount equal to—*

*(A) $16.94 per hundredweight, as adjusted under subsection (d); less*

*(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by*

*(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;*

*(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and*

*(C) for the period beginning September 1, 2012, and thereafter, 34 percent.*

*(d) PAYMENT RATE ADJUSTMENT FOR FEED PRICES.—*

*(1) INITIAL ADJUSTMENT AUTHORITY.—During the period beginning on January 1, 2008, and ending on August 31, 2012, if the National Average Dairy Feed Ration Cost for a month during that period is greater than $7.35 per hundredweight, the amount specified in subsection*

*(c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $7.35 per hundredweight.*

*(2) SUBSEQUENT ADJUSTMENT AUTHORITY.—For any month beginning on or after September 1, 2012, if the National Average Dairy Feed Ration Cost for the month is greater than $9.50 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $9.50 per hundredweight.*

*(3) NATIONAL AVERAGE DAIRY FEED RATION COST.—For each month, the Secretary shall calculate a National Average Dairy Feed Ration Cost per hundredweight using the same procedures (adjusted to a hundredweight basis) used to calculate the feed components of the estimated price of 16% Mixed Dairy Feed per pound noted on page 33 of the USDA March 2008 Agricultural Prices publication (including the data and factors noted in footnote 4).*

*(e) PAYMENT QUANTITY.—*

*(1) IN GENERAL.—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.*

*(2) LIMITATION.—*

*(A) IN GENERAL.—The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—*

*(i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;*

*(ii) for the period beginning October 1, 2008, and ending August 31, 2012, 2,985,000 pounds for each fiscal year; and*

*(iii) effective beginning September 1, 2012, 2,400,000 pounds per fiscal year.*

*(B) STANDARDS.—For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549A–50).*

*(3) RECONSTITUTION.—The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.*

*(f) PAYMENTS.—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.*

*(g) SIGNUP.—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.*

*(h) DURATION OF CONTRACT.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.*

*(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—*

*(A) terminate the contract and allow the producer to retain any payments received under the contract; or*

*(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.*

***SEC. 1507. DAIRY PROMOTION AND RESEARCH PROGRAM.***

*(a) EXTENSION OF DAIRY PROMOTION AND RESEARCH AUTHORITY.—Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking ''2007'' and inserting ''2012''.*

*(b) DEFINITION OF UNITED STATES FOR PROMOTION PROGRAM.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—*

*(1) by striking subsection (l) and inserting the following:*

*''(l) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico;''; and*

*(2) in subsection (m), by striking ''(as defined in subsection (l))''.*

*(c) DEFINITION OF UNITED STATES FOR RESEARCH PROGRAM.—Section 130 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4531)) is amended by striking paragraph (12) and inserting the following:*

*''(12) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico.''.*

*(d) ASSESSMENT RATE FOR IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by striking paragraph (3) and inserting the following:*

*''(3) RATE.—*

*''(A) IN GENERAL.—The rate of assessment for milk produced in the United States prescribed by the order shall be 15 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.*

*''(B) IMPORTED DAIRY PRODUCTS.—The rate of assessment for imported dairy products prescribed by the order shall be 7.5 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.''.*

*(e) TIME AND METHOD OF IMPORTER PAYMENTS.—Section 113(g)(6) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)(6)) is amended—*

*(1) by striking subparagraph (B); and*

*(2) by redesignating subparagraph (C) as subparagraph (B).*

*(f) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by adding at the end the following:*

*''(7) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED PRODUCTS.—*

*''(A) IN GENERAL.—An importer shall be entitled to a refund of any assessment paid under this subsection on imported dairy products imported under a contract entered into prior to the date of enactment of the Food, Conservation, and Energy Act of 2008.*

*''(B) EXPIRATION.—Refunds under subparagraph (A) shall expire 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008.''.*

***SEC. 1508. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR NONFAT DRY MILK.***

*Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of the procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of enactment of this Act.*

***SEC. 1509. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.***

*(a) ESTABLISHMENT.—Subject to the availability of appropriations to carry out this section, the Secretary shall establish a commission to be known as the ''Federal Milk Marketing Order Review Commission'' (referred to in this section as the ''commission''), which shall conduct a comprehensive review and evaluation of—*

*(1) the Federal milk marketing order system in effect on the date of establishment of the commission; and*

*(2) non-Federal milk marketing order systems.*

*(b) ELEMENTS OF REVIEW AND EVALUATION.—As part of the review and evaluation under subsection (a), the commission shall consider legislative and regulatory options for—*

*(1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;*

*(2) enhancing the competitiveness of American dairy producers in world markets;*

*(3) ensuring the competitiveness and transparency in dairy pricing;*

*(4) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;*

*(5) simplifying the Federal milk marketing order system;*

*(6) evaluating whether the Federal milk marketing order system serves the interests of dairy producers, consumers, and dairy processors; and*

*(7) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards.*

*(c) MEMBERSHIP.—*

*(1) COMPOSITION.—The commission shall consist of 14 members.*

*(2) MEMBERS.—As soon as practicable after the date on which funds are first made available to carry out this section, the Secretary shall appoint members to the commission according to the following requirements:*

*(A) At least 1 member shall represent a national consumer organization.*

*(B) At least 4 members shall represent land-grant universities or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) with accredited dairy economic programs, with at least 2 of those members being experts in the field of economics.*

*(C) At least 1 member shall represent the food and beverage retail sector.*

*(D) 4 dairy producers and 4 dairy processors, appointed so as to balance geographical distribution of milk production and dairy processing, reflect all segments of dairy processing, and represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.*

*(3) CHAIR.—The commission shall elect 1 of the appointed members of the commission to serve as chairperson for the duration of the proceedings of the commission.*

*(4) VACANCY.—Any vacancy occurring before the termination of the commission shall be filled in the same manner as the original appointment.*

*(5) COMPENSATION.—Members of the commission shall serve without compensation, but shall be reimbursed by the Secretary from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the commission.*

*(d) REPORT.—*

*(1) IN GENERAL.—Not later than 2 years after the date of the first meeting of the commission, the commission shall submit to Congress and the Secretary a report describing the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (b) as the commission considers to be appropriate.*

*(2) OPINIONS.—The report findings shall reflect, to the maximum extent practicable, a consensus opinion of the commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.*

*(e) ADVISORY NATURE.—The commission is wholly advisory in nature, and the recommendations of the commission are nonbinding.*

*(f) NO EFFECT ON EXISTING PROGRAMS.—The Secretary shall not allow the existence of the commission to impede, delay, or otherwise affect*

*any decisionmaking process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.*

*(g) ADMINISTRATIVE ASSISTANCE.—The Secretary shall provide administrative support to the commission, and expend to carry out this section such funds as necessary from budget authority available to the Secretary.*

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

*(i) TERMINATION.—The commission shall terminate effective on the date of the submission of the report under subsection (d).*

***SEC. 1510. MANDATORY REPORTING OF DAIRY COMMODITIES.***

*(a) ELECTRONIC REPORTING.—Section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is amended—*

*(1) by redesignating subsection (d) as subsection (e); and*

*(2) by inserting after subsection (c) the following:*

*''(d) ELECTRONIC REPORTING.—*

*''(1) IN GENERAL.—Subject to the availability of funds under paragraph (3), the Secretary shall establish an electronic reporting system to carry out this section.*

*''(2) FREQUENCY OF REPORTS.—After the establishment of the electronic reporting system in accordance with paragraph (1), the Secretary shall increase the frequency of the reports required under this section.*

*''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.*

*(b) QUARTERLY AUDITS.—Section 273(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b(c)) is amended by striking paragraph (3) and inserting the following:*

*''(3) VERIFICATION.—*

*''(A) IN GENERAL.—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subtitle.*

*''(B) QUARTERLY AUDITS.—The Secretary shall quarterly conduct an audit of information submitted or reported under this subtitle and compare such information with other related dairy market statistics.''.*

***Subtitle F—Administration***

***SEC. 1601. ADMINISTRATION GENERALLY.***

*(a) USE OF COMMODITY CREDIT CORPORATION.—Except as otherwise provided in this title, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.*

*(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.*

*(c) REGULATIONS.—*

*(1) IN GENERAL.—Except as otherwise provided in this subsection, not later than 90 days after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title.*

*(2) PROCEDURE.—The promulgation of the regulations and administration of this title and the amendments made by this title shall be made without regard to—*

*(A) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'');*

*(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and*

*(C) the notice and comment provisions of section 553 of title 5, United States Code.*

*(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.*

*(4) INTERIM REGULATIONS.—Notwithstanding paragraphs (1) and (2), the Secretary shall implement the amendments made by sections 1603 and 1604 for the 2009 crop, fiscal, or program year, as appropriate, through the promulgation of an interim rule.*

*(d) ADJUSTMENT AUTHORITY RELATED TO TRADE AGREEMENTS COMPLIANCE.—*

*(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under this title that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.*

*(2) CONGRESSIONAL NOTIFICATION.—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made.*

*(e) TREATMENT OF ADVANCE PAYMENT OPTION.—Section 1601(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991(d)) is amended—*

*(1) in paragraph (1), by striking ''and'' at the end;*

*(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(3) the advance payment of direct payments and counter-cyclical payments under title I of the Food, Conservation, and Energy Act of 2008.''.*

***SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.***

*(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2012:*

*(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326 et seq.).*

*(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).*

*(3) Subtitle D of title III (7 U.S.C. 1379a et seq.).*

*(4) Title IV (7 U.S.C. 1401 et seq.).*

*(b) AGRICULTURAL ACT OF 1949.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2012:*

*(1) Section 101 (7 U.S.C. 1441).*

*(2) Section 103(a) (7 U.S.C. 1444(a)).*

*(3) Section 105 (7 U.S.C. 1444b).*

*(4) Section 107 (7 U.S.C. 1445a).*

*(5) Section 110 (7 U.S.C. 1445e).*

*(6) Section 112 (7 U.S.C. 1445g).*

*(7) Section 115 (7 U.S.C. 1445k).*

*(8) Section 201 (7 U.S.C. 1446).*

*(9) Title III (7 U.S.C. 1447 et seq.).*

*(10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).*

*(11) Title V (7 U.S.C. 1461 et seq.).*

*(12) Title VI (7 U.S.C. 1471 et seq.).*

*(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled ''A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended'', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2008 through 2012.*

***SEC. 1603. PAYMENT LIMITATIONS.***

*(a) EXTENSION OF LIMITATIONS.—Sections 1001 and 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–3(a)) are amended by striking ''Farm Security and Rural Investment Act of 2002'' each place it appears and inserting ''Food, Conservation, and Energy Act of 2008''.*

*(b) REVISION OF LIMITATIONS.—*

*(1) DEFINITIONS.—Section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)) is amended—*

*(A) in the matter preceding paragraph (1), by inserting ''through section 1001F''after ''section'';*

*(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (5); and*

*(C) by inserting after paragraph (1) the following:*

*''(2) FAMILY MEMBER.—The term 'family member' means a person to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.*

*''(3) LEGAL ENTITY.—The term 'legal entity' means an entity that is created under Federal or State law and that—*

*''(A) owns land or an agricultural commodity; or*

*''(B) produces an agricultural commodity.*

*''(4) PERSON.—The term 'person' means a natural person, and does not include a legal entity.''.*

*(2) LIMITATION ON DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsections (b), (c), and (d) and inserting the following:*

*''(b) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR COVERED COMMODITIES (OTHER THAN PEANUTS).—*

*''(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle A of title I of the Food, Conservation, and Energy Act of 2008 for 1 or more covered commodities (except for peanuts) may not exceed—*

*''(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or*

*''(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—*

*''(i) the payment limit specified in subparagraph (A); less*

*''(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.*

*''(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle A of title I of that Act for 1 or more covered commodities (except for peanuts) may not exceed $65,000.*

*''(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments and counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year for 1 or more covered commodities (except for peanuts) may not exceed the sum of—*

*''(A) $65,000; and*

*''(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).*

*''(c) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR PEANUTS.—*

''(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle C of title I of the Food, Conservation, and Energy Act of 2008 for peanuts may not exceed—

''(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

''(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

''(i) the payment limit specified in subparagraph (A); less

''(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

''(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle C of title I of that Act for peanuts may not exceed $65,000.

''(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments received, directly or indirectly, by the person or legal entity for any crop year for peanuts may not exceed the sum of—

''(A) $65,000; and

''(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

''(d) LIMITATION ON APPLICABILITY.—Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food, Conservation, and Energy Act of 2008.''.

(3) DIRECT ATTRIBUTION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(A) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (d) the following:

''(e) ATTRIBUTION OF PAYMENTS.—

''(1) IN GENERAL.—In implementing subsections (b) and (c) and a program described in paragraphs (1)(C) and (2)(B) of section 1001D(b), the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

''(2) PAYMENTS TO A PERSON.—Each payment made directly to a person shall be combined with the pro rata interest of the person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

''(3) PAYMENTS TO A LEGAL ENTITY.—

''(A) IN GENERAL.—Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

''(B) ATTRIBUTION OF PAYMENTS.—

''(i) PAYMENT LIMITS.—Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

''(ii) EXCEPTION FOR JOINT VENTURES AND GENERAL PARTNERSHIPS.—Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

''(iii) REDUCTION.—Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise exceeded the applicable maximum payment limitation.

''(4) 4 LEVELS OF ATTRIBUTION FOR EMBEDDED LEGAL ENTITIES.—

''(A) IN GENERAL.—Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

''(B) FIRST LEVEL.—Any payments made to a legal entity (a first-tier legal entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

''(C) SECOND LEVEL.—

''(i) IN GENERAL.—Any payments made to a first-tier legal entity that is owned (in whole or in part) by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

''(ii) OWNERSHIP BY A PERSON.—If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

''(D) THIRD AND FOURTH LEVELS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C).

''(ii) FOURTH-TIER OWNERSHIP.—If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

''(f) SPECIAL RULES.—

''(1) MINOR CHILDREN.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

''(B) REGULATIONS.—The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

''(2) MARKETING COOPERATIVES.—Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons.

''(3) TRUSTS AND ESTATES.—

''(A) IN GENERAL.—With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1001F in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

''(B) IRREVOCABLE TRUST.—

''(i) IN GENERAL.—In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not—

''(I) allow for modification or termination of the trust by the grantor;

''(II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

''(III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

''(ii) EXCEPTION.—Clause (i)(III) shall not apply in a case in which the transfer is—

''(I) contingent on the remainder beneficiary achieving at least the age of majority; or

''(II) contingent on the death of the grantor or income beneficiary.

''(C) REVOCABLE TRUST.—For the purposes of this section through section 1001F, a revocable trust shall be considered to be the same person as the grantor of the trust.

''(4) CASH RENT TENANTS.—

''(A) DEFINITION.—In this paragraph, the term 'cash rent tenant' means a person or legal entity that rents land—

''(i) for cash; or

''(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

''(B) RESTRICTION.—A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

''(5) FEDERAL AGENCIES.—

''(A) IN GENERAL.—Notwithstanding subsection (d), a Federal agency shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

''(B) LAND RENTAL.—A lessee of land owned by a Federal agency may receive a payment described in subsection (b), (c), or (d) if the lessee otherwise meets all applicable criteria.

''(6) STATE AND LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

''(B) TENANTS.—A lessee of land owned by a State or local government, or political subdivision or agency of the government, may receive payments described in subsections (b), (c), and (d) if the lessee otherwise meets all applicable criteria.

''(7) CHANGES IN FARMING OPERATIONS.—

''(A) IN GENERAL.—In the administration of this section through section 1001F, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

''(B) FAMILY MEMBERS.—The addition of a family member to a farming operation under the criteria set out in section 1001A shall be considered a bona fide and substantive change in the farming operation.

''(8) DEATH OF OWNER.—

''(A) IN GENERAL.—If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

''(B) LIMITATIONS ON PRIOR OWNER.—Payments made under this paragraph shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

''(g) PUBLIC SCHOOLS.—

''(1) IN GENERAL.—Notwithstanding subsection (f)(6)(A), a State or local government, or political subdivision or agency of the government, shall be eligible, subject to the limitation in paragraph (2), to receive a payment described in subsection (b) or (c) for land owned by the State or local government, or political subdivision or

*agency of the government, that is used to maintain a public school.*

*''(2) LIMITATION.—*

*''(A) IN GENERAL.—For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and local government and all political subdivisions or agencies of those governments shall not exceed $500,000.*

*''(B) EXCEPTION.—The limitation in subparagraph (A) shall not apply to States with a population of less than 1,500,000.''.*

*(c) REPEAL OF 3-ENTITY RULE.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—*

*(1) in the section heading, by striking ''**PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS**'' and inserting ''**NOTIFICATION OF INTERESTS**''; and*

*(2) by striking subsection (a) and inserting the following:*

*''(a) NOTIFICATION OF INTERESTS.—To facilitate administration of section 1001 and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1001 as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—*

*''(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and*

*''(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.''.*

*(d) AMENDMENT FOR CONSISTENCY.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by striking subsection (b) and inserting the following:*

*''(b) ACTIVELY ENGAGED.—*

*''(1) IN GENERAL.—To be eligible to receive a payment described in subsection (b) or (c) of section 1001, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).*

*''(2) CLASSES ACTIVELY ENGAGED.—Except as provided in subsections (c) and (d)—*

*''(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—*

*''(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—*

*''(I) capital, equipment, or land; and*

*''(II) personal labor or active personal management;*

*''(ii) the person's share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and*

*''(iii) the contributions of the person are at risk;*

*''(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—*

*''(i) the legal entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;*

*''(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and*

*''(iii) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity;*

*''(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved; and*

*''(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.*

*''(c) SPECIAL CLASSES ACTIVELY ENGAGED.—*

*''(1) LANDOWNER.—A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—*

*''(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and*

*''(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).*

*''(2) ADULT FAMILY MEMBER.—If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—*

*''(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and*

*''(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).*

*''(3) SHARECROPPER.—A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).*

*''(4) GROWERS OF HYBRID SEED.—In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.*

*''(5) CUSTOM FARMING SERVICES.—*

*''(A) IN GENERAL.—A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.*

*''(B) PROHIBITION.—No other rules with respect to custom farming shall apply.*

*''(6) SPOUSE.—If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subsection (b)(2)(A)(i)(II).*

*''(d) CLASSES NOT ACTIVELY ENGAGED.—*

*''(1) CASH RENT LANDLORD.—A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.*

*''(2) OTHER PERSONS AND LEGAL ENTITIES.—Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.''.*

*(e) DENIAL OF PROGRAM BENEFITS.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended to read as follows:*

***''SEC. 1001B. DENIAL OF PROGRAM BENEFITS.***

*''(a) 2-YEAR DENIAL OF PROGRAM BENEFITS.—A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1001 for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—*

*''(1) failed to comply with section 1001A(b) and adopted or participated in adopting a scheme or device to evade the application of section 1001, 1001A, or 1001C; or*

*''(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.*

*''(b) EXTENDED INELIGIBILITY.—If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1001 through 1001F, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.*

*''(c) PRO RATA DENIAL.—*

*''(1) IN GENERAL.—Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.*

*''(2) CASH RENT TENANT.—Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).*

*''(d) JOINT AND SEVERAL LIABILITY.—Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1001, 1001A, or 1001C shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).*

*''(e) RELEASE.—The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1001, 1001A, and 1001C, and this section.''.*

*(f) CONFORMING AMENDMENT TO APPLY DIRECT ATTRIBUTION TO NAP.—*

*(1) IN GENERAL.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)) is amended—*

*(A) by striking paragraphs (1) and (2) and inserting the following:*

*''(1) DEFINITIONS.—In this subsection, the terms 'legal entity' and 'person' have the meanings given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).*

*''(2) PAYMENT LIMITATION.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) for any crop year may not exceed $100,000.'';*

*(B) by striking paragraph (4) and inserting the following:*

*''(4) ADJUSTED GROSS INCOME LIMITATION.—A person or legal entity that has an average adjusted gross income in excess of the average adjusted gross income limitation applicable under section 1001D(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)(A)), or a successor provision, shall not be eligible to receive*

*noninsured crop disaster assistance under this section.''; and*

*(C) in paragraph (5)—*

*(i) by striking ''necessary to ensure'' and inserting ''necessary—*

*''(A) to ensure''; and*

*(ii) by striking ''this subsection.'' and inserting the following: ''this subsection; and*

*''(B) to ensure that payments under this section are attributed to a person or legal entity (excluding a joint venture or general partnership) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.), as determined by the Secretary.''.*

*(2) TRANSITION.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crops of any eligible crop.*

*(g) CONFORMING AMENDMENTS.—*

*(1) Section 1009(e) of the Food Security Act of 1985 (7 U.S.C. 1308a(e)) is amended in the second sentence by striking ''of $50,000''.*

*(2) Section 609(b)(1) of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g(b)(1)) is amended by inserting ''(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)'' after ''1985''.*

*(3) Section 524(b)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(3)) is amended by inserting ''(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)'' after ''1308(5))''.*

*(4) Section 10204(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8204(c)(1)) is amended by inserting ''(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)'' after ''1308)''.*

*(5) Section 1271(c)(3)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(A)) is amended by inserting ''(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)'' after ''1308)''.*

*(6) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended by inserting ''(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)'' before the period at the end.*

*(h) TRANSITION.—Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–1, 1308–2), as in effect on September 30, 2007, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts.*

***SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.***

*(a) IN GENERAL.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a(e)) is amended to read as follows:*

***''SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.***

*''(a) DEFINITIONS.—*

*''(1) IN GENERAL.—In this section:*

*''(A) AVERAGE ADJUSTED GROSS INCOME.—The term 'average adjusted gross income', with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.*

*''(B) AVERAGE ADJUSTED GROSS FARM INCOME.—The term 'average adjusted gross farm income', with respect to a person or legal entity, means the average of the portion of adjusted gross income of the person or legal entity that is attributable to activities related to farming, ranching, or forestry for the 3 taxable years described in subparagraph (A), as determined by the Secretary in accordance with subsection (c).*

*''(C) AVERAGE ADJUSTED GROSS NONFARM INCOME.—The term 'average adjusted gross nonfarm income', with respect to a person or legal entity, means the difference between—*

*''(i) the average adjusted gross income of the person or legal entity; and*

*''(ii) the average adjusted gross farm income of the person or legal entity.*

*''(2) SPECIAL RULES FOR CERTAIN PERSONS AND LEGAL ENTITIES.—In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under subparagraph (A) or (B) of paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income, the average adjusted gross farm income, and the average adjusted gross nonfarm income of the person or legal entity for purposes of this section.*

*''(3) ALLOCATION OF INCOME.—On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income among the persons filing the return if—*

*''(A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income would have been declared and reported had the persons filed 2 separate returns; and*

*''(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.*

*''(b) LIMITATIONS.—*

*''(1) COMMODITY PROGRAMS.—*

*''(A) NONFARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $500,000.*

*''(B) FARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive a direct payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 during a crop year, if the average adjusted gross farm income of the person or legal entity exceeds $750,000.*

*''(C) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following:*

*''(i) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 or an average crop revenue election payment under subtitle A of title I of that Act.*

*''(ii) A marketing loan gain or loan deficiency payment under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008.*

*''(iii) A payment or benefit under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

*''(iv) A payment or benefit under section 1506 of the Food, Conservation, and Energy Act of 2008.*

*''(v) A payment or benefit under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act.*

*''(2) CONSERVATION PROGRAMS.—*

*''(A) LIMITS.—*

*''(i) IN GENERAL.—Notwithstanding any other provision of law, except as provided in clause (ii), a person or legal entity shall not be eligible to receive any benefit described in subparagraph (B) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $1,000,000, unless not less than 66.66 percent of the average adjusted gross income of the person or legal entity is average adjusted gross farm income.*

*''(ii) EXCEPTION.—The Secretary may waive the limitation established under clause (i) on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.*

*''(B) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following:*

*''(i) A payment or benefit under title XII of this Act.*

*''(ii) A payment or benefit under title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223) or title II of the Food, Conservation, and Energy Act of 2008.*

*''(iii) A payment or benefit under section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).*

*''(c) INCOME DETERMINATION.—*

*''(1) IN GENERAL.—In determining the average adjusted gross farm income of a person or legal entity, the Secretary shall include income or benefits derived from or related to—*

*''(A) the production of crops, including specialty crops (as defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465)) and unfinished raw forestry products;*

*''(B) the production of livestock (including cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry, fish, and other aquacultural products used for food, honeybees, and other animals designated by the Secretary) and products produced by, or derived from, livestock;*

*''(C) the production of farm-based renewable energy (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101));*

*''(D) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land, water or hunting rights, or environmental benefits;*

*''(E) the rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;*

*''(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities, including renewable energy;*

*''(G) the feeding, rearing, or finishing of livestock;*

*''(H) the sale of land that has been used for agriculture;*

*''(I) payments or other benefits received under any program authorized under title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.) or title I of the Food, Conservation, and Energy Act of 2008;*

*''(J) payments or other benefits received under any program authorized under title XII of this Act, title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223), or title II of the Food, Conservation, and Energy Act of 2008;*

*''(K) payments or other benefits received under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);*

*''(L) payments or other benefits received under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act;*

*''(M) risk management practices, including benefits received under a program authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (including a catastrophic risk protection plan offered under section 508(b) of that Act (7 U.S.C. 1508(b))); and*

*''(N) any other activity related to farming, ranching, or forestry, as determined by the Secretary.*

*''(2) INCOME DERIVED FROM FARMING, RANCHING, OR FORESTRY.—In determining the average adjusted gross farm income of a person or legal entity, in addition to the inclusions described in paragraph (1), the Secretary shall include any income reported on the Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to the Internal Revenue Service, to the extent such income is not already included under paragraph (1).*

*''(3) SPECIAL RULE.—If not less than 66.66 percent of the average adjusted gross income of a person or legal entity is derived from farming,*

*ranching, or forestry operations described in paragraphs (1) and (2), in determining the average adjusted gross farm income of the person or legal entity, the Secretary shall also include—*

*''(A) the sale of equipment to conduct farm, ranch, or forestry operations; and*

*''(B) the provision of production inputs and services to farmers, ranchers, foresters, and farm operations.*

*''(d) ENFORCEMENT.—*

*''(1) IN GENERAL.—To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary—*

*''(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or*

*''(B) information and documentation regarding the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity through other procedures established by the Secretary.*

*''(2) DENIAL OF PROGRAM BENEFITS.—If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in paragraphs (1)(C) and (2)(B) of subsection (b) to the person or legal entity, under similar terms and conditions as described in section 1001B.*

*''(3) AUDIT.—The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b).*

*''(e) COMMENSURATE REDUCTION.—In the case of a payment or benefit described in paragraphs (1)(C) and (2)(B) of subsection (b) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income, average adjusted gross farm income, or average adjusted gross nonfarm income in excess of the applicable limitation specified in subsection (b).*

*''(f) EFFECTIVE PERIOD.—This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.''.*

*(b) TRANSITION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).*

***SEC. 1605. AVAILABILITY OF QUALITY INCENTIVE PAYMENTS FOR COVERED OILSEED PRODUCERS.***

*(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b) and the availability of appropriations under subsection (h), the Secretary shall use funds made available under subsection (h) to provide quality incentive payments for the production of oilseeds with specialized traits that enhance human health, as determined by the Secretary.*

*(b) COVERED OILSEEDS.—The Secretary shall make payments under this section only for the production of an oilseed variety that has, as determined by the Secretary—*

*(1) been demonstrated to improve the health profile of the oilseed for use in human consumption by—*

*(A) reducing or eliminating the need to partially hydrogenate the oil derived from the oilseed for use in human consumption; or*

*(B) adopting new technology traits; and*

*(2) 1 or more impediments to commercialization.*

*(c) REQUEST FOR PROPOSALS.—*

*(1) ISSUANCE.—If funds are made available to carry out this section for a crop year, the Secretary shall issue a request for proposals for payments under this section.*

*(2) MULTIYEAR PROPOSALS.—A proponent may submit a multiyear proposal for payments under this section.*

*(3) CONTENT OF PROPOSALS.—A proposal for payments under this section shall include a description of—*

*(A) how use of the oilseed enhances human health;*

*(B) the impediments to commercial use of the oilseed;*

*(C) each oilseed variety described in subsection (b) and the value of the oilseed variety as a matter of public policy;*

*(D) a range for the base price and premiums per bushel or hundredweight to be paid to producers;*

*(E) a per bushel or hundredweight amount of incentive payments requested for each year under this section that does not exceed ⅓ of the total premium offered for any year;*

*(F) the period of time, not to exceed 4 years, during which incentive payments are to be provided to producers; and*

*(G) the targeted total quantity of production and estimated acres needed to produce the targeted quantity for each year under this section.*

*(d) CONTRACTS FOR PRODUCTION.—*

*(1) IN GENERAL.—The Secretary shall approve successful proposals submitted under subsection (c) on a timely basis.*

*(2) TIMING OF PAYMENTS.—The Secretary shall make payments to producers under this section after the Secretary receives documentation that the premium required under a contract has been paid to covered producers.*

*(e) ADMINISTRATION.—*

*(1) IN GENERAL.—If funding provided for a crop year is not fully allocated under the initial request for proposals under subsection (c), the Secretary shall issue additional requests for proposals for subsequent crop years under this section.*

*(2) PRORATED PAYMENTS.—If funding provided for a crop year is less than the amount otherwise approved by the Secretary or for which approval is sought, the Secretary shall prorate the payments or approvals in a manner determined by the Secretary so that the total payments do not exceed the funding level.*

*(f) PROPRIETARY INFORMATION.—The Secretary shall protect proprietary information provided to the Secretary for the purpose of administering this section.*

*(g) PROGRAM COMPLIANCE AND PENALTIES.—*

*(1) GUARANTEE.—The proponent, if approved, shall be required to guarantee that the oilseed on which a payment is made by the Secretary under this section is used for human consumption as described in the proposal, as approved by the Secretary.*

*(2) NONCOMPLIANCE.—If oilseeds on which a payment is made by the Secretary under this section are not actually used for the purpose the payment is made, the proponent shall be required to pay to the Secretary an amount equal to, as determined by the Secretary—*

*(A) in the case of an inadvertent failure, twice the amount of the payment made by the Secretary under this section to the producer of the oilseeds; and*

*(B) in any other case, up to twice the full value of the oilseeds involved.*

*(3) DOCUMENTATION.—The Secretary may require such assurances and documentation as may be needed to enforce the guarantee.*

*(4) ADDITIONAL PENALTIES.—*

*(A) IN GENERAL.—In addition to payments required under paragraph (2), the Secretary may impose penalties on additional persons that use oilseeds the use of which is restricted under this section for a purpose other than the intended use.*

*(B) AMOUNT.—The amount of a penalty under this paragraph shall—*

*(i) be in an amount determined appropriated by the Secretary; but*

*(ii) not to exceed twice the full value of the oilseeds.*

*(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.*

***SEC. 1606. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.***

*Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking ''and title I of the Farm Security and Rural Investment Act of 2002'' each place it appears and inserting ''title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008''.*

***SEC. 1607. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.***

*Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—*

*(1) by striking ''and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002'' each place it appears and inserting '', title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008''; and*

*(2) in subsection (c), by adding at the end the following:*

*''(3) TERMINATION OF AUTHORITY.—The authority to carry out paragraph (1) terminates effective ending with the 2009 crop year.''.*

***SEC. 1608. ASSIGNMENT OF PAYMENTS.***

*(a) IN GENERAL.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under this title.*

*(b) NOTICE.—The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.*

***SEC. 1609. TRACKING OF BENEFITS.***

*As soon as practicable after the date of enactment of this Act, the Secretary may track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.*

***SEC. 1610. GOVERNMENT PUBLICATION OF COTTON PRICE FORECASTS.***

*Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended—*

*(1) by striking subsection (d); and*

*(2) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively.*

***SEC. 1611. PREVENTION OF DECEASED INDIVIDUALS RECEIVING PAYMENTS UNDER FARM COMMODITY PROGRAMS.***

*(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that—*

*(1) describe the circumstances under which, in order to allow for the settlement of estates and for related purposes, payments may be issued in the name of a deceased individual; and*

*(2) preclude the issuance of payments to, and on behalf of, deceased individuals that were not eligible for the payments.*

*(b) COORDINATION.—At least twice each year, the Secretary shall reconcile the social security numbers of all individuals who receive payments under this title, whether directly or indirectly, with the Social Security Administration to determine if the individuals are alive.*

***SEC. 1612. HARD WHITE WHEAT DEVELOPMENT PROGRAM.***

*(a) DEFINITIONS.—In this section:*

*(1) ELIGIBLE HARD WHITE WHEAT SEED.—The term ''eligible hard white wheat seed'' means hard white wheat seed that, as determined by the Secretary, is—*

*(A) certified;*

*(B) of a variety that is suitable for the State in which the seed will be planted;*

*(C) rated at least superior with respect to quality; and*

*(D) specifically approved under a seed establishment program established by the State Department of Agriculture and the State Wheat Commission of the 1 or more States in which the seed will be planted.*

*(2) PROGRAM.—The term ''program'' means the hard white wheat development program established under subsection (b)(1).*

*(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, in consultation with the State Departments of Agriculture and the State Wheat Commissions of the States in regions in which hard white wheat is produced, as determined by the Secretary.*

*(b) ESTABLISHMENT.—*

*(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a hard white wheat development program in accordance with paragraph (2) to promote the establishment of hard white wheat as a viable market class of wheat in the United States by encouraging production of at least 240,000,000 bushels of hard white wheat by 2012.*

*(2) PAYMENTS.—*

*(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c), if funds are made available for any of the 2009 through 2012 crops of hard white wheat, the Secretary shall make available incentive payments to producers of those crops.*

*(B) ACREAGE LIMITATION.—The Secretary shall carry out subparagraph (A) subject to a regional limitation determined by the Secretary on the number of acres for which payments may be received that takes into account planting history and potential planting, but does not exceed a total of 2,900,000 acres or the equivalent volume of production based on a yield of 50 bushels per acre.*

*(C) PAYMENT LIMITATIONS.—Payments to producers on a farm described in subparagraph (A) shall be—*

*(i) in an amount that is not less than $0.20 per bushel; and*

*(ii) in an amount that is not less than $2.00 per acre for planting eligible hard white wheat seed.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for the period of fiscal years 2009 through 2012.*

***SEC. 1613. DURUM WHEAT QUALITY PROGRAM.***

*(a) IN GENERAL.—Subject to the availability of funds under subsection (c), the Secretary shall provide compensation to producers of durum wheat in an amount not to exceed 50 percent of the actual cost of fungicides applied to a crop of durum wheat of the producers to control Fusarium head blight (wheat scab) on acres certified to have been planted to Durum wheat in a crop year.*

*(b) INSUFFICIENT FUNDS.—If the total amount of funds appropriated for a fiscal year under subsection (c) are insufficient to fulfill all eligible requests for compensation under this section, the Secretary shall prorate the compensation payments in a manner determined by the Secretary to be equitable.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2012.*

***SEC. 1614. STORAGE FACILITY LOANS.***

*(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar), as determined by the Secretary, to construct or upgrade storage and handling facilities for the commodities.*

*(b) ELIGIBLE PRODUCERS.—A storage facility loan under this section shall be made available to any producer described in subsection (a) that, as determined by the Secretary—*

*(1) has a satisfactory credit history;*

*(2) has a need for increased storage capacity; and*

*(3) demonstrates an ability to repay the loan.*

*(c) TERM OF LOANS.—A storage facility loan under this section shall have a maximum term of 12 years.*

*(d) LOAN AMOUNT.—The maximum principal amount of a storage facility loan under this section shall be $500,000.*

*(e) LOAN DISBURSEMENTS.—The Secretary shall provide for 1 partial disbursement of loan principal and 1 final disbursement of loan principal, as determined to be appropriate and subject to acceptable documentation, to facilitate the purchase and construction of eligible facilities.*

*(f) LOAN SECURITY.—Approval of a storage facility loan under this section shall—*

*(1) require the borrower to provide loan security to the Secretary, in the form of—*

*(A) a lien on the real estate parcel on which the storage facility is located; or*

*(B) such other security as is acceptable to the Secretary;*

*(2) under such rules and regulations as the Secretary may prescribe, not require a severance agreement from the holder of any prior lien on the real estate parcel on which the storage facility is located, if the borrower—*

*(A) agrees to increase the down payment on the storage facility by an amount determined appropriate by the Secretary; or*

*(B) provides other security acceptable to the Secretary; and*

*(3) allow a borrower, upon the approval of the Secretary, to define a subparcel of real estate as security for the storage facility loan if the subparcel is—*

*(A) of adequate size and value to adequately secure the loan; and*

*(B) not subject to any other liens or mortgages that are superior to the lien interest of the Commodity Credit Corporation.*

***SEC. 1615. STATE, COUNTY, AND AREA COMMITTEES.***

*Section 8(b)(5)(B)(ii) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is amended—*

*(1) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting appropriately;*

*(2) in the matter preceding item (aa) (as redesignated by paragraph (1)), by striking ''A committee established'' and inserting the following:*

*''(I) IN GENERAL.—Except as provided in subclause (II), a committee established''; and*

*(3) by adding at the end the following:*

*''(II) COMBINATION OR CONSOLIDATION OF AREAS.—A committee established by combining or consolidating 2 or more county or area committees shall consist of not fewer than 3 nor more than 11 members that—*

*''(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and*

*''(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.*

*''(III) REPRESENTATION OF SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.—The Secretary shall develop procedures to maintain representation of socially disadvantaged farmers and ranchers on combined or consolidated committees.*

*''(IV) ELIGIBILITY FOR MEMBERSHIP.—Notwithstanding any other producer eligibility requirements for service on county or area committees, if a county or area is consolidated or combined, a producer shall be eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer.''.*

***SEC. 1616. PROHIBITION ON CHARGING CERTAIN FEES.***

*Public Law 108–470 (7 U.S.C. 7416a) is amended—*

*(1) in subsection (a), by striking ''may'' and inserting ''shall''; and*

*(2) by adding at the end the following:*

*''(c) PROHIBITION ON CHARGING CERTAIN FEES.—The Secretary may not charge any fees or related costs for the collection of commodity assessments pursuant to this Act.''.*

***SEC. 1617. SIGNATURE AUTHORITY.***

*(a) IN GENERAL.—In carrying out this title and title II and amendments made by those titles, if the Secretary approves a document, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any person signing the document on behalf of the applicant or any other individual, entity, general partnership, or joint venture, or the documents relied upon were determined inadequate or invalid, unless the person signing the program document knowingly and willfully falsified the evidence of signature authority or a signature.*

*(b) AFFIRMATION.—*

*(1) IN GENERAL.—Nothing in this section prohibits the Secretary from asking a proper party to affirm any document that otherwise would be considered approved under subsection (a).*

*(2) NO RETROACTIVE EFFECT.—A denial of benefits based on a lack of affirmation under paragraph (1) shall not be retroactive with respect to third-party producers who were not the subject of the erroneous representation of authority, if the third-party producers—*

*(A) relied on the prior approval by the Secretary of the documents in good faith; and*

*(B) substantively complied with all program requirements.*

***SEC. 1618. MODERNIZATION OF FARM SERVICE AGENCY.***

*Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report prepared by a third party that describes—*

*(1) the data processing and information technology challenges experienced in local offices of the Farm Service Agency;*

*(2) the impact of those challenges on service to producers, on efficiency of personnel, and on implementation of this Act;*

*(3) the need for information technology system upgrades of the Farm Service Agency relative to other agencies of the Department of Agriculture;*

*(4) the detailed plan needed to fulfill the needs of the Department that are identified in paragraph (3), including hardware, software, and infrastructure requirements;*

*(5) the estimated cost and timeframe for long-term modernization and stabilization of Farm Service Agency information technology systems;*

*(6) the benefits associated with such modernization and stabilization; and*

*(7) an evaluation of the existence of appropriate oversight within the Department to ensure that funds needed for systems upgrades can be appropriately managed.*

***SEC. 1619. INFORMATION GATHERING.***

*(a) GEOSPATIAL SYSTEMS.—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.*

*(b) LIMITATION ON DISCLOSURES.—*

*(1) DEFINITION OF AGRICULTURAL OPERATION.—In this subsection, the term ''agricultural operation'' includes the production and marketing of agricultural commodities and livestock.*

*(2) PROHIBITION.—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—*

*(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or*

*(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.*

*(3) AUTHORIZED DISCLOSURES.—*

*(A) LIMITED RELEASE OF INFORMATION.—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—*

*(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or*

*(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.*

*(4) EXCEPTIONS.—Nothing in this subsection affects—*

*(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;*

*(B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—*

*(i) individual owner, operator, or producer; or*

*(ii) specific data gathering site; or*

*(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.*

*(5) CONDITION OF OTHER PROGRAMS.—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph (4)(C).*

*(6) WAIVER OF PRIVILEGE OR PROTECTION.—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.*

***SEC. 1620. LEASING OF OFFICE SPACE.***

*Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report that describes—*

*(1) the costs and time associated with complying with leasing procedures of the General Services Administration relative to the previous independent leasing procedures of the Department of Agriculture;*

*(2) the additional staffing needs associated with complying with those procedures; and*

*(3) the value added to the leasing process and the ability of the Department to secure best-value leases by complying with the General Services Administration leasing procedures.*

***SEC. 1621. GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.***

*(a) DEFINITIONS.—In this section:*

*(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).*

*(2) GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—The term ''geographically disadvantaged farmer or rancher'' has the meaning given the term in section 10906(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2204 note; Public Law 107–171).*

*(b) AUTHORIZATION.—Subject to the availability of funds under subsection (d), the Secretary may provide geographically disadvantaged farmers or ranchers direct reimbursement payments for activities described in subsection (c).*

*(c) TRANSPORTATION.—*

*(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may provide direct reimbursement payments to a geographically disadvantaged farmer or rancher to transport an agricultural commodity, or inputs used to produce an agricultural commodity, during a fiscal year.*

*(2) PROOF OF ELIGIBILITY.—To be eligible to receive assistance under paragraph (1), a geographically disadvantaged farmer or rancher shall demonstrate to the Secretary that transportation of the agricultural commodity or inputs occurred over a distance of more than 30 miles, as determined by the Secretary.*

*(3) AMOUNT.—*

*(A) IN GENERAL.—Subject to paragraph (2), the amount of direct reimbursement payments made to a geographically disadvantaged farmer or rancher under this section for a fiscal year shall equal the product obtained by multiplying—*

*(i) the amount of costs incurred by the geographically disadvantaged farmer or rancher for transportation of the agricultural commodity or inputs during the fiscal year; and*

*(ii)(I) the percentage of the allowance for that fiscal year under section 5941 of title 5, United States Code, for Federal employees stationed in Alaska and Hawaii; or*

*(II) in the case of an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), a comparable percentage of the allowance for the fiscal year, as determined by the Secretary.*

*(B) LIMITATION.—The total amount of direct reimbursement payments provided by the Secretary under this section shall not exceed $15,000,000 for a fiscal year.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.*

***SEC. 1622. IMPLEMENTATION.***

*The Secretary shall make available to the Farm Service Agency to carry out this title $50,000,000.*

***SEC. 1623. REPEALS.***

*(a) COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.—Section 1605 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7993) is repealed.*

*(b) RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.—Section 1617 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8000) is repealed.*

## *TITLE II—CONSERVATION*

### *Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation*

***SEC. 2001. DEFINITIONS RELATING TO CONSERVATION TITLE OF FOOD SECURITY ACT OF 1985.***

*(a) BEGINNING FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—*

*(1) by redesignating paragraphs (2) through (6), (7) through (11), (12), (13) through (15), (16), (17), and (18) as paragraphs (3) through (7), (9) through (13), (15), (20) through (22), (24), (26), and (27), respectively; and*

*(2) by inserting after paragraph (1) the following new paragraph:*

*''(2) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a)(8) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(8)).''.*

*(b) FARM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (7), as redesignated by subsection (a)(1), the following new paragraph:*

*''(8) FARM.—The term 'farm' means a farm that—*

*''(A) is under the general control of one operator;*

*''(B) has one or more owners;*

*''(C) consists of one or more tracts of land, whether or not contiguous;*

*''(D) is located within a county or region, as determined by the Secretary; and*

*''(E) may contain lands that are incidental to the production of perennial crops, including conserving uses, forestry, and livestock, as determined by the Secretary.''.*

*(c) INDIAN TRIBE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (13), as redesignated by subsection (a)(1), the following new paragraph:*

*''(14) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).''.*

*(d) INTEGRATED PEST MANAGEMENT; LIVESTOCK; NONINDUSTRIAL PRIVATE FOREST LAND; PERSON AND LEGAL ENTITY.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (15), as redesignated by subsection (a)(1), the following new paragraphs:*

*''(16) INTEGRATED PEST MANAGEMENT.—The term 'integrated pest management' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.*

*''(17) LIVESTOCK.—The term 'livestock' means all animals raised on farms, as determined by the Secretary.*

*''(18) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—*

*''(A) has existing tree cover or is suitable for growing trees; and*

*''(B) is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decisionmaking authority over the land.*

*''(19) PERSON AND LEGAL ENTITY.—For purposes of applying payment limitations under subtitle D, the terms 'person' and 'legal entity' have the meanings given those terms in section 1001(a) of this Act (7 U.S.C. 1308(a)).''.*

*(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (22), as redesignated by subsection (a)(1), the following new paragraph:*

*''(23) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)).''.*

*(f) TECHNICAL ASSISTANCE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (24), as redesignated by subsection (a)(1), the following new paragraph:*

*''(25) TECHNICAL ASSISTANCE.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:*

*''(A) Technical services provided directly to farmers, ranchers, and other eligible entities,*

*such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices.*

*''(B) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.''.*

***SEC. 2002. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO HIGHLY ERODIBLE LAND CONSERVATION.***

*Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by striking subsection (f) and inserting the following new subsection:*

*''(f) GRADUATED PENALTIES.—*

*''(1) INELIGIBILITY.—No person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subtitle.*

*''(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—*

*''(A) State Executive Director, with the technical concurrence of the State Conservationist; or*

*''(B) district director, with the technical concurrence of the area conservationist.*

*''(3) PERIOD FOR IMPLEMENTATION.—A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.*

*''(4) PENALTIES.—*

*''(A) APPLICATION.—This paragraph applies if the Secretary determines that—*

*''(i) a person has failed to comply with section 1211 with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 1211; or*

*''(ii) the violation—*

*''(I) is technical and minor in nature; and*

*''(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.*

*''(B) REDUCTION.—If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 1211, reduce program benefits described in section 1211 that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.*

*''(5) SUBSEQUENT CROP YEARS.—Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary determines that the person is actively applying a conservation plan according to the schedule specified in the plan.''.*

***SEC. 2003. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO WETLAND CONSERVATION.***

*Section 1222(h) of the Food Security Act of 1985 (16 U.S.C. 3822(h)) is amended—*

*(1) by redesignating paragraph (2) as paragraph (3);*

*(2) by inserting after paragraph (1) the following new paragraph:*

*''(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—*

*''(A) State Executive Director, with the technical concurrence of the State Conservationist; or*

*''(B) district director, with the technical concurrence of the area conservationist.''; and*

*(3) in paragraph (3) (as redesignated by paragraph (1)), by inserting ''be'' before ''actively''.*

***Subtitle B—Conservation Reserve Program***

***SEC. 2101. EXTENSION OF CONSERVATION RESERVE PROGRAM.***

*Section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)) is amended—*

*(1) by striking ''2007 calendar year'' and inserting ''2012 fiscal year''; and*

*(2) by inserting before the period the following: ''and to address issues raised by State, regional, and national conservation initiatives''; and*

***SEC. 2102. LAND ELIGIBLE FOR ENROLLMENT IN CONSERVATION RESERVE.***

*Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—*

*(1) in paragraph (1)(B)—*

*(A) by striking ''Farm Security and Rural Investment Act of 2002'' and inserting ''Food, Conservation, and Energy Act of 2008''; and*

*(B) by striking the period at the end and inserting a semicolon; and*

*(2) in paragraph (4)—*

*(A) in subparagraph (C), by striking ''; or'' and inserting a semicolon;*

*(B) in subparagraph (D), by striking ''and'' at the end and inserting ''or''; and*

*(C) in subparagraph (E), by inserting ''or'' after the semicolon at the end.*

***SEC. 2103. MAXIMUM ENROLLMENT OF ACREAGE IN CONSERVATION RESERVE.***

*Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—*

*(1) by striking ''2007 calendar years'' and inserting ''2009 fiscal years'';*

*(2) by striking ''( 16 U.S.C.'' and inserting ''(16 U.S.C.''; and*

*(3) by adding at the end the following new sentence: ''During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.''.*

***SEC. 2104. DESIGNATION OF CONSERVATION PRIORITY AREAS.***

*Section 1231(f) of the Food Security Act of 1985 (16 U.S.C. 3831(f)) is amended by striking ''the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)'' and inserting ''the Chesapeake Bay Region''.*

***SEC. 2105. TREATMENT OF MULTI-YEAR GRASSES AND LEGUMES.***

*Subsection (g) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended to read as follows:*

*''(g) MULTI-YEAR GRASSES AND LEGUMES.—*

*''(1) IN GENERAL.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.*

*''(2) CROPPING HISTORY.—Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.''.*

***SEC. 2106. REVISED PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.***

*(a) REVISED PROGRAM.—*

*(1) IN GENERAL.—Title XII of the Food Security Act of 1985 is amended by inserting after section 1231 (16 U.S.C. 3831) the following new section:*

***''SEC. 1231B. PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.***

*''(a) PROGRAM REQUIRED.—*

*''(1) IN GENERAL.—During the 2008 through 2012 fiscal years, the Secretary shall carry out a program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).*

*''(2) PARTICIPATION AMONG STATES.—The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the program established under this section.*

*''(b) ELIGIBLE ACREAGE.—*

*''(1) WETLAND AND RELATED LAND.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—*

*''(A) that is wetland (including a converted wetland described in section 1222(b)(1)(A)) that had a cropping history during at least 3 of the immediately preceding 10 crop years;*

*''(B) on which a constructed wetland is to be developed that will receive flow from a row crop agriculture drainage system and is designed to provide nitrogen removal in addition to other wetland functions;*

*''(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or*

*''(D) that, after January 1, 1990, and before December 31, 2002, was—*

*''(i) cropped during at least 3 of 10 crop years; and*

*''(ii) subject to the natural overflow of a prairie wetland.*

*''(2) BUFFER ACREAGE.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—*

*''(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—*

*''(i) is contiguous to such land*

*''(ii) is used to protect such land; and*

*''(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and*

*''(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.*

*''(c) PROGRAM LIMITATIONS.—*

*''(1) ACREAGE LIMITATION.—The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—*

*''(A) 100,000 acres in any State; and*

*''(B) a total of 1,000,000 acres.*

*''(2) RELATIONSHIP TO MAXIMUM ENROLLMENT.—Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.*

*''(3) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—*

*''(A) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or*

*''(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).*

*''(4) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).*

*''(d) OWNER OR OPERATOR ENROLLMENT LIMITATIONS.—*

*''(1) WETLAND AND RELATED LAND.—*

*''(A) WETLANDS AND CONSTRUCTED WETLANDS.—The maximum size of any land described in subparagraph (A) or (B) of subsection*

*(b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.*

*''(B) FLOODED FARMLAND.—The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.*

*''(C) COVERAGE.—All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.*

*''(2) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.*

*''(3) TRACTS.—Except for land described in subsection (b)(1)(C) and buffer acreage related to such land, the maximum size of any eligible acreage described in subsection (b)(1) in a tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.*

*''(e) DUTIES OF OWNERS AND OPERATORS.—During the term of a contract entered into under the program established under this section, an owner or operator shall agree—*

*''(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;*

*''(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;*

*''(3) to a general prohibition of commercial use of the enrolled land; and*

*''(4) to carry out other duties described in section 1232.*

*''(f) DUTIES OF THE SECRETARY.—*

*''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—*

*''(A) make payments to the owner or operator based on rental rates for cropland; and*

*''(B) provide assistance to the owner or operator in accordance with sections 1233 and 1234.*

*''(2) CONTRACT OFFERS AND PAYMENTS.—The Secretary shall use the method of determination described in section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this section.*

*''(3) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.''.*

*(2) REPEAL OF SUPERSEDED PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—*

*(A) by striking subsection (h); and*

*(B) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.*

*(b) CONFORMING CHANGES TO EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—Subsection (k) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—*

*(1) by striking ''(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—'' and inserting the following:*

***''SEC. 1231A. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.'';***

*(2) by striking ''subsection'' each place it appears (other than paragraph (3)(C)(ii)) and inserting ''section'';*

*(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively;*

*(4) in subsection (a), as so redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and*

*(5) in subsection (c), as so redesignated—*

*(A) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;*

*(B) in paragraph (1), as so redesignated, by striking ''subparagraph (B)'' and ''subparagraph (G)'' and inserting ''paragraph (2)'' and ''paragraph (7)'', respectively;*

*(C) in paragraph (3), as so redesignated—*

*(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and*

*(ii) by striking ''subsection (d)'' and inserting ''section 1231(d)'';*

*(D) in paragraph (4), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;*

*(E) in paragraph (5), as so redesignated—*

*(i) by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively, and subclauses (I) and (II) as clauses (i) and (ii), respectively;*

*(ii) in subparagraph (B), as so redesignated, by striking ''clause (i)(I)'' and inserting ''subparagraph (A)(i)''; and*

*(iii) in subparagraph (C), as so redesignated, by striking ''clause (i)(II)'' and inserting ''subparagraph (A)(ii)''; and*

*(F) in paragraph (9), as so redesignated, by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively, and subclauses (I) through (III) as clauses (i) through (iii), respectively.*

***SEC. 2107. ADDITIONAL DUTY OF PARTICIPANTS UNDER CONSERVATION RESERVE CONTRACTS.***

*Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—*

*(1) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and*

*(2) by inserting after paragraph (4) the following new paragraph:*

*''(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;''.*

***SEC. 2108. MANAGED HAYING, GRAZING, OR OTHER COMMERCIAL USE OF FORAGE ON ENROLLED LAND AND INSTALLATION OF WIND TURBINES.***

*(a) GENERAL PROHIBITION; EXCEPTIONS.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended by striking paragraph (8), as redesignated by section 2107, and inserting the following new paragraph:*

*''(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—*

*''(A) managed harvesting (including the managed harvesting of biomass), except that in permitting managed harvesting, the Secretary, in coordination with the State technical committee—*

*''(i) shall develop appropriate vegetation management requirements; and*

*''(ii) shall identify periods during which managed harvesting may be conducted;*

*''(B) harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency;*

*''(C) routine grazing or prescribed grazing for the control of invasive species, except that in permitting such routine grazing or prescribed grazing, the Secretary, in coordination with the State technical committee—*

*''(i) shall develop appropriate vegetation management requirements and stocking rates for the land that are suitable for continued routine grazing; and*

*''(ii) shall establish the frequency during which routine grazing may be conducted, taking into consideration regional differences such as—*

*''(I) climate, soil type, and natural resources;*

*''(II) the number of years that should be required between routine grazing activities; and*

*''(III) how often during a year in which routine grazing is permitted that routine grazing should be allowed to occur; and*

*''(D) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—*

*''(i) the location, size, and other physical characteristics of the land;*

*''(ii) the extent to which the land contains wildlife and wildlife habitat; and*

*''(iii) the purposes of the conservation reserve program under this subchapter;''.*

*(b) RENTAL PAYMENT REDUCTION.—Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended by adding at the end the following new subsection:*

*''(d) RENTAL PAYMENT REDUCTION FOR CERTAIN AUTHORIZED USES OF ENROLLED LAND.—In the case of an authorized activity under subsection (a)(8) on land that is subject to a contract under this subchapter, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.''.*

***SEC. 2109. COST SHARING PAYMENTS RELATING TO TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.***

*Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) is amended by striking paragraph (3) and inserting the following new paragraph:*

*''(3) TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—*

*''(A) APPLICABILITY.—This paragraph applies to—*

*''(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990;*

*''(ii) land converted to such production under section 1235A; and*

*''(iii) land on which an owner or operator agrees to conduct thinning authorized by section 1232(a)(9), if the thinning is necessary to improve the condition of resources on the land.*

*''(B) PAYMENTS.—*

*''(i) PERCENTAGE.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator) or thinning.*

*''(ii) DURATION.—The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—*

*''(I) the planting of the trees or shrubs; or*

*''(II) the thinning of existing stands to improve the condition of resources on the land.''.*

***SEC. 2110. EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS, ANNUAL RENTAL PAYMENTS, AND PAYMENT LIMITATIONS.***

*(a) EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by striking paragraph (3) and inserting the following new paragraph:*

*''(3) ACCEPTANCE OF CONTRACT OFFERS.—*

*''(A) EVALUATION OF OFFERS.—In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.*

*''(B) ESTABLISHMENT OF DIFFERENT CRITERIA IN VARIOUS STATES AND REGIONS.—The Secretary may establish different criteria for determining the acceptability of contract offers in various States and regions of the United States based on*

*the extent to which water quality or wildlife habitat may be improved or erosion may be abated.*

*''(C) LOCAL PREFERENCE.—In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.''.*

*(b) ANNUAL SURVEY OF DRYLAND AND IRRIGATED CASH RENTAL RATES.—*

*(1) ANNUAL ESTIMATES REQUIRED.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end the following new paragraph:*

*''(5) RENTAL RATES.—*

*''(A) ANNUAL ESTIMATES.—The Secretary (acting through the National Agricultural Statistics Service) shall conduct an annual survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland.*

*''(B) PUBLIC AVAILABILITY OF ESTIMATES.—The estimates derived from the annual survey conducted under subparagraph (A) shall be maintained on a website of the Department of Agriculture for use by the general public.''.*

*(2) FIRST SURVEY.—The first survey required by paragraph (5) of section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act.*

*(c) PAYMENT LIMITATIONS.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended—*

*(1) in paragraph (1), by striking ''made to a person'' and inserting ''received by a person or legal entity, directly or indirectly,'';*

*(2) by striking paragraph (2); and*

*(3) in paragraph (4), by striking ''any person'' and inserting ''any person or legal entity''.*

***SEC. 2111. CONSERVATION RESERVE PROGRAM TRANSITION INCENTIVES FOR BEGINNING FARMERS OR RANCHERS AND SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.***

*(a) CONTRACT MODIFICATION AUTHORITY.—Section 1235(c)(1)(B) of the Food Security Act of 1985 (16 U.S.C. 3835(c)(1)(B)) is amended—*

*(1) in clause (ii), by striking ''or'' at the end;*

*(2) by redesignating clause (iii) as clause (iv); and*

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

*''(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or''.*

*(b) TRANSITION OPTION.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following new subsection:*

*''(f) TRANSITION OPTION FOR CERTAIN FARMERS OR RANCHERS.—*

*''(1) DUTIES OF THE SECRETARY.—In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or socially disadvantaged farmer or rancher (in this subsection referred to as a 'covered farmer or rancher'), the Secretary shall—*

*''(A) beginning on the date that is 1 year before the date of termination of the contract—*

*''(i) allow the covered farmer or rancher, in conjunction with the retired or retiring owner or operator, to make conservation and land improvements; and*

*''(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);*

*''(B) beginning on the date of termination of the contract, require the retired or retiring owner or operator to sell or lease (under a long-term lease or a lease with an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;*

*''(C) require the covered farmer or rancher to develop and implement a conservation plan;*

*''(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the farmer or rancher takes possession of the land through ownership or lease; and*

*''(E) continue to make annual payments to the retired or retiring owner or operator for not more than an additional 2 years after the date of termination of the contract, if the retired or retiring owner or operator is not a family member (as defined in section 1001A(b)(3)(B) of this Act) of the covered farmer or rancher.*

*''(2) REENROLLMENT.—The Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—*

*''(A) is eligible for enrollment under the continuous signup requirement of section 1231(h)(4)(B); and*

*''(B) is part of an approved conservation plan.''.*

***Subtitle C—Wetlands Reserve Program***

***SEC. 2201. ESTABLISHMENT AND PURPOSE OF WETLANDS RESERVE PROGRAM.***

*Subsection (a) of section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended to read as follows:*

*''(a) ESTABLISHMENT AND PURPOSES.—*

*''(1) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.*

*''(2) PURPOSES.—The purposes of the wetlands reserve program are to restore, protect, or enhance wetlands on private or tribal lands that are eligible under subsections (c) and (d).''.*

***SEC. 2202. MAXIMUM ENROLLMENT AND ENROLLMENT METHODS.***

*Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended—*

*(1) by striking paragraph (1) and inserting the following new paragraph:*

*''(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 3,041,200 acres.'';*

*(2) in paragraph (2), by striking ''The Secretary'' and inserting ''Subject to paragraph (3), the Secretary''; and*

*(3) by adding at the end the following new paragraph:*

*''(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary shall enroll acreage into the wetlands reserve program through the use of—*

*''(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);*

*''(B) restoration cost-share agreements; or*

*''(C) any combination of the options described in subparagraphs (A) and (B).''.*

***SEC. 2203. DURATION OF WETLANDS RESERVE PROGRAM AND LANDS ELIGIBLE FOR ENROLLMENT.***

*(a) IN GENERAL.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—*

*(1) in the matter preceding paragraph (1)—*

*(A) by striking ''2007 calendar'' and inserting ''2012 fiscal''; and*

*(B) by inserting ''private or tribal'' before ''land'' the second place it appears;*

*(2) by striking paragraph (2) and inserting the following new paragraph:*

*''(2) such land is—*

*''(A) farmed wetland or converted wetland, together with the adjacent land that is functionally dependent on the wetlands, except that converted wetland with respect to which the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; or*

*''(B) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole, as determined by the Secretary, together (where practicable) with the adjacent land that is functionally dependent on the cropland or grassland; and''.*

*(b) CHANGE OF OWNERSHIP.—Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking ''in the preceding 12 months'' and inserting ''during the preceding 7-year period''.*

*(c) ANNUAL SURVEY AND REALLOCATION.—Section 1237F of the Food Security Act of 1985 (16 U.S.C. 3837f) is amended by adding at the end the following new subsection:*

*''(c) PRAIRIE POTHOLE REGION SURVEY AND REALLOCATION.—*

*''(1) SURVEY.—The Secretary shall conduct a survey during fiscal year 2008 and each subsequent fiscal year for the purpose of determining interest and allocations for the Prairie Pothole Region to enroll eligible land described in section 1237(c)(2)(B).*

*''(2) ANNUAL ADJUSTMENT.—The Secretary shall make an adjustment to the allocation for an interested State for a fiscal year, based on the results of the survey conducted under paragraph (1) for the State during the previous fiscal year.''.*

***SEC. 2204. TERMS OF WETLANDS RESERVE PROGRAM EASEMENTS.***

*Section 1237A(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3837a(b)(2)(B)) is amended—*

*(1) in clause (i), by striking ''or'' at the end;*

*(2) in clause (ii), by striking ''; and'' and inserting ''; or''; and*

*(3) by adding at the end the following new clause:*

*''(iii) to meet habitat needs of specific wildlife species; and''.*

***SEC. 2205. COMPENSATION FOR EASEMENTS UNDER WETLANDS RESERVE PROGRAM.***

*Subsection (f) of section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended to read as follows:*

*''(f) COMPENSATION.—*

*''(1) DETERMINATION.—Effective on the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall pay as compensation for a conservation easement acquired under this subchapter the lowest of—*

*''(A) the fair market value of the land, as determined by the Secretary, using the Uniform Standards of Professional Appraisal Practices or an area-wide market analysis or survey;*

*''(B) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or*

*''(C) the offer made by the landowner.*

*''(2) FORM OF PAYMENT.—Compensation for an easement shall be provided by the Secretary in the form of a cash payment, in an amount determined under paragraph (1) and specified in the easement agreement.*

*''(3) PAYMENT SCHEDULE FOR EASEMENTS.—*

*''(A) EASEMENTS VALUED AT $500,000 OR LESS.—For easements valued at $500,000 or less, the Secretary may provide easement payments in not more than 30 annual payments.*

*''(B) EASEMENTS IN EXCESS OF $500,000.—For easements valued at more than $500,000, the Secretary may provide easement payments in at least 5, but not more than 30 annual payments, except that, if the Secretary determines it would further the purposes of the program, the Secretary may make a lump sum payment for such an easement.*

*''(4) RESTORATION AGREEMENT PAYMENT LIMITATION.—Payments made to a person or legal*

*entity, directly or indirectly, pursuant to a restoration cost-share agreement under this subchapter may not exceed, in the aggregate, $50,000 per year.*

*''(5) ENROLLMENT PROCEDURE.—Lands may be enrolled under this subchapter through the submission of bids under a procedure established by the Secretary.''.*

***SEC. 2206. WETLANDS RESERVE ENHANCEMENT PROGRAM AND RESERVED RIGHTS PILOT PROGRAM.***

*Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by adding at the end the following new subsection:*

*''(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—*

*''(1) PROGRAM AUTHORIZED.—The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetlands reserve enhancement program that the Secretary determines would advance the purposes of this subchapter.*

*''(2) RESERVED RIGHTS PILOT PROGRAM.—*

*''(A) RESERVATION OF GRAZING RIGHTS.—As part of the wetlands reserve enhancement program, the Secretary shall carry out a pilot program for land in which a landowner may reserve grazing rights in the warranty easement deed restriction if the Secretary determines that the reservation and use of the grazing rights—*

*''(i) is compatible with the land subject to the easement;*

*''(ii) is consistent with the long-term wetland protection and enhancement goals for which the easement was established; and*

*''(iii) complies with a conservation plan.*

*''(B) DURATION.—The pilot program established under this paragraph shall terminate on September 30, 2012.''.*

***SEC. 2207. DUTIES OF SECRETARY OF AGRICULTURE UNDER WETLANDS RESERVE PROGRAM.***

*Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended—*

*(1) in subsection (a)(1), by inserting ''including necessary maintenance activities,'' after ''values,''; and*

*(2) by striking subsection (c) and inserting the following new subsection:*

*''(c) RANKING OF OFFERS.—*

*''(1) CONSERVATION BENEFITS AND FUNDING CONSIDERATIONS.—When evaluating offers from landowners, the Secretary may consider—*

*''(A) the conservation benefits of obtaining an easement or other interest in the land;*

*''(B) the cost-effectiveness of each easement or other interest in eligible land, so as to maximize the environmental benefits per dollar expended; and*

*''(C) whether the landowner or another person is offering to contribute financially to the cost of the easement or other interest in the land to leverage Federal funds.*

*''(2) ADDITIONAL CONSIDERATIONS.—In determining the acceptability of easement offers, the Secretary may take into consideration—*

*''(A) the extent to which the purposes of the easement program would be achieved on the land;*

*''(B) the productivity of the land; and*

*''(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.''.*

***SEC. 2208. PAYMENT LIMITATIONS UNDER WETLANDS RESERVE CONTRACTS AND AGREEMENTS.***

*Section 1237D(c)(1) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)(1)) is amended—*

*(1) by striking ''The total amount of easement payments made to a person'' and inserting ''The total amount of payments that a person or legal entity may receive, directly or indirectly,''; and*

*(2) by inserting ''or under 30-year contracts'' before the period at the end.*

***SEC. 2209. REPEAL OF PAYMENT LIMITATIONS EXCEPTION FOR STATE AGREEMENTS FOR WETLANDS RESERVE ENHANCEMENT.***

*Section 1237D(c) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)) is amended by striking paragraph (4).*

***SEC. 2210. REPORT ON IMPLICATIONS OF LONG-TERM NATURE OF CONSERVATION EASEMENTS.***

*(a) REPORT REQUIRED.—Not later than January 1, 2010, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the implications of the long-term nature of conservation easements granted under section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) on resources of the Department of Agriculture.*

*(b) INCLUSIONS.—The report required by subsection (a) shall include the following:*

*(1) Data relating to the number and location of conservation easements granted under that section that the Secretary holds or has a significant role in monitoring or managing.*

*(2) An assessment of the extent to which the oversight of the conservation easement agreements impacts the availability of resources, including technical assistance.*

*(3) An assessment of the uses and value of agreements with partner organizations.*

*(4) Any other relevant information relating to costs or other effects that would be helpful to the Committees referred to in subsection (a).*

***Subtitle D—Conservation Stewardship Program***

***SEC. 2301. CONSERVATION STEWARDSHIP PROGRAM.***

*(a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 is amended—*

*(1) by redesignating subchapters B (farmland protection program) and C (grassland reserve program) as subchapters C and D, respectively; and*

*(2) by inserting after subchapter A the following new subchapter:*

***''Subchapter B—Conservation Stewardship Program***

***''SEC. 1238D. DEFINITIONS.***

*''In this subchapter:*

*''(1) CONSERVATION ACTIVITIES.—*

*''(A) IN GENERAL.—The term 'conservation activities' means conservation systems, practices, or management measures that are designed to address a resource concern.*

*''(B) INCLUSIONS.—The term 'conservation activities' includes—*

*''(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary; and*

*''(ii) planning needed to address a resource concern.*

*''(2) CONSERVATION MEASUREMENT TOOLS.—The term 'conservation measurement tools' means procedures to estimate the level of environmental benefit to be achieved by a producer in implementing conservation activities, including indices or other measures developed by the Secretary.*

*''(3) CONSERVATION STEWARDSHIP PLAN.—The term 'conservation stewardship plan' means a plan that—*

*''(A) identifies and inventories resource concerns;*

*''(B) establishes benchmark data and conservation objectives;*

*''(C) describes conservation activities to be implemented, managed, or improved; and*

*''(D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.*

*''(4) PRIORITY RESOURCE CONCERN.—The term 'priority resource concern' means a resource concern that is identified at the State level, in consultation with the State Technical Committee, as a priority for a particular watershed or area of the State.*

*''(5) PROGRAM.—The term 'program' means the conservation stewardship program established by this subchapter.*

*''(6) RESOURCE CONCERN.—The term 'resource concern' means a specific natural resource impairment or problem, as determined by the Secretary, that—*

*''(A) represents a significant concern in a State or region; and*

*''(B) is likely to be addressed successfully through the implementation of conservation activities by producers on land eligible for enrollment in the program.*

*''(7) STEWARDSHIP THRESHOLD.—The term 'stewardship threshold' means the level of natural resource conservation and environmental management required, as determined by the Secretary using conservation measurement tools, to improve and conserve the quality and condition of a resource concern.*

***''SEC. 1238E. CONSERVATION STEWARDSHIP PROGRAM.***

*''(a) ESTABLISHMENT AND PURPOSE.—During each of fiscal years 2009 through 2012, the Secretary shall carry out a conservation stewardship program to encourage producers to address resource concerns in a comprehensive manner—*

*''(1) by undertaking additional conservation activities; and*

*''(2) by improving, maintaining and managing existing conservation activities.*

*''(b) ELIGIBLE LAND.—*

*''(1) IN GENERAL.—Except as provided in subsection (c), the following land is eligible for enrollment in the program:*

*''(A) Private agricultural land (including cropland, grassland, prairie land, improved pastureland, rangeland, and land used for agroforestry).*

*''(B) Agricultural land under the jurisdiction of an Indian tribe.*

*''(C) Forested land that is an incidental part of an agricultural operation.*

*''(D) Other private agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed by enrolling the land in the program, as determined by the Secretary.*

*''(2) SPECIAL RULE FOR NONINDUSTRIAL PRIVATE FOREST LAND.—Nonindustrial private forest land is eligible for enrollment in the program, except that not more than 10 percent of the annual acres enrolled nationally in any fiscal year may be nonindustrial private forest land.*

*''(3) AGRICULTURAL OPERATION.—Eligible land shall include all acres of an agricultural operation of a producer, whether or not contiguous, that are under the effective control of the producer at the time the producer enters into a stewardship contract, and is operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.*

*''(c) EXCLUSIONS.—*

*''(1) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—Subject to paragraph (2), the following land is not be eligible for enrollment in the program:*

*''(A) Land enrolled in the conservation reserve program.*

*''(B) Land enrolled in the wetlands reserve program.*

*''(C) Land enrolled in the grassland reserve program.*

*''(2) CONVERSION TO CROPLAND.—Land used for crop production after the date of enactment of the Food, Conservation, and Energy Act of 2008 that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet the requirement because—*

''(A) the land had previously been enrolled in the conservation reserve program;

''(B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or

''(C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

**''SEC. 1238F. STEWARDSHIP CONTRACTS.**

''(a) SUBMISSION OF CONTRACT OFFERS.—To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary for approval a contract offer that—

''(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, is meeting the stewardship threshold for at least one resource concern; and

''(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 priority resource concern by the end of the stewardship contract by—

''(A) installing and adopting additional conservation activities; and

''(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

''(b) EVALUATION OF CONTRACT OFFERS.—

''(1) RANKING OF APPLICATIONS.—In evaluating contract offers made by producers to enter into contracts under the program, the Secretary shall rank applications based on—

''(A) the level of conservation treatment on all applicable priority resource concerns at the time of application, based to the maximum extent practicable on conservation measurement tools;

''(B) the degree to which the proposed conservation treatment on applicable priority resource concerns effectively increases conservation performance, based to the maximum extent possible on conservation measurement tools;

''(C) the number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract;

''(D) the extent to which other resource concerns, in addition to priority resource concerns, will be addressed to meet or exceed the stewardship threshold by the end of the contract period; and

''(E) the extent to which the actual and anticipated environmental benefits from the contract are provided at the least cost relative to other similarly beneficial contract offers.

''(2) PROHIBITION.—The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

''(3) ADDITIONAL CRITERIA.—The Secretary may develop and use such additional criteria for evaluating applications to enroll in the program that the Secretary determines are necessary to ensure that national, State, and local conservation priorities are effectively addressed.

''(c) ENTERING INTO CONTRACTS.—After a determination that a producer is eligible for the program under subsection (a), and a determination that the contract offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract with the producer to enroll the land to be covered by the contract.

''(d) CONTRACT PROVISIONS.—

''(1) TERM.—A conservation stewardship contract shall be for a term of 5 years.

''(2) PROVISIONS.—The conservation stewardship contract of a producer shall—

''(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 1238G(e);

''(B) require the producer—

''(i) to implement during the term of the conservation stewardship contract the conservation stewardship plan approved by the Secretary;

''(ii) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation stewardship contract; and

''(iii) not to engage in any activity during the term of the conservation stewardship contract on the eligible land covered by the contract that would interfere with the purposes of the conservation stewardship contract;

''(C) permit all economic uses of the land that—

''(i) maintain the agricultural nature of the land; and

''(ii) are consistent with the conservation purposes of the conservation stewardship contract;

''(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary; and

''(E) include such other provisions as the Secretary determines necessary to ensure the purposes of the program are achieved.

''(e) CONTRACT RENEWAL.—At the end of an initial conservation stewardship contract of a producer, the Secretary may allow the producer to renew the contract for one additional five-year period if the producer—

''(1) demonstrates compliance with the terms of the existing contract; and

''(2) agrees to adopt new conservation activities, as determined by the Secretary.

''(f) MODIFICATION.—The Secretary may allow a producer to modify a stewardship contract if the Secretary determines that the modification is consistent with achieving the purposes of the program.

''(g) CONTRACT TERMINATION.—

''(1) VOLUNTARY TERMINATION.—A producer may terminate a conservation stewardship contract if the Secretary determines that termination would not defeat the purposes of the program.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this subchapter if the Secretary determines that the producer violated the contract.

''(3) REPAYMENT.—If a contract is terminated, the Secretary may, consistent with the purposes of the program—

''(A) allow the producer to retain payments already received under the contract; or

''(B) require repayment, in whole or in part, of payments already received and assess liquidated damages.

''(4) CHANGE OF INTEREST IN LAND SUBJECT TO A CONTRACT.—

''(A) IN GENERAL.—Except as provided in paragraph (B), a change in the interest of a producer in land covered by a contract under this chapter shall result in the termination of the contract with regard to that land.

''(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if—

''(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee; and

''(ii) the transferee meets the eligibility requirements of the program.

''(h) COORDINATION WITH ORGANIC CERTIFICATION.—The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.) while participating in a contract under this subchapter.

''(i) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—The Secretary may approve a contract offer under this subchapter that includes—

''(1) on-farm conservation research and demonstration activities; and

''(2) pilot testing of new technologies or innovative conservation practices.

**''SEC. 1238G. DUTIES OF THE SECRETARY.**

''(a) IN GENERAL.—To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

''(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, one of which shall occur in the first quarter of each fiscal year;

''(2) identify not less than 3 nor more than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

''(3) develop reliable conservation measurement tools for purposes of carrying out the program.

''(b) ALLOCATION TO STATES.—The Secretary shall allocate acres to States for enrollment, based—

''(1) primarily on each State's proportion of eligible acres under section 1238E(b)(1) to the total number of eligible acres in all States; and

''(2) also on consideration of—

''(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

''(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

''(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

''(c) SPECIALTY CROP AND ORGANIC PRODUCERS.—The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

''(d) ACREAGE ENROLLMENT LIMITATION.—During the period beginning on October 1, 2008, and ending on September 30, 2017, the Secretary shall, to the maximum extent practicable—

''(1) enroll in the program an additional 12,769,000 acres for each fiscal year; and

''(2) manage the program to achieve a national average rate of $18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.

''(e) CONSERVATION STEWARDSHIP PAYMENTS.—

''(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide a payment under the program to compensate the producer for—

''(A) installing and adopting additional conservation activities; and

''(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

''(2) PAYMENT AMOUNT.—The amount of the conservation stewardship payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

''(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

''(B) Income forgone by the producer.

''(C) Expected environmental benefits as determined by conservation measurement tools.

''(3) EXCLUSIONS.—A payment to a producer under this subsection shall not be provided for—

''(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

''(B) conservation activities for which there is no cost incurred or income forgone to the producer.

''(4) TIMING OF PAYMENTS.—

''(A) IN GENERAL.—The Secretary shall make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

''(B) ADDITIONAL ACTIVITIES.—The Secretary shall make payments to compensate producers for installation of additional practices at the time at which the practices are installed and adopted.

''(f) SUPPLEMENTAL PAYMENTS FOR RESOURCE-CONSERVING CROP ROTATIONS.—

''(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the land of the producers.

''(2) BENEFICIAL CROP ROTATIONS.—The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1), based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.

''(3) ELIGIBILITY.—To be eligible to receive a payment described in paragraph (1), a producer shall agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract.

''(4) RESOURCE-CONSERVING CROP ROTATION.—In this subsection, the term 'resource-conserving crop rotation' means a crop rotation that—

''(A) includes at least 1 resource conserving crop (as defined by the Secretary);

''(B) reduces erosion;

''(C) improves soil fertility and tilth;

''(D) interrupts pest cycles; and

''(E) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

''(g) PAYMENT LIMITATIONS.—A person or legal entity may not receive, directly or indirectly, payments under this subchapter that, in the aggregate, exceed $200,000 for all contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the program by the person or entity.

''(h) REGULATIONS.—The Secretary shall promulgate regulations that—

''(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (g); and

''(2) otherwise enable the Secretary to carry out the program.

''(i) DATA.—The Secretary shall maintain detailed and segmented data on contracts and payments under the program to allow for quantification of the amount of payments made for—

''(1) the installation and adoption of additional conservation activities and improvements to conservation activities in place on the operation of a producer at the time the conservation stewardship offer is accepted by the Secretary;

''(2) participation in research, demonstration, and pilot projects; and

''(3) the development and periodic assessment and evaluation of conservation plans developed under this subchapter.''.

(b) TERMINATION OF CONSERVATION SECURITY PROGRAM AUTHORITY; EFFECT ON EXISTING CONTRACTS.—Section 1238A of the Food Security Act of 1985 (16 U.S.C. 3838a) is amended by adding at the end the following new subsection:

''(g) PROHIBITION ON CONSERVATION SECURITY PROGRAM CONTRACTS; EFFECT ON EXISTING CONTRACTS.—

''(1) PROHIBITION.—A conservation security contract may not be entered into or renewed under this subchapter after September 30, 2008.

''(2) EXCEPTION.—This subchapter, and the terms and conditions of the conservation security program, shall continue to apply to—

''(A) conservation security contracts entered into on or before September 30, 2008; and

''(B) any conservation security contract entered into after that date, but for which the application for the contract was received during the 2008 sign-up period.

''(3) EFFECT ON PAYMENTS.—The Secretary shall make payments under this subchapter with respect to conservation security contracts described in paragraph (2) during the remaining term of the contracts.

''(4) REGULATIONS.—A contract described in paragraph (2) may not be administered under the regulations issued to carry out the conservation stewardship program.''.

(c) REFERENCE TO REDESIGNATED SUBCHAPTER.—Section 1238A(b)(3)(C) of title XII of the Food Security Act of 1985 (16 U.S.C. 3838a(b)(3)(C)) is amended by striking ''subchapter C'' and inserting ''subchapter D''.

### Subtitle E—Farmland Protection and Grassland Reserve

**SEC. 2401. FARMLAND PROTECTION PROGRAM.**

(a) DEFINITIONS.—Section 1238H of the Food Security Act of 1985 (16 U.S.C. 3838h) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

''(B) any organization that—

''(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

''(iii) is—

''(I) described in paragraph (1) or (2) of section 509(a) of that Code; or

''(II) described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code.''; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''that—'' and inserting ''that is subject to a pending offer for purchase from an eligible entity and—''; and

(ii) by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) has prime, unique, or other productive soil;

''(ii) contains historical or archaeological resources; or

''(iii) the protection of which will further a State or local policy consistent with the purposes of the program.''; and

(B) in subparagraph (B)—

(i) in clause (iv), by striking ''and'' at the end; and

(ii) by striking clause (v) and inserting the following new clauses:

''(v) forest land that—

''(I) contributes to the economic viability of an agricultural operation; or

''(II) serves as a buffer to protect an agricultural operation from development; and

''(vi) land that is incidental to land described in clauses (i) through (v), if such land is necessary for the efficient administration of a conservation easement, as determined by the Secretary.''.

(b) FARMLAND PROTECTION.—Section 1238I of the Food Security Act of 1985 (16 U.S.C. 3838i) is amended to read as follows:

**''SEC. 1238I. FARMLAND PROTECTION PROGRAM.**

''(a) ESTABLISHMENT.—The Secretary shall establish and carry out a farmland protection program under which the Secretary shall facilitate and provide funding for the purchase of conservation easements or other interests in eligible land.

''(b) PURPOSE.—The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.

''(c) COST-SHARE ASSISTANCE.—

''(1) PROVISION OF ASSISTANCE.—The Secretary shall provide cost-share assistance to eligible entities for purchasing a conservation easement or other interest in eligible land.

''(2) FEDERAL SHARE.—The share of the cost provided by the Secretary for purchasing a conservation easement or other interest in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

''(3) NON-FEDERAL SHARE.—

''(A) SHARE PROVIDED BY ELIGIBLE ENTITY.—The eligible entity shall provide a share of the cost of purchasing a conservation easement or other interest in eligible land in an amount that is not less than 25 percent of the acquisition purchase price.

''(B) LANDOWNER CONTRIBUTION.—As part of the non-Federal share of the cost of purchasing a conservation easement or other interest in eligible land, an eligible entity may include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the private landowner from which the conservation easement or other interest in land will be purchased.

''(d) DETERMINATION OF FAIR MARKET VALUE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, the fair market value of the conservation easement or other interest in eligible land shall be determined on the basis of an appraisal using an industry approved method, selected by the eligible entity and approved by the Secretary.

''(e) BIDDING DOWN PROHIBITED.—If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the program.

''(f) CONDITION ON ASSISTANCE.—

''(1) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased using cost-share assistance provided under the program shall be subject to a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

''(2) CONTINGENT RIGHT OF ENFORCEMENT.—The Secretary shall require the inclusion of a contingent right of enforcement for the Secretary in the terms of a conservation easement or other interest in eligible land that is purchased using cost-share assistance provided under the program.

''(g) AGREEMENTS WITH ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under subsection (c).

''(2) LENGTH OF AGREEMENTS.—An agreement under this subsection shall be for a term that is—

''(A) in the case of an eligible entity certified under the process described in subsection (h), a minimum of five years; and

''(B) for all other eligible entities, at least three, but not more than five years.

''(3) SUBSTITUTION OF QUALIFIED PROJECTS.—An agreement shall allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of the proposed substitution.

''(4) MINIMUM REQUIREMENTS.—An eligible entity shall be authorized to use its own terms and conditions, as approved by the Secretary, for conservation easements and other purchases of interests in land, so long as such terms and conditions—

''(A) are consistent with the purposes of the program;

''(B) permit effective enforcement of the conservation purposes of such easements or other interests; and

''(C) include a limit on the impervious surfaces to be allowed that is consistent with the agricultural activities to be conducted.

''(5) EFFECT OF VIOLATION.—If a violation occurs of a term or condition of an agreement entered into under this subsection—

''(A) the agreement shall remain in force; and

''(B) the Secretary may require the eligible entity to refund all or part of any payments received by the entity under the program, with interest on the payments as determined appropriate by the Secretary.

''(h) CERTIFICATION OF ELIGIBLE ENTITIES.—

''(1) CERTIFICATION PROCESS.—The Secretary shall establish a process under which the Secretary may—

''(A) directly certify eligible entities that meet established criteria;

''(B) enter into long-term agreements with certified entities, as authorized by subsection (g)(2)(A); and

''(C) accept proposals for cost-share assistance to certified entities for the purchase of conservation easements or other interests in eligible land throughout the duration of such agreements.

''(2) CERTIFICATION CRITERIA.—In order to be certified, an eligible entity shall demonstrate to the Secretary that the entity will maintain, at a minimum, for the duration of the agreement—

''(A) a plan for administering easements that is consistent with the purpose of this subchapter;

''(B) the capacity and resources to monitor and enforce conservation easements or other interests in land; and

''(C) policies and procedures to ensure—

''(i) the long-term integrity of conservation easements or other interests in eligible land;

''(ii) timely completion of acquisitions of easements or other interests in eligible land; and

''(iii) timely and complete evaluation and reporting to the Secretary on the use of funds provided by the Secretary under the program.

''(3) REVIEW AND REVISION.—

''(A) REVIEW.—The Secretary shall conduct a review of eligible entities certified under paragraph (1) every three years to ensure that such entities are meeting the criteria established under paragraph (2).

''(B) REVOCATION.—If the Secretary finds that the certified entity no longer meets the criteria established under paragraph (2), the Secretary may—

''(i) allow the certified entity a specified period of time, at a minimum 180 days, in which to take such actions as may be necessary to meet the criteria; and

''(ii) revoke the certification of the entity, if after the specified period of time, the certified entity does not meet the criteria established in paragraph (2).''.

**SEC. 2402. FARM VIABILITY PROGRAM.**

Section 1238J(b) of the Food Security Act of 1985 (16 U.S.C. 3838j(b)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 2403. GRASSLAND RESERVE PROGRAM.**

Subchapter D of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.), as redesignated by section 2301(a)(1), is amended to read as follows:

**''Subchapter D—Grassland Reserve Program**

**''SEC. 1238N. GRASSLAND RESERVE PROGRAM.**

''(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the 'program') for the purpose of assisting owners and operators in protecting grazing uses and related conservation values by restoring and conserving eligible land through rental contracts, easements, and restoration agreements.

''(b) ENROLLMENT OF ACREAGE.—

''(1) ACREAGE ENROLLED.—The Secretary shall enroll an additional 1,220,000 acres of eligible land in the program during fiscal years 2009 through 2012.

''(2) METHODS OF ENROLLMENT.—The Secretary shall enroll eligible land in the program through the use of;

''(A) a 10-year, 15-year, or 20-year rental contract;

''(B) a permanent easement; or

''(C) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under the law of that State.

''(3) LIMITATION.—Of the total amount of funds expended under the program to acquire rental contracts and easements described in paragraph (2), the Secretary shall use, to the extent practicable—

''(A) 40 percent for rental contacts; and

''(B) 60 percent for easements.

''(4) ENROLLMENT OF CONSERVATION RESERVE LAND.—

''(A) PRIORITY.—Upon expiration of a contract under subchapter B of chapter 1 of this subtitle, the Secretary shall give priority for enrollment in the program to land previously enrolled in the conservation reserve program if—

''(i) the land is eligible land, as defined in subsection (c); and

''(ii) the Secretary determines that the land is of high ecological value and under significant threat of conversion to uses other than grazing.

''(B) MAXIMUM ENROLLMENT.—The number of acres of land enrolled under the priority described in subparagraph (A) in a calendar year shall not exceed 10 percent of the total number of acres enrolled in the program in that calendar year.

''(c) ELIGIBLE LAND DEFINED.—For purposes of the program, the term 'eligible land' means private or tribal land that—

''(1) is grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

''(2) is located in an area that has been historically dominated by grassland, forbs, or shrubland, and the land—

''(A) could provide habitat for animal or plant populations of significant ecological value if the land—

''(i) is retained in its current use; or

''(ii) is restored to a natural condition;

''(B) contains historical or archaeological resources; or

''(C) would address issues raised by State, regional, and national conservation priorities; or

''(3) is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of a rental contract or easement under the program.

**''SEC. 1238O. DUTIES OF OWNERS AND OPERATORS.**

''(a) RENTAL CONTRACTS.—To be eligible to enroll eligible land in the program under a rental contract, the owner or operator of the land shall agree—

''(1) to comply with the terms of the contract and, when applicable, a restoration agreement;

''(2) to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary; and

''(3) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties.

''(b) EASEMENTS.—To be eligible to enroll eligible land in the program through an easement, the owner of the land shall agree—

''(1) to grant an easement to the Secretary or to an eligible entity described in section 1238Q;

''(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

''(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

''(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement;

''(5) to comply with the terms of the easement and, when applicable, a restoration agreement;

''(6) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties; and

''(7) to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

''(c) RESTORATION AGREEMENTS.—

''(1) WHEN APPLICABLE.—To be eligible for cost-share assistance to restore eligible land subject to a rental contract or an easement under the program, the owner or operator of the land shall agree to comply with the terms of a restoration agreement.

''(2) TERMS AND CONDITIONS.—The Secretary shall prescribe the terms and conditions of a restoration agreement by which eligible land that is subject to a rental contract or easement under the program shall be restored.

''(3) DUTIES.—The restoration agreement shall describe the respective duties of the owner or operator and the Secretary, including the Federal share of restoration payments and technical assistance.

''(d) TERMS AND CONDITIONS APPLICABLE TO RENTAL CONTRACTS AND EASEMENTS.—

''(1) PERMISSIBLE ACTIVITIES.—The terms and conditions of a rental contract or easement under the program shall permit—

''(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality;

''(B) haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the State Conservationist;

''(C) fire presuppression, rehabilitation, and construction of fire breaks; and

''(D) grazing related activities, such as fencing and livestock watering.

''(2) PROHIBITIONS.—The terms and conditions of a rental contract or easement under the program shall prohibit—

''(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that is inconsistent with maintaining grazing land; and

''(B) except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing land enrolled in the program.

''(3) ADDITIONAL TERMS AND CONDITIONS.—A rental contract or easement under the program shall include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the purposes and administration of the program.

''(e) VIOLATIONS.—On a violation of the terms or conditions of a rental contract, easement, or restoration agreement entered into under this section—

''(1) the contract or easement shall remain in force; and

''(2) the Secretary may require the owner or operator to refund all or part of any payments received under the program, with interest on the payments as determined appropriate by the Secretary.

**''SEC. 1238P. DUTIES OF SECRETARY.**

''(a) EVALUATION AND RANKING OF APPLICATIONS.—

''(1) CRITERIA.—The Secretary shall establish criteria to evaluate and rank applications for rental contracts and easements under the program.

''(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

''(A) grazing operations;

''(B) plant and animal biodiversity; and

''(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion to uses other than grazing.

''(b) PAYMENTS.—

''(1) IN GENERAL.—In return for the execution of a rental contract or the granting of an easement by an owner or operator under the program, the Secretary shall—

''(A) make rental contract or easement payments to the owner or operator in accordance with paragraphs (2) and (3); and

''(B) make payments to the owner or operator under a restoration agreement for the Federal share of the cost of restoration in accordance with paragraph (4).

''(2) RENTAL CONTRACT PAYMENTS.—

''(A) PERCENTAGE OF GRAZING VALUE OF LAND.—In return for the execution of a rental contract by an owner or operator under the program, the Secretary shall make annual payments during the term of the contract in an amount, subject to subparagraph (B), that is not more than 75 percent of the grazing value of the land covered by the contract.

''(B) PAYMENT LIMITATION.—Payments made under 1 or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

''(3) EASEMENT PAYMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), in return for the granting of an easement by an owner under the program, the Secretary shall make easement payments in an amount not to exceed the fair market value of the land less the grazing value of the land encumbered by the easement.

''(B) METHOD FOR DETERMINATION OF COMPENSATION.—In making a determination under subparagraph (A), the Secretary shall pay as compensation for an easement acquired under the program the lowest of—

''(i) the fair market value of the land encumbered by the easement, as determined by the Secretary, using—

''(I) the Uniform Standards of Professional Appraisal Practices; or

''(II) an area-wide market analysis or survey;

''(ii) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

''(iii) the offer made by the landowner.

''(C) SCHEDULE.—Easement payments may be provided in up to 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

''(4) RESTORATION AGREEMENT PAYMENTS.—

''(A) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner or operator under a restoration agreement of not more than 50 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land.

''(B) PAYMENT LIMITATION.—Payments made under 1 or more restoration agreements to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

''(5) PAYMENTS TO OTHERS.—If an owner or operator who is entitled to a payment under the program dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

**''SEC. 1238Q. DELEGATION OF DUTY.**

''(a) AUTHORITY TO DELEGATE.—The Secretary may delegate a duty under the program—

''(1) by transferring title of ownership to an easement to an eligible entity to hold and enforce; or

''(2) by entering into a cooperative agreement with an eligible entity for the eligible entity to own, write, and enforce an easement.

''(b) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

''(1) an agency of State or local government or an Indian tribe; or

''(2) an organization that—

''(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

''(C) is described in—

''(i) paragraph (1) or (2) of section 509(a) of that Code; or

''(ii) in section 509(a)(3) of that Code, and is controlled by an organization described in section 509(a)(2) of that Code.

''(c) TRANSFER OF TITLE OF OWNERSHIP.—

''(1) TRANSFER.—The Secretary may transfer title of ownership to an easement to an eligible entity to hold and enforce, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

''(A) the Secretary determines that the transfer will promote protection of grassland, land that contains forbs, or shrubland;

''(B) the owner authorizes the eligible entity to hold or enforce the easement; and

''(C) the eligible entity agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity.

''(2) APPLICATION.—An eligible entity that seeks to hold and enforce an easement shall apply to the Secretary for approval.

''(3) APPROVAL BY SECRETARY.—The Secretary may approve an application described in paragraph (2) if the eligible entity—

''(A) has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland;

''(B) has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

''(C) has the resources necessary to effectuate the purposes of the charter.

''(d) COOPERATIVE AGREEMENTS.—

''(1) AUTHORIZED; TERMS AND CONDITIONS.—The Secretary shall establish the terms and conditions of a cooperative agreement under which an eligible entity shall use funds provided by the Secretary to own, write, and enforce an easement, in lieu of the Secretary.

''(2) MINIMUM REQUIREMENTS.—At a minimum, the cooperative agreement shall—

''(A) specify the qualification of the eligible entity to carry out the entity's responsibilities under the program, including acquisition, monitoring, enforcement, and implementation of management policies and procedures that ensure the long-term integrity of the easement protections;

''(B) require the eligible entity to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity;

''(C) specify the right of the Secretary to conduct periodic inspections to verify the eligible entity's enforcement of the easement;

''(D) subject to subparagraph (E), identify a specific project or a range of projects to be funded under the agreement;

''(E) allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of substitution;

''(F) specify the manner in which the eligible entity will evaluate and report the use of funds to the Secretary;

''(G) allow the eligible entity flexibility to develop and use terms and conditions for easements, if the Secretary finds the terms and conditions consistent with the purposes of the program and adequate to enable effective enforcement of the easements;

''(H) if applicable, allow an eligible entity to include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the landowner from which the easement will be purchased as part of the entity's share of the cost to purchase an easement; and

''(I) provide for a schedule of payments to an eligible entity, as agreed to by the Secretary and the eligible entity.

''(3) COST SHARING.—

''(A) IN GENERAL.—As part of a cooperative agreement with an eligible entity under this subsection, the Secretary may provide a share of the purchase price of an easement under the program.

''(B) MINIMUM SHARE BY ELIGIBLE ENTITY.—The eligible entity shall be required to provide a share of the purchase price at least equivalent to that provided by the Secretary.

''(C) PRIORITY.—The Secretary may accord a higher priority to proposals from eligible entities that leverage a greater share of the purchase price of the easement.

''(4) VIOLATION.—If an eligible entity violates the terms or conditions of a cooperative agreement entered into under this subsection—

''(A) the cooperative agreement shall remain in force; and

''(B) the Secretary may require the eligible entity to refund all or part of any payments received by the eligible entity under the program, with interest on the payments as determined appropriate by the Secretary.

''(e) PROTECTION OF FEDERAL INVESTMENT.—When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department.''.

***Subtitle F—Environmental Quality Incentives Program***

**SEC. 2501. PURPOSES OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

(a) REVISED PURPOSES.—Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended—

(1) in the matter preceding paragraph (1), by inserting '', forest management,'' after ''agricultural production''; and

(2) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

''(3) providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while—

''(A) enhancing soil, water, and related natural resources, including grazing land, forestland, wetland, and wildlife; and

''(B) conserving energy;

''(4) assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production), grazing management, fuels management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and''.

(b) TECHNICAL CORRECTION.—The Food Security Act of 1985 is amended by inserting immediately before section 1240 (16 U.S.C. 3839aa) the following:

***''CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM''.***

**SEC. 2502. DEFINITIONS.**

Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa–1) is amended to read as follows:

**''SEC. 1240A. DEFINITIONS.**

''In this chapter:

''(1) ELIGIBLE LAND.—

''(A) IN GENERAL.—The term 'eligible land' means land on which agricultural commodities, livestock, or forest-related products are produced.

''(B) INCLUSIONS.—The term 'eligible land' includes the following:

''(i) Cropland.

''(ii) Grassland.

''(iii) Rangeland.

''(iv) Pasture land.

''(v) Nonindustrial private forest land.

''(vi) Other agricultural land (including cropped woodland, marshes, and agricultural

*land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.*

*''(2) NATIONAL ORGANIC PROGRAM.—The term 'national organic program' means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).*

*''(3) ORGANIC SYSTEM PLAN.—The term 'organic system plan' means an organic plan approved under the national organic program.*

*''(4) PAYMENT.—The term 'payment' means financial assistance provided to a producer for performing practices under this chapter, including compensation for—*

*''(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and*

*''(B) income forgone by the producer.*

*''(5) PRACTICE.—The term 'practice' means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this chapter, as determined by the Secretary, including—*

*''(A) improvements to eligible land of the producer, including—*

*''(i) structural practices;*

*''(ii) land management practices;*

*''(iii) vegetative practices;*

*''(iv) forest management; and*

*''(v) other practices that the Secretary determines would further the purposes of the program; and*

*''(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—*

*''(i) comprehensive nutrient management planning; and*

*''(ii) other plans that the Secretary determines would further the purposes of the program under this chapter.*

*''(6) PROGRAM.—The term 'program' means the environmental quality incentives program established by this chapter.''.*

***SEC. 2503. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.***

*Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended to read as follows:*

***''SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION.***

*''(a) ESTABLISHMENT.—During each of the 2002 through 2012 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.*

*''(b) PRACTICES AND TERM.—*

*''(1) PRACTICES.—A contract under the program may apply to the performance of one or more practices.*

*''(2) TERM.—A contract under the program shall have a term that—*

*''(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but*

*''(B) not to exceed 10 years.*

*''(c) BIDDING DOWN.—If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.*

*''(d) PAYMENTS.—*

*''(1) AVAILABILITY OF PAYMENTS.—Payments are provided to a producer to implement one or more practices under the program.*

*''(2) LIMITATION ON PAYMENT AMOUNTS.—A payment to a producer for performing a practice may not exceed, as determined by the Secretary—*

*''(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;*

*''(B) 100 percent of income foregone by the producer; or*

*''(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—*

*''(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and*

*''(ii) 100 percent of income foregone for those elements covered under subparagraph (B).*

*''(3) SPECIAL RULE INVOLVING PAYMENTS FOR FOREGONE INCOME.—In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—*

*''(A) residue management;*

*''(B) nutrient management;*

*''(C) air quality management;*

*''(D) invasive species management;*

*''(E) pollinator habitat;*

*''(F) animal carcass management technology; or*

*''(G) pest management.*

*''(4) INCREASED PAYMENTS FOR CERTAIN PRODUCERS.—*

*''(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—*

*''(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and*

*''(ii) to not less than 25 percent above the otherwise applicable rate.*

*''(B) ADVANCE PAYMENTS.—Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.*

*''(5) FINANCIAL ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.*

*''(6) OTHER PAYMENTS.—A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subtitle.*

*''(e) MODIFICATION OR TERMINATION OF CONTRACTS.—*

*''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under the program if—*

*''(A) the producer agrees to the modification or termination; and*

*''(B) the Secretary determines that the modification or termination is in the public interest.*

*''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under the program if the Secretary determines that the producer violated the contract.*

*''(f) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.*

*''(g) FUNDING FOR FEDERALLY RECOGNIZED NATIVE AMERICAN INDIAN TRIBES AND ALASKA NATIVE CORPORATIONS.—The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.*

*''(h) WATER CONSERVATION OR IRRIGATION EFFICIENCY PRACTICE.—*

*''(1) AVAILABILITY OF PAYMENTS.—The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice.*

*''(2) PRIORITY.—In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—*

*''(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or*

*''(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.*

*''(i) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ORGANIC PRODUCTION.—*

*''(1) PAYMENTS AUTHORIZED.—The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—*

*''(A) to organic production; and*

*''(B) to the transition to organic production.*

*''(2) ELIGIBILITY REQUIREMENTS.—As a condition for receiving payments under this subsection, a producer shall agree—*

*''(A) to develop and carry out an organic system plan; or*

*''(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this chapter.*

*''(3) PAYMENT LIMITATIONS.—Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $20,000 per year or $80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.*

*''(4) EXCLUSION OF CERTAIN ORGANIC CERTIFICATION COSTS.—Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523).*

*''(5) TERMINATION OF CONTRACTS.—The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—*

*''(A) is not pursuing organic certification; or*

*''(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).''.*

***SEC. 2504. EVALUATION OF APPLICATIONS.***

*Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa–3) is amended to read as follows:*

***''SEC. 1240C. EVALUATION OF APPLICATIONS.***

*''(a) EVALUATION CRITERIA.—The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.*

*''(b) PRIORITIZATION OF APPLICATIONS.—In evaluating applications under this chapter, the Secretary shall prioritize applications—*

*''(1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated environmental benefits of the project;*

*''(2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;*

*''(3) that best fulfill the purpose of the environmental quality incentives program specified in section 1240(1); and*

*''(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.*

''(c) GROUPING OF APPLICATIONS.—To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.''.

**SEC. 2505. DUTIES OF PRODUCERS UNDER ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

Section 1240D of the Food Security Act of 1985 (16 U.S.C. 3839aa–4) is amended—

(1) in the matter preceding paragraph (1), by striking ''technical assistance, cost-share payments, or incentive'';

(2) in paragraph (2), by striking ''farm or ranch'' and inserting ''farm, ranch, or forest land''; and

(3) in paragraph (4), by striking ''cost-share payments and incentive''.

**SEC. 2506. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.**

(a) PLAN OF OPERATIONS.—Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended—

(1) in the subsection heading, by striking ''IN GENERAL'' and inserting ''PLAN OF OPERATIONS'';

(2) in matter preceding paragraph (1), by striking ''cost-share payments or incentive'';

(3) in paragraph (2), by striking ''and'' after the semicolon at the end;

(4) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following new paragraph:

''(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

''(A) a forest stewardship plan described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a);

''(B) another practice plan approved by the State forester; or

''(C) another plan determined appropriate by the Secretary.''.

(b) AVOIDANCE OF DUPLICATION.—Subsection (b) of section 1240E of the Food Security Act of 1985 (16 U.S.C. 3839aa–5) is amended to read as follows:

''(b) AVOIDANCE OF DUPLICATION.—The Secretary shall—

''(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

''(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.''.

**SEC. 2507. DUTIES OF THE SECRETARY.**

Section 1240F(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(1)) is amended by striking ''cost-share payments or incentive''.

**SEC. 2508. LIMITATION ON ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PAYMENTS.**

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended—

(1) by striking ''An individual or entity'' and inserting ''(a) **LIMITATION**.—Subject to subsection (b), a person or legal entity'';

(2) by striking ''$450,000'' and inserting ''$300,000'';

(3) by striking ''the individual'' both places it appears and inserting ''the person''; and

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

''(b) WAIVER AUTHORITY.—In the case of contracts under this chapter for projects of special environmental significance (including projects involving methane digesters), as determined by the Secretary, the Secretary may—

''(1) waive the limitation otherwise applicable under subsection (a); and

''(2) raise the limitation to not more than $450,000 during any six-year period.''.

**SEC. 2509. CONSERVATION INNOVATION GRANTS AND PAYMENTS.**

Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended to read as follows:

**''SEC. 1240H. CONSERVATION INNOVATION GRANTS AND PAYMENTS.**

''(a) COMPETITIVE GRANTS FOR INNOVATIVE CONSERVATION APPROACHES.—

''(1) GRANTS.—Out of the funds made available to carry out this chapter, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

''(2) USE.—The Secretary may provide grants under this subsection to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

''(A) involve producers who are eligible for payments or technical assistance under the program;

''(B) leverage Federal funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

''(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

''(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

''(b) AIR QUALITY CONCERNS FROM AGRICULTURAL OPERATIONS.—

''(1) IMPLEMENTATION ASSISTANCE.—The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

''(2) FUNDING.—Of the funds made available to carry out this chapter, the Secretary shall carry out this subsection using $37,500,000 for each of fiscal years 2009 through 2012.''.

**SEC. 2510. AGRICULTURAL WATER ENHANCEMENT PROGRAM.**

Section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) is amended to read as follows:

**''SEC. 1240I. AGRICULTURAL WATER ENHANCEMENT PROGRAM.**

''(a) DEFINITIONS.—In this section:

''(1) AGRICULTURAL WATER ENHANCEMENT ACTIVITY.—The term 'agricultural water enhancement activity' includes the following activities carried out with respect to agricultural land:

''(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

''(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

''(C) Water quality or quantity restoration or enhancement projects.

''(D) Irrigation system improvement and irrigation efficiency enhancement.

''(E) Activities designed to mitigate the effects of drought.

''(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

''(2) PARTNER.—The term 'partner' means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

''(A) an agricultural or silvicultural producer association or other group of such producers;

''(B) a State or unit of local government; or

''(C) a federally recognized Indian tribe.

''(3) PARTNERSHIP AGREEMENT.—The term 'partnership agreement' means an agreement between the Secretary and a partner.

''(4) PROGRAM.—The term 'program' means the agricultural water enhancement program established under subsection (b).

''(b) ESTABLISHMENT OF PROGRAM.—Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to promote ground and surface water conservation and improve water quality on agricultural lands—

''(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

''(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

''(c) PARTNERSHIP AGREEMENTS.—

''(1) AGREEMENTS AUTHORIZED.—The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

''(2) APPLICATIONS.—An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

''(A) A description of the geographical area to be covered by the partnership agreement.

''(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

''(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

''(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

''(E) A description of the program resources, including payments the Secretary is requested to make.

''(F) Such other such elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

''(3) DUTIES OF PARTNERS.—A partner under a partnership agreement shall—

''(A) identify producers participating in the project and act on their behalf in applying for the program;

''(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

''(C) conduct monitoring and evaluation of project effects; and

''(D) at the conclusion of the project, report to the Secretary on project results.

''(d) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PRODUCERS.—The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

''(e) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PARTNERS.—

''(1) COMPETITIVE PROCESS.—The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

''(2) AUTHORITY TO GIVE PRIORITY TO CERTAIN PROPOSALS.—The Secretary may give a higher priority to proposals from partners that—

''(A) include high percentages of agricultural land and producers in a region or other appropriate area;

''(B) result in high levels of applied agricultural water quality and water conservation activities;

''(C) significantly enhance agricultural activity;

''(D) allow for monitoring and evaluation; and

''(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer's operation.

''(3) PRIORITY TO PROPOSALS FROM STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall give a higher priority to proposals from partners that—

''(A) include the conversion of agricultural land from irrigated farming to dryland farming;

''(B) leverage Federal funds provided under the program with funds provided by partners; and

''(C) assist producers in States with water quantity concerns, as determined by the Secretary.

''(4) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

''(A) accept qualified applications—

''(i) directly from partners applying on behalf of producers; or

''(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

''(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

''(f) AREAS EXPERIENCING EXCEPTIONAL DROUGHT.—Notwithstanding the purposes described in section 1240, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

''(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

''(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

''(g) WAIVER AUTHORITY.—To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1001D(b)(2)(B) of this Act for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

''(h) PAYMENTS UNDER PROGRAM.—

''(1) IN GENERAL.—The Secretary shall provide appropriate payments to producers participating in agricultural water enhancement activities in an amount determined by the secretary to be necessary to achieve the purposes of the program described in subsection (b).

''(2) PAYMENTS TO PRODUCERS IN STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

''(i) CONSISTENCY WITH STATE LAW.—Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

''(j) FUNDING.—

''(1) AVAILABILITY OF FUNDS.—In addition to funds made available to carry out this chapter under section 1241(a), the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

''(A) $73,000,000 for each of fiscal years 2009 and 2010;

''(B) $74,000,000 for fiscal year 2011; and

''(C) $60,000,000 for fiscal year 2012 and each fiscal year thereafter.

''(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.''.

**Subtitle G—Other Conservation Programs of the Food Security Act of 1985**

**SEC. 2601. CONSERVATION OF PRIVATE GRAZING LAND.**

Section 1240M(e) of the Food Security Act of 1985 (16 U.S.C. 3839bb(e)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 2602. WILDLIFE HABITAT INCENTIVE PROGRAM.**

(a) ELIGIBILITY.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended—

(1) in subsection (a), by inserting before the period at the end the following: ''for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands''.

(2) in subsection (b)(1), by striking ''landowners'' and inserting ''owners of lands referred to in subsection (a)''.

(b) INCLUSION OF PIVOT CORNERS AND IRREGULAR AREAS.—Section 1240N(b)(1)(E) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(1)(E)) is amended by inserting before the period at the end the following: '', including habitat developed on pivot corners and irregular areas''.

(c) COST SHARE FOR LONG-TERM AGREEMENTS.—Section 1240N(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(2)(B)) is amended by striking ''15 percent'' and inserting ''25 percent''.

(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES; PAYMENT LIMITATION.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended by adding at the end the following new subsections:

''(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES.—In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

''(e) PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, under the program may not exceed, in the aggregate, $50,000 per year.''.

**SEC. 2603. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.**

Section 1240O(b) of the Food Security Act of 1985 (16 U.S.C. 3839bb–2(b)) is amended by striking ''$5,000,000 for each of fiscal years 2002 through 2007'' and inserting ''$20,000,000 for each of fiscal years 2008 through 2012''.

**SEC. 2604. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.**

Section 1240P of the Food Security Act of 1985 (16 U.S.C. 3839bb–3) is amended to read as follows:

**''SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.**

''(a) PROGRAM AUTHORIZED.—The Secretary may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the 'program'), including providing assistance to implement the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.

''(b) CONSULTATION AND COOPERATION.—The Secretary shall carry out the program in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army.

''(c) ASSISTANCE.—In carrying out the program, the Secretary may—

''(1) provide project demonstration grants, provide technical assistance, and carry out information and educational programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

''(2) establish a priority for projects and activities that—

''(A) directly reduce soil erosion or improve sediment control;

''(B) reduce soil loss in degraded rural watersheds; or

''(C) improve water quality for downstream watersheds.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $5,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 2605. CHESAPEAKE BAY WATERSHED PROGRAM.**

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1240P (16 U.S.C. 3839bb–3) the following new section:

**''SEC. 1240Q. CHESAPEAKE BAY WATERSHED.**

''(a) CHESAPEAKE BAY WATERSHED DEFINED.—In this section, the term 'Chesapeake Bay watershed' means all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay.

''(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

''(1) improving water quality and quantity in the Chesapeake Bay watershed; and

''(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed.

''(c) CONSERVATION ACTIVITIES.—The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subtitle to assist producers in enhancing land and water resources—

''(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

''(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the lands are—

''(A) retained in their current use; or

''(B) restored to their natural condition.

''(d) AGREEMENTS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) enter into agreements with producers to carry out the purposes of this section; and

''(B) use the funds made available to carry out this section to cover the costs of the program involved with each agreement.

''(2) SPECIAL CONSIDERATIONS.—In entering into agreements under this subsection, the Secretary shall give special consideration to, and begin evaluating, applications with producers in the following river basins:

''(A) The Susquehanna River.

''(B) The Shenandoah River.

''(C) The Potomac River (including North and South Potomac).

''(D) The Patuxent River.

''(e) DUTIES OF THE SECRETARY.—In carrying out the purposes in this section, the Secretary shall—

''(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

''(2) proceed expeditiously with the implementation of any agreement with a producer that is consistent with State strategies for the restoration of the Chesapeake Bay watershed.

''(f) CONSULTATION.—The Secretary, in consultation with appropriate Federal agencies, shall ensure conservation activities carried out under this section complement Federal and State programs, including programs that address water quality, in the Chesapeake Bay watershed.

''(g) SENSE OF CONGRESS REGARDING CHESAPEAKE BAY EXECUTIVE COUNCIL.—It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).

''(h) FUNDING.—

''(1) AVAILABILITY.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable—

''(A) $23,000,000 for fiscal year 2009;

''(B) $43,000,000 for fiscal year 2010;

''(C) $72,000,000 for fiscal year 2011; and

''(D) $50,000,000 for fiscal year 2012.

''(2) DURATION OF AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.''

**SEC. 2606. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.**

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by inserting after section 1240Q, as added by section 2605, the following new section:

**''SEC. 1240R. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.**

''(a) ESTABLISHMENT.—The Secretary shall establish a voluntary public access program under which States and tribal governments may apply for grants to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting or fishing under programs administered by the States and tribal governments.

''(b) APPLICATIONS.—In submitting applications for a grant under the program, a State or tribal government shall describe—

''(1) the benefits that the State or tribal government intends to achieve by encouraging public access to private farm and ranch land for—

''(A) hunting and fishing; and

''(B) to the maximum extent practicable, other recreational purposes; and

''(2) the methods that will be used to achieve those benefits.

''(c) PRIORITY.—In approving applications and awarding grants under the program, the Secretary shall give priority to States and tribal governments that propose—

''(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

''(2) to ensure that land enrolled under the State or tribal government program has appropriate wildlife habitat;

''(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in section 1234(f)(4) by providing incentives to increase public hunting and other recreational access on that land;

''(4) to use additional Federal, State, tribal government, or private resources in carrying out the program; and

''(5) to make available to the public the location of land enrolled.

''(d) RELATIONSHIP TO OTHER LAWS.—

''(1) NO PREEMPTION.—Nothing in this section preempts a State or tribal government law, including any State or tribal government liability law.

''(2) EFFECT OF INCONSISTENT OPENING DATES FOR MIGRATORY BIRD HUNTING.—The Secretary shall reduce by 25 percent the amount of a grant otherwise determined for a State under the program if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents.

''(e) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

''(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable, $50,000,000 for the period of fiscal years 2009 through 2012.''.

**Subtitle H—Funding and Administration of Conservation Programs**

**SEC. 2701. FUNDING OF CONSERVATION PROGRAMS UNDER FOOD SECURITY ACT OF 1985.**

(a) IN GENERAL.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended in the matter preceding paragraph (1), by striking ''2007'' and inserting ''2012''.

(b) CONSERVATION RESERVE PROGRAM.—Paragraph (1) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking the period at the end and inserting the following: '', including to the maximum extent practicable—

''(A) $100,000,000 for the period of fiscal years 2009 through 2012 to provide cost share payments under paragraph (3) of section 1234(b) in connection with thinning activities conducted on land described in subparagraph (A)(iii) of such paragraph; and

''(B) $25,000,000 for the period of fiscal years 2009 through 2012 to carry out section 1235(f) to facilitate the transfer of land subject to contracts from retired or retiring owners and operators to beginning farmers or ranchers and socially disadvantaged farmers or ranchers.''.

(c) CONSERVATION SECURITY AND CONSERVATION STEWARDSHIP PROGRAMS.—Paragraph (3) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

''(3)(A) CONSERVATION SECURITY PROGRAM.—The conservation security program under subchapter A of chapter 2, using such sums as are necessary to administer contracts entered into before September 30, 2008.

''(B) CONSERVATION STEWARDSHIP PROGRAM.—The conservation stewardship program under subchapter B of chapter 2.''.

(d) FARMLAND PROTECTION PROGRAM.—Paragraph (4) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

''(4) The farmland protection program under subchapter C of chapter 2, using, to the maximum extent practicable—

''(A) $97,000,000 in fiscal year 2008;

''(B) $121,000,000 in fiscal year 2009;

''(C) $150,000,000 in fiscal year 2010;

''(D) $175,000,000 in fiscal year 2011; and

''(E) $200,000,000 in fiscal year 2012.''.

(e) GRASSLAND RESERVE PROGRAM.—Paragraph (5) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

''(5) The grassland reserve program under subchapter D of chapter 2.''.

(f) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—Paragraph (6) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

''(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

''(A) $1,200,000,000 in fiscal year 2008;

''(B) $1,337,000,000 in fiscal year 2009;

''(C) $1,450,000,000 in fiscal year 2010;

''(D) $1,588,000,000 in fiscal year 2011; and

''(E) $1,750,000,000 in fiscal year 2012.''.

(g) WILDLIFE HABITAT INCENTIVES PROGRAM.—Paragraph (7)(D) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 2702. AUTHORITY TO ACCEPT CONTRIBUTIONS TO SUPPORT CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by adding at the end the following new subsection:

''(e) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

''(1) AUTHORITY TO ESTABLISH CONTRIBUTION ACCOUNTS.—Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subtitle D to accept contributions of non-Federal funds to support the purposes of the program.

''(2) DEPOSIT AND USE OF CONTRIBUTIONS.—Contributions of non-Federal funds received for a conservation program administered by the Secretary under subtitle D shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without further appropriation and until expended, to carry out the program.''.

**SEC. 2703. REGIONAL EQUITY AND FLEXIBILITY.**

(a) REGIONAL EQUITY AND FLEXIBILITY.—Section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)) is amended—

(1) by striking ''Before April 1'' and inserting the following:

''(1) PRIORITY FUNDING TO PROMOTE EQUITY.—Before April 1'';

(2) by striking ''$12,000,000'' and inserting ''$15,000,000''; and

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

''(2) SPECIFIC FUNDING ALLOCATIONS.—In determining the specific funding allocations for States under paragraph (1), the Secretary shall consider the respective demand in each State for each program covered by such paragraph.''.

(b) ALLOCATIONS REVIEW AND UPDATE.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (e), as added by section 2702, the following new subsection:

''(f) ALLOCATIONS REVIEW AND UPDATE.—

''(1) REVIEW.—Not later than January 1, 2012, the Secretary shall conduct a review of conservation programs and authorities under this title that utilize allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs.

''(2) UPDATE.—The Secretary shall improve conservation program allocation formulas as necessary to ensure that the formulas adequately reflect the costs of carrying out the conservation programs.''.

**SEC. 2704. ASSISTANCE TO CERTAIN FARMERS AND RANCHERS TO IMPROVE THEIR ACCESS TO CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (f), as added by section 2703(b), the following new subsection:

''(g) ASSISTANCE TO CERTAIN FARMERS OR RANCHERS FOR CONSERVATION ACCESS.—

''(1) ASSISTANCE.—Of the funds made available for each of fiscal years 2009 through 2012 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

''(A) 5 percent to assist beginning farmers or ranchers; and

''(B) 5 percent to assist socially disadvantaged farmers or ranchers.

''(2) REPOOLING OF FUNDS.—In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program.

''(3) REPOOLING OF ACRES.—In any fiscal year, acres not obligated under paragraph (1) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.''.

**SEC. 2705. REPORT REGARDING ENROLLMENTS AND ASSISTANCE UNDER CONSERVATION PROGRAMS.**

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (g), as added by section 2704, the following new subsection:

''(h) REPORT ON PROGRAM ENROLLMENTS AND ASSISTANCE.—Beginning in calendar year 2009, and each year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a semiannual report containing statistics by State related to enrollments in conservation programs under this subtitle, as follows:

''(1) Payments made under the wetlands reserve program for easements valued at $250,000 or greater.

''(2) Payments made under the farmland protection program for easements in which the Federal share is $250,000 or greater.

''(3) Payments made under the grassland reserve program valued at $250,000 or greater.

''(4) Payments made under the environmental quality incentives program for land determined to have special environmental significance pursuant to section 1240G(b).

''(5) Payments made under the agricultural water enhancement program subject to the waiver of adjusted gross income limitations pursuant to section 1240I(g).

''(6) Waivers granted by the Secretary under section 1001D(b)(2) of this Act in order to protect environmentally sensitive land of special significance.''.

**SEC. 2706. DELIVERY OF CONSERVATION TECHNICAL ASSISTANCE.**

Section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842) is amended to read as follows:

**''SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.**

''(a) DEFINITION OF ELIGIBLE PARTICIPANT.—In this section, the term 'eligible participant' means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this title or the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524).

''(b) PURPOSE OF TECHNICAL ASSISTANCE.—The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

''(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance under this title to an eligible participant—

''(1) directly;

''(2) through an agreement with a third-party provider; or

''(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

''(d) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this title.

''(e) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

''(1) PURPOSE.—The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

''(2) REGULATIONS.—Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section.

''(3) EXPERTISE.—In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

''(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

''(B) provide national criteria for the certification of third party providers; and

''(C) approve any unique certification standards established at the State level.

''(f) ADMINISTRATION.—

''(1) FUNDING.—Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 1241 shall be available for the provision of technical assistance from third-party providers under this section.

''(2) TERM OF AGREEMENT.—An agreement with a third-party provider under this section shall have a term that—

''(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

''(B) does not exceed 3 years; and

''(C) can be renewed, as determined by the Secretary.

''(3) REVIEW OF CERTIFICATION REQUIREMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall—

''(A) review certification requirements for third-party providers; and

''(B) make any adjustments considered necessary by the Secretary to improve participation.

''(4) ELIGIBLE ACTIVITIES.—

''(A) INCLUSION OF ACTIVITIES.—The Secretary may include as activities eligible for payments to a third party provider—

''(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

''(ii) related technical assistance services that accelerate conservation program delivery.

''(B) EXCLUSIONS.—The Secretary shall not designate as an activity eligible for payments to a third party provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

''(5) PAYMENT AMOUNTS.—The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

''(g) AVAILABILITY OF TECHNICAL SERVICES.—

''(1) IN GENERAL.—In carrying out the programs under this title and the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524), the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

''(2) TECHNICAL SERVICE CONTRACTS.—In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

''(h) REVIEW OF CONSERVATION PRACTICE STANDARDS.—

''(1) REVIEW REQUIRED.—The Secretary shall—

''(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

''(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

''(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

''(2) CONSULTATION.—In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

''(3) EXPEDITED REVISION OF STANDARDS.—If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

''(i) ADDRESSING CONCERNS OF SPECIALITY CROP, ORGANIC, AND PRECISION AGRICULTURE PRODUCERS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

''(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

''(2) AVAILABILITY OF ADEQUATE TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

''(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall develop—

''(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

''(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.''.

**SEC. 2707. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.**

(a) TRANSFER OF EXISTING PROVISIONS.—Subsections (a), (c), and (d) of section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) are—

(1) redesignated as subsections (c), (d), and (e), respectively; and

(2) transferred to appear at the end of section 1244 of such Act (16 U.S.C. 3844).

(b) ESTABLISHMENT OF PARTNERSHIP INITIATIVE.—Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843), as amended by subsection (a), is amended to read as follows:

**''SEC. 1243. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.**

''(a) ESTABLISHMENT OF INITIATIVE.—The Secretary shall establish a cooperative conservation partnership initiative (in this section referred to as the 'Initiative') to work with eligible partners to provide assistance to producers enrolled in a program described in subsection (c)(1) that will enhance conservation outcomes on agricultural and nonindustrial private forest land.

''(b) PURPOSES.—The purposes of a partnership entered into under the Initiative shall be—

''(1) to address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level;

''(2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production involving agriculture and nonindustrial private forest land;

''(3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest operations; or

''(4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

''(c) INITIATIVE PROGRAMS.—

''(1) COVERED PROGRAMS.—Except as provided in paragraph (2), the Initiative applies to all conservation programs under subtitle D.

''(2) EXCLUDED PROGRAMS.—The Initiative shall not include the following programs:

''(A) Conservation reserve program.

''(B) Wetlands reserve program.

''(C) Farmland protection program

''(D) Grassland reserve program.

''(d) ELIGIBLE PARTNERS.—The Secretary may enter into a partnership under the Initiative with one or more of the following:

''(1) States and local governments.

''(2) Indian tribes.

''(3) Producer associations.

''(4) Farmer cooperatives.

''(5) Institutions of higher education.

''(6) Nongovernmental organizations with a history of working cooperatively with producers to effectively address conservation priorities related to agricultural production and nonindustrial private forest land.

''(e) IMPLEMENTATION AGREEMENTS.—The Secretary shall carry out the Initiative—

''(1) by selecting, through a competitive process, eligible partners from among applications submitted under subsection (f); and

''(2) by entering into multi-year agreements with eligible partners so selected for a period not to exceed 5 years.

''(f) APPLICATIONS.—

''(1) REQUIRED INFORMATION.—An application to enter into a partnership agreement under the Initiative shall include the following:

''(A) A description of the area covered by the agreement, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by agricultural producers and nonindustrial private forest landowners.

''(B) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner.

''(C) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.

''(D) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.

''(E) Such other information that may be required by the Secretary.

''(2) PRIORITIES.—The Secretary shall give priority to applications for agreements that—

''(A) have a high percentage of producers involved and working agricultural or nonindustrial private forest land included in the area covered by the agreement;

''(B) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;

''(C) deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;

''(D) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

''(E) meet other factors, as determined by the Secretary.

''(g) RELATIONSHIP TO COVERED PROGRAMS.—

''(1) COMPLIANCE WITH PROGRAM RULES.—Except as provided in paragraph (2), the Secretary shall ensure that resources made available under the Initiative are delivered in accordance with the applicable rules of programs specified in subsection (c)(1) through normal program mechanisms relating to program functions, including rules governing appeals, payment limitations, and conservation compliance.

''(2) ADJUSTMENT.—The Secretary may adjust the elements of any program specified in subsection (c)(1)—

''(A) to better reflect unique local circumstances and purposes if the Secretary determines such adjustments are necessary to achieve the purposes of the Initiative; and

''(B) to provide preferential enrollment to producers who are eligible for the applicable program and to participate in the Initiative.

''(h) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide appropriate technical and financial assistance to producers participating in the Initiative in an amount determined to be necessary to achieve the purposes of the Initiative.

''(i) FUNDING.—

''(1) RESERVATION.—Of the funds and acres made available for each of fiscal years 2009 through 2012 to implement the programs described in subsection (c)(1), the Secretary shall reserve 6 percent of the funds and acres to ensure an adequate source of funds and acres for the Initiative.

''(2) ALLOCATION REQUIREMENTS.—Of the funds and acres reserved for the Initiative for a fiscal year, the Secretary shall allocate—

''(A) 90 percent of the funds and acres to projects based on the direction of State conservationists, with the advice of State technical committees; and

''(B) 10 percent of the funds and acres to projects based on a national competitive process established by the Secretary.

''(3) UNUSED FUNDING.—Any funds and acres reserved for a fiscal year under paragraph (1) that are not obligated by April 1 of that fiscal year may be used to carry out other activities under the program that is the source of the funds or acres during the remainder of that fiscal year.

''(4) ADMINISTRATIVE COSTS OF PARTNERS.—Overhead or administrative costs of partners may not be covered by funds provided through the Initiative.''.

**SEC. 2708. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.**

Section 1244 of the Food Security Act of 1985 (16 U.S.C. 3844), as amended by section 2707, is further amended—

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

''(a) INCENTIVES FOR CERTAIN FARMERS AND RANCHERS AND INDIAN TRIBES.—

''(1) INCENTIVES AUTHORIZED.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

''(A) to foster new farming and ranching opportunities; and

''(B) to enhance long-term environmental goals.

''(2) COVERED PERSONS.—Incentives authorized by paragraph (1) may be provided to the following:

''(A) Beginning farmers or ranchers.

''(B) Socially disadvantaged farmers or ranchers.

''(C) Limited resource farmers or ranchers.

''(D) Indian tribes.''; and

(2) by adding at the end the following new subsections:

''(f) ACREAGE LIMITATIONS.—

''(1) LIMITATIONS.—

''(A) ENROLLMENTS.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under subchapters B and C of chapter 1 of subtitle D.

''(B) EASEMENTS.—Not more than 10 percent of the cropland in a country may be subject to an easement acquired under subchapter C of chapter 1 of subtitle D.

''(2) EXCEPTIONS.—The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

''(A) the action would not adversely affect the local economy of a county; and

''(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

''(3) WAIVER TO EXCLUDE CERTAIN ACREAGE.—The Secretary may grant a waiver to exclude acreage enrolled under subsection (c)(2)(B) or (f)(4) of section 1234 from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

''(4) SHELTERBELTS AND WINDBREAKS.—The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subchapter C of chapter 1 that is used for the establishment of shelterbelts and windbreaks.

''(g) COMPLIANCE AND PERFORMANCE.—For each conservation program under subtitle D, the Secretary shall develop procedures—

''(1) to monitor compliance with program requirements;

''(2) to measure program performance;

''(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

''(4) to track participation by crop and livestock types; and

''(5) to coordinate activities described in this subsection with the national conservation program authorized under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004).

''(h) ENCOURAGEMENT OF POLLINATOR HABITAT DEVELOPMENT AND PROTECTION.—In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

''(1) the development of habitat for native and managed pollinators; and

''(2) the use of conservation practices that benefit native and managed pollinators.

''(i) STREAMLINED APPLICATION PROCESS.—

''(1) IN GENERAL.—In carrying out each conservation program under this title, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

''(2) REVIEW AND STREAMLINING.—

''(A) REVIEW.—The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

''(B) STREAMLINING.—On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

''(i) all required application information is essential for the efficient, effective, and accountable implementation of conservation programs;

''(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

''(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

''(iv) information technology is used effectively to minimize data and information input requirements.

''(3) IMPLEMENTATION AND NOTIFICATION.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.''.

**SEC. 2709. ENVIRONMENTAL SERVICES MARKETS.**

Subtitle E of title XII of the Food Security Act of 1985 is amended by inserting after section 1244 (16 U.S.C. 3844) the following new section:

**''SEC. 1245. ENVIRONMENTAL SERVICES MARKETS.**

''(a) TECHNICAL GUIDELINES REQUIRED.—The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

''(b) ESTABLISHMENT.—The Secretary shall establish guidelines under subsection (a) for use in developing the following:

''(1) A procedure to measure environmental services benefits.

''(2) A protocol to report environmental services benefits.

''(3) A registry to collect, record and maintain the benefits measured.

''(c) VERIFICATION REQUIREMENTS.—

''(1) VERIFICATION OF REPORTS.—The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

''(2) ROLE OF THIRD PARTIES.—In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

''(d) USE OF EXISTING INFORMATION.—In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

''(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the following:

''(1) Federal and State government agencies.

''(2) Nongovernmental interests including—

''(A) farm, ranch, and forestry producers;

''(B) financial institutions involved in environmental services trading;

''(C) institutions of higher education with relevant expertise or experience;

''(D) nongovernmental organizations with relevant expertise or experience; and

''(E) private sector representatives with relevant expertise or experience.

''(3) Other interested persons, as determined by the Secretary.''.

**SEC. 2710. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.**

Subtitle F of title XII of the Food Security Act of 1985 is amended by inserting after section 1251 (16 U.S.C. 2005a) the following new section:

**''SEC. 1252. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.**

''(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a conservation experienced services program (in this section referred to as the 'ACES Program') for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary. Such technical services may include conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices.

''(b) PROGRAM AGREEMENTS.—

''(1) RELATION TO OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.—Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the ACES program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the ACES program who will provide technical services under the ACES program.

''(2) REQUIRED DETERMINATION.—Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

''(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

''(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or

''(C) affect existing contracts for services.

''(c) FUNDING SOURCE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this title.

''(2) EXCLUSIONS.—Funds made available to carry out the following programs may not be used to carry out the ACES program:

''(A) The conservation reserve program.

''(B) The wetlands reserve program.

''(C) The grassland reserve program.

''(D) The conservation stewardship program.

''(d) LIABILITY.—An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28, United States Code, if the individual—

''(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

''(2) is acting within the scope of the agreement.''.

**SEC. 2711. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES AND THEIR RESPONSIBILITIES.**

Subtitle G of title XII of the Farm Security Act of 1985 (16 U.S.C. 3861, 3862) is amended to read as follows:

***''Subtitle G—State Technical Committees***

**''SEC. 1261. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES.**

''(a) ESTABLISHMENT.—The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this title.

''(b) STANDARDS.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop—

''(1) standard operating procedures to standardize the operations of State technical committees; and

''(2) standards to be used by State technical committees in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

''(c) COMPOSITION.—Each State technical committee shall be composed of agricultural producers and other professionals that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

''(1) The Natural Resources Conservation Service.

''(2) The Farm Service Agency.

''(3) The Forest Service.

''(4) The National Institute of Food and Agriculture.

''(5) The State fish and wildlife agency.

''(6) The State forester or equivalent State official.

''(7) The State water resources agency.

''(8) The State department of agriculture.

''(9) The State association of soil and water conservation districts.

''(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.

''(11) Owners of nonindustrial private forest land.

''(12) Nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 with demonstrable conservation expertise and experience working with agriculture producers in the State.

''(13) Agribusiness.

**''SEC. 1262. RESPONSIBILITIES.**

''(a) IN GENERAL.—Each State technical committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title.

''(b) PUBLIC NOTICE AND ATTENDANCE.—Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this title.

''(c) ROLE.—

''(1) IN GENERAL.—The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this title.

''(2) ADVISORY ROLE IN ESTABLISHING PROGRAM PRIORITIES AND CRITERIA.—Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this title, including the review of whether local working groups are addressing those priorities.

''(d) FACA REQUIREMENTS.—

''(1) EXEMPTION.—Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

''(2) LOCAL WORKING GROUPS.—For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subtitle shall be considered to be a subcommittee of the applicable State technical committee.''.

***Subtitle I—Conservation Programs Under Other Laws***

**SEC. 2801. AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.**

(a) ELIGIBLE STATES.—Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended by inserting ''Hawaii,'' after ''Delaware,''.

(b) FUNDING.—Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amended—

(1) in clause (i), by striking ''Except as provided in clauses (ii) and (iii)'' and inserting ''Except as provided in clause (ii)''; and

(2) by striking clauses (ii) and (iii) and inserting the following new clause:

''(ii) EXCEPTION FOR FISCAL YEARS 2008 THROUGH 2012.—For each of fiscal years 2008 through 2012, the Commodity Credit Corporation shall make available to carry out this subsection $15,000,000.''.

(c) CERTAIN USES.—Section 524(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)) is amended by adding at the end the following new subparagraph:

''(C) CERTAIN USES.—Of the amounts made available to carry out this subsection for a fiscal year, the Commodity Credit Corporation shall use not less than—

''(i) 50 percent to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

''(ii) 10 percent to provide organic certification cost share assistance through the Agricultural Marketing Service; and

''(iii) 40 percent to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.''.

**SEC. 2802. TECHNICAL ASSISTANCE UNDER SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.**

(a) PREVENTION OF SOIL EROSION.—

(1) IN GENERAL.—The first section of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a) is amended—

(A) by striking ''That it'' and inserting the following:

**''SECTION 1. PURPOSE.**

''It''; and

(B) in the matter preceding paragraph (1), by striking ''and thereby to preserve natural resources,'' and inserting ''to preserve soil, water, and related resources, promote soil and water quality,''.

*(2) POLICIES AND PURPOSES.—Section 7(a)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(a)(1)) is amended by striking ''fertility'' and inserting ''and water quality and related resources''.*

*(b) DEFINITIONS.—Section 10 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590j) is amended to read as follows:*

***''SEC. 10. DEFINITIONS.***

*''In this Act:*

*''(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—*

*''(A) an agricultural commodity; and*

*''(B) any regional or market classification, type, or grade of an agricultural commodity.*

*''(2) TECHNICAL ASSISTANCE.—*

*''(A) IN GENERAL.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses.*

*''(B) INCLUSIONS.—The term 'technical assistance' includes—*

*''(i) technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and*

*''(ii) technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.''.*

***SEC. 2803. SMALL WATERSHED REHABILITATION PROGRAM.***

*(a) AVAILABILITY OF FUNDS.—Section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended by adding at the end the following new subparagraph:*

*''(G) $100,000,000 for fiscal year 2009, to be available until expended.''.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(h)(2)(E) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(2)(E)) is amended by striking ''fiscal year 2007'' and inserting ''each of fiscal years 2008 through 2012''.*

***SEC. 2804. AMENDMENTS TO SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977.***

*(a) CONGRESSIONAL FINDINGS.—Section 2 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—*

*(1) in paragraph (2), by striking ''base, of the'' and inserting ''base of the''; and*

*(2) in paragraph (3), by striking ''(3)'' and all that follows through ''Since individual'' and inserting the following:*

*''(3) Appraisal and inventory of resources, assessment and inventory of conservation needs, evaluation of the effects of conservation practices, and analyses of alternative approaches to existing conservation programs are basic to effective soil, water, and related natural resource conservation.*

*''(4) Since individual''.*

*(b) CONTINUING APPRAISAL OF SOIL, WATER, AND RELATED RESOURCES.—Section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (5), by striking ''and'' at the end;*

*(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and*

*(C) by adding at the end the following new paragraph:*

*''(7) data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.'';*

*(2) by redesignating subsection (d) as subsection (e);*

*(3) by inserting after subsection (c) the following new subsection:*

*''(d) EVALUATION OF APPRAISAL.—In conducting the appraisal described in subsection (a), the Secretary shall concurrently solicit and evaluate recommendations for improving the appraisal, including the content, scope, process, participation in, and other elements of the appraisal, as determined by the Secretary.''; and*

*(4) in subsection (e), as redesignated by paragraph (2), by striking the first sentence and inserting the following: ''The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015.''.*

*(c) SOIL AND WATER CONSERVATION PROGRAM.—Section 6 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2005) is amended—*

*(1) by redesignating subsection (b) as subsection (d);*

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

*''(b) EVALUATION OF EXISTING CONSERVATION PROGRAMS.—In evaluating existing conservation programs, the Secretary shall emphasize demonstration, innovation, and monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.*

*''(c) IMPROVEMENT TO PROGRAM.—In developing a national soil and water conservation program under subsection (a), the Secretary shall solicit and evaluate recommendations for improving the program, including the content, scope, process, participation in, and other elements of the program, as determined by the Secretary.''; and*

*(3) in subsection (d), as redesignated by paragraph (1), by striking ''December 31, 1979'' and all that follows through ''December 31, 2007'' and inserting ''December 31, 2011, and December 31, 2016''.*

*(d) REPORTS TO CONGRESS.—Section 7 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006) is amended to read as follows:*

***''SEC. 7. REPORTS TO CONGRESS.***

*''(a) APPRAISAL.—Not later than the date on which Congress convenes in 2011 and 2016, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the appraisal developed under section 5 and completed before the end of the previous year.*

*''(b) PROGRAM AND STATEMENT OF POLICY.—Not later than the date on which Congress convenes in 2012 and 2017, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—*

*''(1) the initial program or updated program developed under section 6 and completed before the end of the previous year;*

*''(2) a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture; and*

*''(3) a special evaluation of the status, conditions, and trends of soil quality on cropland in the United States that addresses the challenges and opportunities for reducing soil erosion to tolerance levels.*

*''(c) IMPROVEMENTS TO APPRAISAL AND PROGRAM.—Not later than the date on which Congress convenes in 2012, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the plans of the Department of Agriculture for improving the resource appraisal and national conservation program required under this Act, based on the recommendations received under sections 5(d) and 6(c).''.*

*(e) TERMINATION OF PROGRAM.—Section 10 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2009) is amended by striking ''2008'' and inserting ''2018''.*

***SEC. 2805. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.***

*(a) LOCALLY LED PLANNING PROCESS.—Section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451) is amended—*

*(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''**PLANNING PROCESS**'' and inserting ''locally led planning process'';*

*(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and moving those paragraphs so as to appear in numerical order;*

*(3) in paragraph (8) (as so redesignated)—*

*(A) by striking ''**PLANNING PROCESS**'' and inserting ''LOCALLY LED PLANNING PROCESS''; and*

*(B) by striking ''council'' and inserting ''locally led council''.*

*(b) AUTHORIZED TECHNICAL ASSISTANCE.—Section 1528(13) of the Agriculture and Food Act of 1981 (16 U.S.C. 3451(13)) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:*

*''(C) providing assistance for the implementation of area plans and projects; and*

*''(D) providing services that involve the resources of Department of Agriculture programs in a local community, as defined in the locally led planning process.''.*

*(c) IMPROVED PROVISION OF TECHNICAL ASSISTANCE.—Section 1531 of the Agriculture and Food Act of 1981 (16 U.S.C. 3454) is amended—*

*(1) by inserting ''(a) IN GENERAL.—'' before ''In carrying''; and*

*(2) by adding at the end the following new subsection:*

*''(b) COORDINATOR.—*

*''(1) IN GENERAL.—To improve the provision of technical assistance to councils under this subtitle, the Secretary shall designate for each council an individual to be the coordinator for the council.*

*''(2) RESPONSIBILITY.—A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.''.*

*(d) PROGRAM EVALUATION.—Section 1534 of the Agriculture and Food Act of 1981 (16 U.S.C. 3457) is repealed.*

***SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM.***

*(a) IN GENERAL.—Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) is amended by adding at the end the following new paragraph:*

*''(7) BASIN STATES PROGRAM.—*

*''(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 205(f).*

*''(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.*

*''(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—*

*''(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;*

*''(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and*

*''(iii) studies, planning, and administration of salinity control activities.*

*''(D) REPORT.—*

*''(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a*

*planning report that describes the proposed implementation of the program.*

*''(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—*

*(A) in subsection (a), in the matter preceding paragraph (1), by striking ''program'' and inserting ''programs''; and*

*(B) in subsection (b)(4)—*

*(i) by striking ''program'' and inserting ''programs''; and*

*(ii) by striking ''and (6)'' and inserting ''(6), and (7)''.*

*(2) Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended by striking subsection (f) and inserting the following new subsection:*

*''(f) UP-FRONT COST SHARE.—*

*''(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).*

*''(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 202(a)(7).*

*''(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.''.*

***SEC. 2807. DESERT TERMINAL LAKES.***

*Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—*

*(1) in subsection (a)—*

*(A) by striking ''(a)'' and all that follows through ''$200,000,000'' and inserting ''(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer $175,000,000''; and*

*(B) by striking the quotation marks at the beginning of paragraphs (1) and (2); and*

*(2) by striking subsection (b) and inserting the following new subsection:*

*''(b) PERMITTED USES.—In any case in which there are willing sellers, the funds described in subsection (a) may be used—*

*''(1) to lease water; or*

*''(2) to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).''.*

***Subtitle J—Miscellaneous Conservation Provisions***

***SEC. 2901. HIGH PLAINS WATER STUDY.***

*Notwithstanding any other provision of this Act, no person shall become ineligible for any program benefits under this Act or an amendment made by this Act solely as a result of participating in a 1-time study of recharge potential for the Ogallala Aquifer in the High Plains of the State of Texas.*

***SEC. 2902. NAMING OF NATIONAL PLANT MATERIALS CENTER AT BELTSVILLE, MARYLAND, IN HONOR OF NORMAN A. BERG.***

*The National Plant Materials Center at Beltsville, Maryland, referenced in section 613.5(a) of title 7, Code of Federal Regulations, shall be known and designated as the ''Norman A. Berg National Plant Materials Center''. Any reference in a law, map, regulation, document, paper, or other record of the United States to such National Plant Materials Center shall be deemed to be a reference to the Norman A. Berg National Plant Materials Center.*

***SEC. 2903. TRANSITION.***

*(a) CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008.—Except as otherwise provided by an amendment made by this title, the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act and using funds made available under such title for fiscal year 2008 for the program or activity.*

*(b) GROUND AND SURFACE WATER CONSERVATION PROGRAM.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.*

***SEC. 2904. REGULATIONS.***

*(a) ISSUANCE.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.*

*(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—*

*(1) shall be carried out without regard to—*

*(A) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and*

*(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and*

*(2) may—*

*(A) be promulgated with an opportunity for notice and comment; or*

*(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.*

*(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.*

***TITLE III—TRADE***

***Subtitle A—Food for Peace Act***

***SEC. 3001. SHORT TITLE.***

*(a) IN GENERAL.—Section 1 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 note; 104 Stat. 3633) is amended by striking ''**AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954**'' and inserting ''Food for Peace Act''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended—*

*(A) by striking ''Agricultural Trade Development and Assistance Act of 1954'' each place it appears and inserting ''Food for Peace Act''; and*

*(B) in each section heading, by striking ''**AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954**'' each place it appears and inserting ''**FOOD FOR PEACE ACT**''.*

*(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:*

*(A) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213).*

*(B) The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).*

*(C) Section 9(a) of the Military Construction Codification Act (7 U.S.C. 1704c).*

*(D) Section 201 of the Africa: Seeds of Hope Act of 1998 (7 U.S.C. 1721 note; Public Law 105–385).*

*(E) The Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.).*

*(F) The Food for Progress Act of 1985 (7 U.S.C. 1736o).*

*(G) Section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1).*

*(H) Sections 605B and 606C of the Act of August 28, 1954 (commonly known as the ''Agricultural Act of 1954'') (7 U.S.C. 1765b, 1766b).*

*(I) Section 206 of the Agricultural Act of 1956 (7 U.S.C. 1856).*

*(J) The Agricultural Competitiveness and Trade Act of 1988 (7 U.S.C. 5201 et seq.).*

*(K) The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.).*

*(L) The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.).*

*(M) Section 301 of title 13, United States Code.*

*(N) Section 8 of the Endangered Species Act of 1973 (16 U.S.C. 1537).*

*(O) Section 604 of the Enterprise for the Americas Act of 1992 (22 U.S.C. 2077).*

*(P) Section 5 of the International Health Research Act of 1960 (22 U.S.C. 2103).*

*(Q) The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).*

*(R) The Horn of Africa Recovery and Food Security Act (22 U.S.C. 2151 note; Public Law 102–274).*

*(S) Section 105 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455).*

*(T) Section 35 of the Foreign Military Sales Act (22 U.S.C. 2775).*

*(U) The Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).*

*(V) Section 1707 of the Cuban Democracy Act of 1992 (22 U.S.C. 6006).*

*(W) The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6021 et seq.).*

*(X) Section 902 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201).*

*(Y) Chapter 553 of title 46, United State Code.*

*(Z) Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).*

*(AA) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).*

*(BB) Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat 1549A–34).*

*(c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the ''Agricultural Trade Development and Assistance Act of 1954'' shall be considered to be a reference to the ''Food for Peace Act''.*

***SEC. 3002. UNITED STATES POLICY.***

*Section 2 of the Food for Peace Act (7 U.S.C. 1691) is amended—*

*(1) by striking paragraph (4); and*

*(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.*

***SEC. 3003. FOOD AID TO DEVELOPING COUNTRIES.***

*Section 3(b) of the Food for Peace Act (7 U.S.C. 1691a(b)) is amended by striking ''(b)'' and all that follows through paragraph (1) and inserting the following:*

*''(b) SENSE OF CONGRESS.—It is the sense of Congress that—*

*''(1) in negotiations at the Food Aid Convention, the World Trade Organization, the United Nations Food and Agriculture Organization, and other appropriate venues, the President shall—*

*''(A) seek commitments of higher levels of food aid by donors in order to meet the legitimate needs of developing countries;*

''(B) ensure, to the maximum extent practicable, that humanitarian nongovernmental organizations, recipient country governments, charitable bodies, and international organizations shall continue—

''(i) to be eligible to receive resources based on assessments of need conducted by those organizations and entities; and

''(ii) to implement food aid programs in agreements with donor countries; and

''(C) ensure, to the maximum extent practicable, that options for providing food aid for emergency and nonemergency needs shall not be subject to limitation, including in-kind commodities, provision of funds for agricultural commodity procurement, and monetization of commodities, on the condition that the provision of those commodities or funds—

''(i) is based on assessments of need and intended to benefit the food security of, or otherwise assist, recipients, and

''(ii) is provided in a manner that avoids disincentives to local agricultural production and marketing and with minimal potential for disruption of commercial markets; and''.

**SEC. 3004. TRADE AND DEVELOPMENT ASSISTANCE.**

(a) Title I of the Food for Peace Act (7 U.S.C. 1701 et seq.) is amended in the title heading, by striking ''**TRADE AND DEVELOPMENT ASSISTANCE**'' and inserting ''**ECONOMIC ASSISTANCE AND FOOD SECURITY**''.

(b) Section 101 of the Food for Peace Act (7 U.S.C. 1701) is amended in the section heading, by striking ''**TRADE AND DEVELOPMENT ASSISTANCE**'' and inserting ''**ECONOMIC ASSISTANCE AND FOOD SECURITY**''.

**SEC. 3005. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.**

Section 102 of the Food for Peace Act (7 U.S.C. 1702) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(2) by striking subsection (c).

**SEC. 3006. USE OF LOCAL CURRENCY PAYMENTS.**

Section 104(c) of the Food for Peace Act (7 U.S.C. 1704(c)) is amended—

(1) in the matter preceding paragraph (1), by inserting '', through agreements with recipient governments, private voluntary organizations, and cooperatives,'' after ''developing country'';

(2) by striking paragraph (1);

(3) in paragraph (2)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(E) the improvement of the trade capacity of the recipient country.'';

(4) in paragraph (3), by striking ''agricultural business development and agricultural trade expansion'' and inserting ''development of agricultural businesses and agricultural trade capacity'';

(5) in paragraph (4), by striking '', or otherwise'' and all that follows through ''United States'';

(6) in paragraph (5), by inserting ''to promote agricultural products produced in appropriate developing countries'' after ''trade fairs''; and

(7) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively.

**SEC. 3007. GENERAL AUTHORITY.**

Section 201 of the Food for Peace Act (7 U.S.C. 1721) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) address famine and food crises, and respond to emergency food needs, arising from man-made and natural disasters;'';

(2) in paragraph (5)—

(A) by inserting ''food security and support'' after ''promote''; and

(B) by striking ''; and'' and inserting a semicolon;

(3) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(7) promote economic and nutritional security by increasing educational, training, and other productive activities.''.

**SEC. 3008. PROVISION OF AGRICULTURAL COMMODITIES.**

Section 202 of the Food for Peace Act (7 U.S.C. 1722) is amended—

(1) in subsection (b)(2), by striking ''may not deny a request for funds'' and inserting ''may not use as a sole rationale for denying a request for funds'';

(2) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A), by striking ''not less than 5 percent nor more than 10 percent'' and inserting ''not less than 7.5 percent nor more than 13 percent'';

(B) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(C) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(C) improving and implementing methodologies for food aid programs, including needs assessments (upon the request of the Administrator), monitoring, and evaluation.''; and

(3) by striking subsection (h) and inserting the following:

''(h) FOOD AID QUALITY.—

''(1) IN GENERAL.—The Administrator shall use funds made available for fiscal year 2009 and subsequent fiscal years to carry out this title—

''(A) to assess the types and quality of agricultural commodities and products donated for food aid;

''(B) to adjust products and formulations (including the potential introduction of new fortificants and products) as necessary to cost-effectively meet nutrient needs of target populations; and

''(C) to test prototypes.

''(2) ADMINISTRATION.—The Administrator—

''(A) shall carry out this subsection in consultation with and through independent entities with proven expertise in food aid commodity quality enhancements;

''(B) may enter into contracts to obtain the services of such entities; and

''(C) shall consult with the Food Aid Consultative Group on how to carry out this subsection.

''(3) FUNDING LIMITATION.—Of the funds made available under section 207(f), for fiscal years 2009 through 2011, not more than $4,500,000 may be used to carry out this subsection.''.

**SEC. 3009. GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.**

Section 203(b) of the Food for Peace Act (7 U.S.C. 1723(b)) is amended by striking ''1 or more recipient countries'' and inserting ''in 1 or more recipient countries''.

**SEC. 3010. LEVELS OF ASSISTANCE.**

Section 204(a) of the Food for Peace Act (7 U.S.C. 1724(a)) is amended—

(1) in paragraph (1), by striking ''2002 through 2007'' and inserting ''2008 through 2012''; and

(2) in paragraph (2), by striking ''2002 through 2007'' and inserting ''2008 through 2012''.

**SEC. 3011. FOOD AID CONSULTATIVE GROUP.**

Section 205 of the Food for Peace Act (7 U.S.C. 1725) is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by inserting at the end the following:

''(7) representatives from the maritime transportation sector involved in transporting agricultural commodities overseas for programs under this Act.''; and

(2) in subsection (f), by striking ''2007'' and inserting ''2012''.

**SEC. 3012. ADMINISTRATION.**

Section 207 of the Food for Peace Act (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(3), by striking ''and the conditions that must be met for the approval of such proposal'';

(2) in subsection (c), by striking paragraph (3);

(3) by striking subsection (d) and inserting the following:

''(d) TIMELY PROVISION OF COMMODITIES.—The Administrator, in consultation with the Secretary, shall develop procedures that ensure expedited processing of commodity call forwards in order to provide commodities overseas in a timely manner and to the extent feasible, according to planned delivery schedules.''; and

(4) by adding at the end the following:

''(f) PROGRAM OVERSIGHT, MONITORING, AND EVALUATION.—

''(1) DUTIES OF ADMINISTRATOR.—The Administrator, in consultation with the Secretary, shall establish systems and carry out activities—

''(A) to determine the need for assistance provided under this title; and

''(B) to improve, monitor, and evaluate the effectiveness and efficiency of the assistance provided under this title to maximize the impact of the assistance.

''(2) REQUIREMENTS OF SYSTEMS AND ACTIVITIES.—The systems and activities described in paragraph (1) shall include—

''(A) program monitors in countries that receive assistance under this title;

''(B) country and regional food aid impact evaluations;

''(C) the identification and implementation of best practices for food aid programs;

''(D) the evaluation of monetization programs;

''(E) early warning assessments and systems to help prevent famines; and

''(F) upgraded information technology systems.

''(3) IMPLEMENTATION REPORT.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator shall submit to the appropriate committees of Congress a report on efforts undertaken by the Administrator to conduct oversight of nonemergency programs under this title.

''(4) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than 270 days after the date of submission of the report under paragraph (3), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that contains—

''(A) a review of, and comments addressing, the report described in paragraph (3); and

''(B) recommendations relating to any additional actions that the Comptroller General of the United States determines to be necessary to improve the monitoring and evaluation of assistance provided under this title.

''(5) CONTRACT AUTHORITY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in carrying out administrative and management activities relating to each activity carried out by the Administrator under paragraph (1), the Administrator may enter into contracts with 1 or more individuals for personal service to be performed in recipient countries or neighboring countries.

''(B) PROHIBITION.—An individual who enters into a contract with the Administrator under subparagraph (A) shall not be considered to be an employee of the Federal Government for the purpose of any law (including regulations) administered by the Office of Personnel Management.

''(C) PERSONAL SERVICE.—Subparagraph (A) does not limit the ability of the Administrator to enter into a contract with any individual for personal service under section 202(a).

''(6) FUNDING.—

''(A) IN GENERAL.—Subject to section 202(h)(3), in addition to other funds made available to the Administrator to carry out the monitoring of emergency food assistance, the Administrator may implement this subsection using up to $22,000,000 of the funds made available under this title for each of fiscal years 2009 through 2012, except for paragraph (2)(F), for which only $2,500,000 shall be made available during fiscal year 2009.

''(B) LIMITATIONS.—

''(i) IN GENERAL.—Subject to clause (ii), of the funds made available under subparagraph (A), for each of fiscal years 2009 through 2012, not more than $8,000,000 may be used by the Administrator to carry out paragraph (2)(E).

''(ii) CONDITION.—No funds shall be made available under subparagraph (A), in accordance with clause (i), unless not less than $8,000,000 is made available under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) for such purposes for such fiscal year.

''(g) PROJECT REPORTING.—

''(1) IN GENERAL.—In submitting project reports to the Administrator, a private voluntary organization or cooperative shall provide a copy of the report in such form as is necessary for the report to be displayed for public use on the website of the United States Agency for International Development.

''(2) CONFIDENTIAL INFORMATION.—An organization or cooperative described in paragraph (1) may omit any confidential information from the copy of the report submitted for public display under that paragraph.''.

**SEC. 3013. ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.**

Section 208(f) of the Food for Peace Act (7 U.S.C. 1726b(f)) is amended—

(1) by striking ''$3,000,000'' and inserting ''$8,000,000''; and

(2) by striking ''2007'' and inserting ''2012''.

**SEC. 3014. GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) IN GENERAL.—Section 401 of the Food for Peace Act (7 U.S.C. 1731) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b) (as so redesignated), by striking ''(b)(1)'' and inserting ''(a)(1)''.

(b) CONFORMING AMENDMENTS.—

(1) Section 406(a) of the Food for Peace Act (7 U.S.C. 1736(a)) is amended by striking ''(that have been determined to be available under section 401(a))''.

(2) Subsection (e)(1) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(1)) is amended by striking ''determined to be available under section 401 of the Food for Peace Act''.

**SEC. 3015. DEFINITIONS.**

Section 402 of the Food for Peace Act (7 U.S.C. 1732) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) APPROPRIATE COMMITTEE OF CONGRESS.—The term 'appropriate committee of Congress' means—

''(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(B) the Committee on Agriculture of the House of Representatives; and

''(C) the Committee on Foreign Affairs of the House of Representatives.''.

**SEC. 3016. USE OF COMMODITY CREDIT CORPORATION.**

Section 406(b)(2) of the Food for Peace Act (7 U.S.C. 1736(b)(2)) is amended by inserting '', including the costs of carrying out section 415'' before the semicolon.

**SEC. 3017. ADMINISTRATIVE PROVISIONS.**

Section 407(c) of the Food for Peace Act (7 U.S.C. 1736a(c)) is amended—

(1) in paragraph (4)—

(A) by striking ''Funds made'' and inserting the following:

''(A) IN GENERAL.—Funds made'';

(B) in subparagraph (A) (as so designated)—

(i) by striking ''2007'' and inserting ''2012''; and

(ii) by striking ''$2,000,000'' and inserting ''$10,000,000''; and

(C) by adding at the end the following:

''(B) ADDITIONAL PREPOSITIONING SITES.—

''(i) FEASIBILITY ASSESSMENTS.—The Administrator may carry out assessments for the establishment of not less than 2 sites to determine the feasibility of, and costs associated with, using the sites to store and handle agricultural commodities for prepositioning in foreign countries.

''(ii) ESTABLISHMENT OF SITES.—Based on the results of each assessment carried out under clause (i), the Administrator may establish additional sites for prepositioning in foreign countries.''; and

(2) by adding at the end the following:

''(5) NONEMERGENCY OR MULTIYEAR AGREEMENTS.—Annual resource requests for ongoing nonemergency or ongoing multiyear agreements under title II shall be finalized not later than October 1 of the fiscal year in which the agricultural commodities will be shipped under the agreement.''.

**SEC. 3018. CONSOLIDATION AND MODIFICATION OF ANNUAL REPORTS REGARDING AGRICULTURAL TRADE ISSUES.**

(a) ANNUAL REPORTS.—Section 407 of the Food for Peace Act (7 U.S.C. 1736a) is amended by striking subsection (f) and inserting the following:

''(f) ANNUAL REPORTS.—

''(1) ANNUAL REPORT REGARDING AGRICULTURAL TRADE PROGRAMS AND ACTIVITIES.—

''(A) ANNUAL REPORT.—Not later than April 1 of each fiscal year, the Administrator and the Secretary shall jointly prepare and submit to the appropriate committees of Congress a report regarding each program and activity carried out under this Act during the prior fiscal year.

''(B) CONTENTS.—An annual report described in subparagraph (A) shall include, with respect to the prior fiscal year—

''(i) a list that contains a description of each country and organization that receives food and other assistance under this Act (including the quantity of food and assistance provided to each country and organization);

''(ii) a general description of each project and activity implemented under this Act (including each activity funded through the use of local currencies);

''(iii) a statement describing the quantity of agricultural commodities made available to each country pursuant to—

''(I) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

''(II) the Food for Progress Act of 1985 (7 U.S.C. 1736o);

''(iv) an assessment of the progress made through programs under this Act towards reducing food insecurity in the populations receiving food assistance from the United States;

''(v) a description of efforts undertaken by the Food Aid Consultative Group under section 205 to achieve an integrated and effective food assistance program;

''(vi) an assessment of—

''(I) each program oversight, monitoring, and evaluation system implemented under section 207(f); and

''(II) the impact of each program oversight, monitoring, and evaluation system on the effectiveness and efficiency of assistance provided under this title; and

''(vii) an assessment of the progress made by the Administrator in addressing issues relating to quality with respect to the provision of food assistance.

''(2) ANNUAL REPORT REGARDING THE PROVISION OF AGRICULTURAL COMMODITIES TO FOREIGN COUNTRIES.—

''(A) ANNUAL REPORT.—Not later than February 1 of each fiscal year, the Administrator shall prepare and submit to the appropriate committees of Congress a report regarding the administration of food assistance programs under title II to benefit foreign countries during the prior fiscal year.

''(B) CONTENTS.—An annual report described in subparagraph (A) shall include, with respect to the prior fiscal year—

''(i) a list that contains a description of each program, country, and commodity approved for assistance under section 207; and

''(ii) a statement that contains a description of the total amount of funds approved for transportation and administrative costs under section 207.''.

(b) CONFORMING AMENDMENT.—Section 207(e) of the Food for Peace Act (7 U.S.C. 1726a(e)) is amended—

(1) by striking ''TIMELY APPROVAL.'' and all that follows through ''The Administrator'' and inserting ''TIMELY APPROVAL.—The Administrator''; and

(2) by striking paragraph (2).

**SEC. 3019. EXPIRATION OF ASSISTANCE.**

Section 408 of the Food for Peace Act (7 U.S.C. 1736b) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 3020. AUTHORIZATION OF APPROPRIATIONS.**

Section 412 of the Food for Peace Act (7 U.S.C. 1736f) is amended by striking subsection (a) and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) for fiscal year 2008 and each fiscal year thereafter, $2,500,000,000 to carry out the emergency and nonemergency food assistance programs under title II; and

''(2) such sums as are necessary—

''(A) to carry out the concessional credit sales program established under title I;

''(B) to carry out the grant program established under title III; and

''(C) to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this Act for the actual costs incurred or to be incurred by the Commodity Credit Corporation in carrying out such programs.''.

**SEC. 3021. MINIMUM LEVEL OF NONEMERGENCY FOOD ASSISTANCE.**

Section 412 of the Food for Peace Act (7 U.S.C. 1736f) is amended by adding at the end the following:

''(e) MINIMUM LEVEL OF NONEMERGENCY FOOD ASSISTANCE.—

''(1) FUNDS AND COMMODITIES.—Of the amounts made available to carry out emergency and nonemergency food assistance programs under title II, not less than $375,000,000 for fiscal year 2009, $400,000,000 for fiscal year 2010, $425,000,000 for fiscal year 2011, and $450,000,000 for fiscal year 2012 shall be expended for nonemergency food assistance programs under title II.

''(2) EXCEPTION.—The President may use less than the amount specified in paragraph (1) in a fiscal year for nonemergency food assistance programs under title II only if—

''(A) the President has made a determination that there is an urgent need for additional emergency food assistance;

''(B) the funds and commodities held in the Bill Emerson Humanitarian Trust have been exhausted; and

''(C) the President has submitted to Congress a supplemental appropriations request for a sum equal to the amount needed to reach the required spending level for nonemergency food assistance under paragraph (1) and the amount exhausted under paragraph (2)(B).

''(3) NOTIFICATION TO CONGRESS.—If the President makes the determination described in paragraph (2)(A), the President shall submit to Congress written notification that the determination has been made.''.

**SEC. 3022. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.**

*Section 413 of the Food for Peace Act (7 U.S.C. 1736g) is amended—*

*(1) by striking ''To the maximum'' and inserting the following:*

*''(a) IN GENERAL.—To the maximum''; and*

*(2) by adding at the end the following:*

*''(b) REPORT REGARDING EFFORTS TO IMPROVE PROCUREMENT PLANNING.—*

*''(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator and the Secretary shall submit to each appropriate committee of Congress a report that contains a description of each effort taken by the Administrator and the Secretary to improve planning for food and transportation procurement (including efforts to eliminate bunching of food purchases).*

*''(2) CONTENTS.—A report required under paragraph (1) should include a description of each effort taken by the Administrator and the Secretary—*

*''(A) to improve the coordination of food purchases made by—*

*''(i) the United States Agency for International Development; and*

*''(ii) the Department of Agriculture;*

*''(B) to increase flexibility with respect to procurement schedules;*

*''(C) to increase the use of historical analyses and forecasting; and*

*''(D) to improve and streamline legal claims processes for resolving transportation disputes.''.*

**SEC. 3023. MICRONUTRIENT FORTIFICATION PROGRAMS.**

*Section 415 of the Food for Peace Act (7 U.S.C. 1736g–2) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1), by striking ''Not later than September 30, 2003, the Administrator, in consultation with the Secretary'' and inserting ''Not later than September 30, 2008, the Administrator, in consultation with the Secretary''; and*

*(B) in paragraph (2)—*

*(i) in subparagraph (A), by adding ''and'' after the semicolon at the end; and*

*(ii) by striking subparagraphs (B) and (C) and inserting the following:*

*''(B) assess and apply technologies and systems to improve and ensure the quality, shelf life, bioavailability, and safety of fortified food aid agricultural commodities, and products of those agricultural commodities, using recommendations included in the report entitled 'Micronutrient Compliance Review of Fortified Public Law 480 Commodities', published in October 2001, with implementation by independent entities with proven experience and expertise in food aid commodity quality enhancements.'';*

*(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and*

*(3) in subsection (c) (as redesignated by paragraph (2)), by striking ''2007'' and inserting ''2012''.*

**SEC. 3024. JOHN OGONOWSKI AND DOUG BEREUTER FARMER-TO-FARMER PROGRAM.**

*(a) MINIMUM FUNDING.—Section 501(d) of the Food for Peace Act (7 U.S.C. 1737(d)) is amended in the matter preceding paragraph (1)—*

*(1) by striking ''not less than'' and inserting ''not less than the greater of $10,000,000 or''; and*

*(2) by striking ''2002 through 2007'' and inserting ''2008 through 2012''.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501(e) of the Food for Peace Act (7 U.S.C. 1737(e)) is amended by striking paragraph (1) and inserting the following:*

*''(1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2008 through 2012 to carry out the programs under this section—*

*''(A) $10,000,000 for sub-Saharan African and Caribbean Basin countries; and*

*''(B) $5,000,000 for other developing or middle-income countries or emerging markets not described in subparagraph (A).''.*

***Subtitle B—Agricultural Trade Act of 1978 and Related Statutes***

**SEC. 3101. EXPORT CREDIT GUARANTEE PROGRAM.**

*(a) REPEAL OF SUPPLIER CREDIT GUARANTEE PROGRAM AND INTERMEDIATE EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—*

*(1) in subsection (a)—*

*(A) by striking ''GUARANTEES.—'' and all that follows through ''The Commodity'' in paragraph (1) and inserting ''GUARANTEES.—The Commodity''; and*

*(B) by striking paragraphs (2) and (3);*

*(2) by striking subsections (b) and (c);*

*(3) by redesignating subsections (d) through (l) as subsections (b) through (j), respectively; and*

*(4) by adding at the end the following:*

*''(k) ADMINISTRATION.—*

*''(1) DEFINITION OF LONG TERM.—In this subsection, the term 'long term' means a period of 10 or more years.*

*''(2) GUARANTEES.—In administering the export credit guarantees authorized under this section, the Secretary shall—*

*''(A) maximize the export sales of agricultural commodities;*

*''(B) maximize the export credit guarantees that are made available and used during the course of a fiscal year;*

*''(C) develop an approach to risk evaluation that facilitates accurate country risk designations and timely adjustments to the designations (on an ongoing basis) in response to material changes in country risk conditions, with ongoing opportunity for input and evaluation from the private sector;*

*''(D) adjust risk-based guarantees as necessary to ensure program effectiveness and United States competitiveness; and*

*''(E) work with industry to ensure, to the maximum extent practicable, that risk-based fees associated with the guarantees cover, but do not exceed, the operating costs and losses over the long term.''.*

*(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:*

*''(b) EXPORT CREDIT GUARANTEE PROGRAMS.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2012 credit guarantees under section 202(a) in an amount equal to but not more than the lesser of—*

*''(1) $5,500,000,000 in credit guarantees; or*

*''(2) the sum of—*

*''(A) the amount of credit guarantees that the Commodity Credit Corporation can make available using budget authority of $40,000,000 for each fiscal year for the costs of the credit guarantees; and*

*''(B) the amount of credit guarantees that the Commodity Credit Corporation can make available using unobligated budget authority for prior fiscal years.''.*

*(c) CONFORMING AMENDMENTS.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—*

*(1) in subsection (b)(4) (as redesignated by subsection (a)(3)), by striking '', consistent with the provisions of subsection (c)'';*

*(2) in subsection (d) (as redesignated by subsection (a)(3))—*

*(A) by striking ''(1)'' and all that follows through ''The Commodity'' and inserting ''The Commodity''; and*

*(B) by striking paragraph (2); and*

*(3) in subsection (g)(2) (as redesignated by subsection (a)(3)), by striking ''subsections (a) and (b)'' and inserting ''subsection (a)''.*

**SEC. 3102. MARKET ACCESS PROGRAM.**

*(a) ORGANIC COMMODITIES.—Section 203(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(a)) is amended by inserting after ''agricultural commodities'' the following: ''(including commodities that are organically produced (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)))''.*

*(b) FUNDING.—Section 211(c)(1)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)(A)) is amended by striking ''$200,000,000 for each of fiscal years 2006 and 2007'' and inserting ''$200,000,000 for each of fiscal years 2008 through 2012''.*

**SEC. 3103. EXPORT ENHANCEMENT PROGRAM.**

*(a) IN GENERAL.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is repealed.*

*(b) CONFORMING AMENDMENTS.—The Agricultural Trade Act of 1978 is amended—*

*(1) in title III, by striking the title heading and inserting the following:*

***''TITLE III—BARRIERS TO EXPORTS'';***

*(2) by redesignating sections 302 and 303 (7 U.S.C. 5652 and 5653) as sections 301 and 302, respectively;*

*(3) in section 302 (as redesignated by paragraph (2)), by striking '', such as that established under section 301,'';*

*(4) in section 401 (7 U.S.C. 5661)—*

*(A) in subsection (a), by striking ''section 201, 202, or 301'' and inserting ''section 201 or 202''; and*

*(B) in subsection (b), by striking ''sections 201, 202, and 301'' and inserting ''sections 201 and 202''; and*

*(5) in section 402(a)(1) (7 U.S.C. 5662(a)(1)), by striking ''sections 201, 202, 203, and 301'' and inserting ''sections 201, 202, and 203''.*

**SEC. 3104. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.**

*(a) REPORT TO CONGRESS.—Section 702(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5722(c)) is amended by striking ''Committee on International Relations'' and inserting ''Committee on Foreign Affairs''.*

*(b) FUNDING.—Section 703(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5723(a)) is amended by striking ''2002 through 2007'' and inserting ''2008 through 2012''.*

**SEC. 3105. FOOD FOR PROGRESS ACT OF 1985.**

*(a) IN GENERAL.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended by striking ''2007'' each place it appears and inserting ''2012''.*

*(b) DESIGNATION OF PROJECT IN SUB-SAHARAN AFRICA.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended in subsection (f) by adding at the end the following:*

*''(6) PROJECT IN MALAWI.—*

*''(A) IN GENERAL.—In carrying out this section during fiscal year 2009, the President shall approve not less than 1 multiyear project for Malawi—*

*''(i) to promote sustainable agriculture; and*

*''(ii) to increase the number of women in leadership positions.*

*''(B) USE OF ELIGIBLE COMMODITIES.—Of the eligible commodities used to carry out this section during the period in which the project described in subparagraph (A) is carried out, the President shall carry out the project using eligible commodities with a total value of not less than $3,000,000 during the course of the project.''.*

**SEC. 3106. MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.**

*Section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1) is amended—*

*(1) in subsections (b), (c)(2)(B), (f)(1), (h), (i), and (l)(1), by striking ''President'' each place it appears and inserting ''Secretary'';*

*(2) in subsection (d), by striking ''The President shall designate 1 or more Federal agencies'' and inserting ''The Secretary shall'';*

*(3) in paragraph (f)(2), by striking ''implementing agency'' and inserting ''Secretary''; and*

*(4) in subsection (l)—*

*(A) by striking paragraph (1) and inserting the following:*

*''(1) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $84,000,000 for fiscal year 2009, to remain available until expended.'';*

*(B) in paragraph (2), by striking ''2004 through 2007'' and inserting ''2008 through 2012''; and*

*(C) in paragraph (3), by striking ''any Federal agency implementing or assisting'' and inserting ''the Department of Agriculture or any other Federal agency assisting''.*

***Subtitle C—Miscellaneous***

***SEC. 3201. BILL EMERSON HUMANITARIAN TRUST.***

*Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) is amended—*

*(1) in subsection (a)—*

*(A) by striking ''establish a trust stock'' and inserting ''establish and maintain a trust''; and*

*(B) by striking ''or any combination of the commodities, totaling not more than 4,000,000 metric tons'' and inserting ''any combination of the commodities, or funds'';*

*(2) in subsection (b)—*

*(A) in paragraph (1), by striking subparagraph (D) and inserting the following:*

*''(D) funds made available—*

*''(i) under paragraph (2)(B);*

*''(ii) as a result of an exchange of any commodity held in the trust for an equivalent amount of funds from the market, if the Secretary determines that such a sale of the commodity on the market will not unduly disrupt domestic markets; or*

*''(iii) to maximize the value of the trust, in accordance with subsection (d)(3).''; and*

*(B) in paragraph (2)(B)—*

*(i) in clause (i)—*

*(I) by striking ''2007'' each place it appears and inserting ''2012'';*

*(II) by striking ''(c)(2)'' and inserting ''(c)(1)''; and*

*(III) by striking ''and'' at the end;*

*(ii) in clause (ii), by striking the period at the end and inserting ''; or''; and*

*(iii) by adding at the end the following:*

*''(iii) from funds accrued through the management of the trust under subsection (d).'';*

*(3) in subsection (c)—*

*(A) by striking paragraphs (1) and (2) and inserting the following:*

*''(1) RELEASES FOR EMERGENCY ASSISTANCE.—*

*''(A) DEFINITION OF EMERGENCY.—*

*''(i) IN GENERAL.—In this paragraph, the term 'emergency' means an urgent situation—*

*''(I) in which there is clear evidence that an event or series of events described in clause (ii) has occurred—*

*''(aa) that causes human suffering; and*

*''(bb) for which a government concerned has not chosen, or has not the means, to remedy; or*

*''(II) created by a demonstrably abnormal event or series of events that produces dislocation in the lives of residents of a country or region of a country on an exceptional scale.*

*''(ii) EVENT OR SERIES OF EVENTS.—An event or series of events referred to in clause (i) includes 1 or more of—*

*''(I) a sudden calamity, such as an earthquake, flood, locust infestation, or similar unforeseen disaster;*

*''(II) a human-made emergency resulting in—*

*''(aa) a significant influx of refugees;*

*''(bb) the internal displacement of populations; or*

*''(cc) the suffering of otherwise affected populations;*

*''(III) food scarcity conditions caused by slow-onset events, such as drought, crop failure, pest infestation, and disease, that result in an erosion of the ability of communities and vulnerable populations to meet food needs; and*

*''(IV) severe food access or availability conditions resulting from sudden economic shocks, market failure, or economic collapse, that result in an erosion of the ability of communities and vulnerable populations to meet food needs.*

*''(B) RELEASES.—*

*''(i) IN GENERAL.—Any funds or commodities held in the trust may be released to provide food, and cover any associated costs, under title II of the Food for Peace Act (7 U.S.C. 1721 et seq.)—*

*''(I) to assist in averting an emergency, including during the period immediately preceding the emergency;*

*''(II) to respond to an emergency; or*

*''(III) for recovery and rehabilitation after an emergency.*

*''(ii) PROCEDURE.—A release under clause (i) shall be carried out in the same manner, and pursuant to the same authority as provided in title II of that Act.*

*''(C) INSUFFICIENCY OF OTHER FUNDS.—The funds and commodities held in the trust shall be made immediately available on a determination by the Administrator that funds available for emergency needs under title II of that Act (7 U.S.C. 1721 et seq.) for a fiscal year are insufficient to meet emergency needs during the fiscal year.*

*''(D) WAIVER RELATING TO MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph requires a waiver by the Administrator of the Agency for International Development under section 204(a)(3) of the Food for Peace Act (7 U.S.C. 1724(a)(3)) as a condition for a release of funds or commodities under subparagraph (B).''; and*

*(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;*

*(4) in subsection (d)—*

*(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting the subparagraphs appropriately;*

*(B) by striking the subsection designation and heading and all that follows through ''provide—'' and inserting the following:*

*''(d) MANAGEMENT OF TRUST.—*

*''(1) IN GENERAL.—The Secretary shall provide for the management of eligible commodities and funds held in the trust in a manner that is consistent with maximizing the value of the trust, as determined by the Secretary.*

*''(2) ELIGIBLE COMMODITIES.—The Secretary shall provide—'';*

*(C) in paragraph (2) (as redesignated by subparagraph (B))—*

*(i) in subparagraph (B) (as redesignated by subparagraph (A)), by striking ''and'' at the end; and*

*(ii) in subparagraph (C) (as redesignated by subparagraph (A)), by striking the period at the end and inserting ''; and''; and*

*(D) by adding at the end the following:*

*''(3) FUNDS.—*

*''(A) EXCHANGES.—If any commodity held in the trust is exchanged for funds under subsection (b)(1)(D)(ii), the funds shall be held in the trust until the date on which the funds are released in the case of an emergency under subsection (c).*

*''(B) INVESTMENT.—The Secretary may invest funds held in the trust in any short-term obligation of the United States or any other low-risk short-term instrument or security insured by the Federal Government in which a regulated insurance company may invest under the laws of the District of Columbia.''; and*

*(5) in subsection (h), in each of paragraphs (1) and (2), by striking ''2007'' each place it appears and inserting ''2012''.*

***SEC. 3202. GLOBAL CROP DIVERSITY TRUST.***

*(a) CONTRIBUTION.—The Administrator of the United States Agency for International Development shall contribute funds to endow the Global Crop Diversity Trust (referred to in this section as the ''Trust'') to assist in the conservation of genetic diversity in food crops through the collection and storage of the germplasm of food crops in a manner that provides for—*

*(1) the maintenance and storage of seed collections;*

*(2) the documentation and cataloguing of the genetics and characteristics of conserved seeds to ensure efficient reference for researchers, plant breeders, and the public;*

*(3) building the capacity of seed collection in developing countries;*

*(4) making information regarding crop genetic data publicly available for researchers, plant breeders, and the public (including through the provision of an accessible Internet website);*

*(5) the operation and maintenance of a back-up facility in which are stored duplicate samples of seeds, in the case of natural or man-made disasters; and*

*(6) oversight designed to ensure international coordination of those actions and efficient, public accessibility to that diversity through a cost-effective system.*

*(b) UNITED STATES CONTRIBUTION LIMIT.—The aggregate contributions of funds of the Federal Government provided to the Trust shall not exceed 25 percent of the total amount of funds contributed to the Trust from all sources.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for the period of fiscal years 2008 through 2012.*

***SEC. 3203. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.***

*Section 3205 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680) is amended by striking subsection (d) and inserting the following:*

*''(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that contains, for the period covered by the report, a description of each factor that affects the export of specialty crops, including each factor relating to any—*

*''(1) significant sanitary or phytosanitary issue; or*

*''(2) trade barrier.*

*''(e) FUNDING.—*

*''(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.*

*''(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—*

*''(A) $4,000,000 for fiscal year 2008;*

*''(B) $7,000,000 for fiscal year 2009;*

*''(C) $8,000,000 for fiscal year 2010;*

*''(D) $9,000,000 for fiscal year 2011; and*

*''(E) $9,000,000 for fiscal year 2012.''.*

***SEC. 3204. EMERGING MARKETS AND FACILITY GUARANTEE LOAN PROGRAM.***

*Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101–624) is amended—*

*(1) in subsection (a), by striking ''2007'' and inserting ''2012'';*

*(2) in subsection (b)—*

*(A) in the first sentence, by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;*

*(B) by striking ''A portion'' and inserting the following:*

*''(1) IN GENERAL.—A portion'';*

*(C) in the second sentence, by striking ''The Commodity Credit Corporation'' and inserting the following:*

*''(2) PRIORITY.—The Commodity Credit Corporation''; and*

*(D) by adding at the end the following:*

*''(3) CONSTRUCTION WAIVER.—The Secretary may waive any applicable requirements relating to the use of United States goods in the construction of a proposed facility, if the Secretary determines that—*

*''(A) goods from the United States are not available; or*

''(B) the use of goods from the United States is not practicable.

''(4) TERM OF GUARANTEE.—A facility payment guarantee under this subsection shall be for a term that is not more than the lesser of—

''(A) the term of the depreciation schedule of the facility assisted; or

''(B) 20 years.''; and

(3) in subsection (d)(1)(A)(i) by striking ''2007'' and inserting ''2012''.

**SEC. 3205. CONSULTATIVE GROUP TO ELIMINATE THE USE OF CHILD LABOR AND FORCED LABOR IN IMPORTED AGRICULTURAL PRODUCTS.**

(a) DEFINITIONS.—In this section:

(1) CHILD LABOR.—The term ''child labor'' means the worst forms of child labor as defined in International Labor Convention 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, done at Geneva on June 17, 1999.

(2) CONSULTATIVE GROUP.—The term ''Consultative Group'' means the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products established under subsection (b).

(3) FORCED LABOR.—The term ''forced labor'' means all work or service—

(A) that is exacted from any individual under menace of any penalty for nonperformance of the work or service, and for which—

(i) the work or service is not offered voluntarily; or

(ii) the work or service is performed as a result of coercion, debt bondage, or involuntary servitude (as those terms are defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); and

(B) by 1 or more individuals who, at the time of performing the work or service, were being subjected to a severe form of trafficking in persons (as that term is defined in that section).

(b) ESTABLISHMENT.—There is established a group to be known as the ''Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products'' to develop recommendations relating to guidelines to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor and child labor.

(c) DUTIES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and in accordance with section 105(d) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)), as applicable to the importation of agricultural products made with the use of child labor or forced labor, the Consultative Group shall develop, and submit to the Secretary, recommendations relating to a standard set of practices for independent, third-party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor or child labor.

(2) GUIDELINES.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary receives recommendations under paragraph (1), the Secretary shall release guidelines for a voluntary initiative to enable entities to address issues raised by the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

(B) REQUIREMENTS.—Guidelines released under subparagraph (A) shall be published in the Federal Register and made available for public comment for a period of 90 days.

(d) MEMBERSHIP.—The Consultative Group shall be composed of not more than 13 individuals, of whom—

(1) 2 members shall represent the Department of Agriculture, as determined by the Secretary;

(2) 1 member shall be the Deputy Under Secretary for International Affairs of the Department of Labor;

(3) 1 member shall represent the Department of State, as determined by the Secretary of State;

(4) 3 members shall represent private agriculture-related enterprises, which may include retailers, food processors, importers, and producers, of whom at least 1 member shall be an importer, food processor, or retailer who utilizes independent, third-party supply chain monitoring for forced labor or child labor;

(5) 2 members shall represent institutions of higher education and research institutions, as determined appropriate by the Bureau of International Labor Affairs of the Department of Labor;

(6) 1 member shall represent an organization that provides independent, third-party certification services for labor standards for producers or importers of agricultural commodities or products; and

(7) 3 members shall represent organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that have expertise on the issues of international child labor and do not possess a conflict of interest associated with establishment of the guidelines issued under subsection (c)(2), as determined by the Bureau of International Labor Affairs of the Department of Labor, including representatives from consumer organizations and trade unions, if appropriate.

(e) CHAIRPERSON.—A representative of the Department of Agriculture appointed under subsection (d)(1), as determined by the Secretary, shall serve as the chairperson of the Consultative Group.

(f) REQUIREMENTS.—Not less than 4 times per year, the Consultative Group shall meet at the call of the Chairperson, after reasonable notice to all members, to develop recommendations described in subsection (c)(1).

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Consultative Group.

(h) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter through December 31, 2012, the Secretary shall submit to the Committees on Agriculture and Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities and recommendations of the Consultative Group.

(i) TERMINATION OF AUTHORITY.—The Consultative Group shall terminate on December 31, 2012.

**SEC. 3206. LOCAL AND REGIONAL FOOD AID PROCUREMENT PROJECTS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Agency for International Development.

(2) APPROPRIATE COMMITTEE OF CONGRESS.—The term ''appropriate committee of Congress'' means—

(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(B) the Committee on Agriculture of the House of Representatives; and

(C) the Committee on Foreign Affairs of the House of Representatives.

(3) ELIGIBLE COMMODITY.—The term ''eligible commodity'' means an agricultural commodity (or the product of an agricultural commodity) that—

(A) is produced in, and procured from, a developing country; and

(B) at a minimum, meets each nutritional, quality, and labeling standard of the country that receives the agricultural commodity, as determined by the Secretary.

(4) ELIGIBLE ORGANIZATION.—The term ''eligible organization'' means an organization that is—

(A) described in section 202(d) of the Food for Peace Act (7 U.S.C. 1722(d)); and

(B) with respect to nongovernmental organizations, subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.

(b) STUDY; FIELD-BASED PROJECTS.—

(1) STUDY.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall initiate a study of prior local and regional procurements for food aid programs conducted by—

(i) other donor countries;

(ii) private voluntary organizations; and

(iii) the World Food Program of the United Nations.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the results of the study conducted under subparagraph (A).

(2) FIELD-BASED PROJECTS.—

(A) IN GENERAL.—In accordance with subparagraph (B), the Secretary shall provide grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects that consist of local or regional procurements of eligible commodities to respond to food crises and disasters in accordance with this section.

(B) CONSULTATION WITH ADMINISTRATOR.—In carrying out the development and implementation of field-based projects under subparagraph (A), the Secretary shall consult with the Administrator.

(c) PROCUREMENT.—

(1) IN GENERAL.—Any eligible commodity that is procured for a field-based project carried out under subsection (b)(2) shall be procured through any approach or methodology that the Secretary considers to be an effective approach or methodology to provide adequate information regarding the manner by which to expedite, to the maximum extent practicable, the provision of food aid to affected populations without significantly increasing commodity costs for low-income consumers who procure commodities sourced from the same markets at which the eligible commodity is procured.

(2) REQUIREMENTS.—

(A) IMPACT ON LOCAL FARMERS AND COUNTRIES.—The Secretary shall ensure that the local or regional procurement of any eligible commodity under this section will not have a disruptive impact on farmers located in, or the economy of—

(i) the recipient country of the eligible commodity; or

(ii) any country in the region in which the eligible commodity may be procured.

(B) TRANSSHIPMENT.—The Secretary shall, in accordance with such terms and conditions as the Secretary considers to be appropriate, require from each eligible organization commitments designed to prevent or restrict—

(i) the resale or transshipment of any eligible commodity procured under this section to any country other than the recipient country; and

(ii) the use of the eligible commodity for any purpose other than food aid.

(C) WORLD PRICES.—

(i) IN GENERAL.—In carrying out this section, the Secretary shall take any precaution that the Secretary considers to be reasonable to ensure that the procurement of eligible commodities will not unduly disrupt—

(I) world prices for agricultural commodities; or

(II) normal patterns of commercial trade with foreign countries.

(ii) PROCUREMENT PRICE.—The procurement of any eligible commodity shall be made at a reasonable market price with respect to the economy of the country in which the eligible commodity is procured, as determined by the Secretary.

(d) REGULATIONS; GUIDELINES.—

(1) IN GENERAL.—In accordance with paragraph (2), not later than 180 days after the date

*of completion of the study under subsection (b)(1), the Secretary shall promulgate regulations or issue guidelines to carry out field-based projects under this section.*

*(2) REQUIREMENTS.—*

*(A) USE OF STUDY.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall take into consideration the results of the study described in subsection (b)(1).*

*(B) PUBLIC REVIEW AND COMMENT.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall provide an opportunity for public review and comment.*

*(3) AVAILABILITY.—The Secretary shall not approve the procurement of any eligible commodity under this section until the date on which the Secretary promulgates regulations or issues guidelines under paragraph (1).*

*(e) FIELD-BASED PROJECT GRANTS OR COOPERATIVE AGREEMENTS.—*

*(1) IN GENERAL.—The Secretary shall award grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects.*

*(2) REQUIREMENTS OF ELIGIBLE ORGANIZATIONS.—*

*(A) APPLICATION.—*

*(i) IN GENERAL.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall submit to the Secretary an application by such date, in such manner, and containing such information as the Secretary may require.*

*(ii) OTHER APPLICABLE REQUIREMENTS.—Any other applicable requirement relating to the submission of proposals for consideration shall apply to the submission of an application required under clause (i), as determined by the Secretary.*

*(B) COMPLETION REQUIREMENT.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall agree—*

*(i) to collect by September 30, 2011, data containing the information required under subsection (f)(1)(B) relating to the field-based project funded through the grant; and*

*(ii) to provide to the Secretary the data collected under clause (i).*

*(3) REQUIREMENTS OF SECRETARY.—*

*(A) PROJECT DIVERSITY.—*

*(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), in selecting proposals for field-based projects to fund under this section, the Secretary shall select a diversity of projects, including projects located in—*

*(I) food surplus regions;*

*(II) food deficit regions (that are carried out using regional procurement methods); and*

*(III) multiple geographical regions.*

*(ii) PRIORITY.—In selecting proposals for field-based projects under clause (i), the Secretary shall ensure that the majority of selected proposals are for field-based projects that—*

*(I) are located in Africa; and*

*(II) procure eligible commodities that are produced in Africa.*

*(B) DEVELOPMENT ASSISTANCE.—A portion of the funds provided under this subsection shall be made available for field-based projects that provide development assistance for a period of not less than 1 year.*

*(4) AVAILABILITY.—The Secretary shall not award a grant to any eligible organization under paragraph (1) until the date on which the Secretary promulgates regulations or issues guidelines under subsection (d)(1).*

*(f) INDEPENDENT EVALUATIONS; REPORT.—*

*(1) INDEPENDENT EVALUATIONS.—*

*(A) IN GENERAL.—Not later than November 1, 2011, the Secretary shall ensure that an independent third party conducts an independent evaluation of all field-based projects that—*

*(i) addresses each factor described in subparagraph (B); and*

*(ii) is conducted in accordance with this section.*

*(B) REQUIRED FACTORS.—The Secretary shall require the independent third party to develop—*

*(i) with respect to each relevant market in which an eligible commodity was procured under this section, a description of—*

*(I) the prevailing and historic supply, demand, and price movements of the market (including the extent of competition for procurement bids);*

*(II) the impact of the procurement of the eligible commodity on producer and consumer prices in the market;*

*(III) each government market interference or other activity of the donor country that might have significantly affected the supply or demand of the eligible commodity in the area at which the local or regional procurement occurred;*

*(IV) the quantities and types of eligible commodities procured in the market;*

*(V) the time frame for procurement of each eligible commodity; and*

*(VI) the total cost of the procurement of each eligible commodity (including storage, handling, transportation, and administrative costs);*

*(ii) an assessment regarding—*

*(I) whether the requirements of this section have been met;*

*(II) the impact of different methodologies and approaches on—*

*(aa) local and regional agricultural producers (including large and small agricultural producers);*

*(bb) markets;*

*(cc) low-income consumers; and*

*(dd) program recipients; and*

*(III) the length of the period beginning on the date on which the Secretary initiated the procurement process and ending on the date of delivery of eligible commodities;*

*(iii) a comparison of different methodologies used to carry out this section, with respect to—*

*(I) the benefits to local agriculture;*

*(II) the impact on markets and consumers;*

*(III) the period of time required for procurement and delivery;*

*(IV) quality and safety assurances; and*

*(V) implementation costs; and*

*(iv) to the extent adequate information is available (including the results of the report required under subsection (b)(1)(B)), a comparison of the different methodologies used by other donor countries to make local and regional procurements.*

*(C) INDEPENDENT THIRD PARTY ACCESS TO RECORDS AND REPORTS.—The Secretary shall provide to the independent third party access to each record and report that the independent third party determines to be necessary to complete the independent evaluation.*

*(D) PUBLIC ACCESS TO RECORDS AND REPORTS.—Not later than 180 days after the date described in paragraph (2), the Secretary shall provide public access to each record and report described in subparagraph (C).*

*(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains the analysis and findings of the independent evaluation conducted under paragraph (1)(A).*

*(g) FUNDING.—*

*(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.*

*(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—*

*(A) $5,000,000 for fiscal year 2009;*

*(B) $25,000,000 for fiscal year 2010;*

*(C) $25,000,000 for fiscal year 2011; and*

*(D) $5,000,000 for fiscal year 2012.*

### *Subtitle D—Softwood Lumber*

**SEC. 3301. SOFTWOOD LUMBER.**

*(a) IN GENERAL.—The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by adding at the end the following new title:*

### *"TITLE VIII—SOFTWOOD LUMBER*

**"SEC. 801. SHORT TITLE; TABLE OF CONTENTS.**

*''(a) SHORT TITLE.—This title may be cited as the 'Softwood Lumber Act of 2008'.*

*''(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:*

*''TITLE VIII—SOFTWOOD LUMBER*

*''Sec. 801. Short title; table of contents.*
*''Sec. 802. Definitions.*
*''Sec. 803. Establishment of softwood lumber importer declaration program.*
*''Sec. 804. Scope of softwood lumber importer declaration program.*
*''Sec. 805. Export charge determination and publication.*
*''Sec. 806. Reconciliation.*
*''Sec. 807. Verification.*
*''Sec. 808. Penalties.*
*''Sec. 809. Reports.*

**"SEC. 802. DEFINITIONS.**

*''In this title:*

*''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.*

*''(2) COUNTRY OF EXPORT.—The term 'country of export' means the country (including any political subdivision of the country) from which softwood lumber or a softwood lumber product is exported before entering the United States.*

*''(3) CUSTOMS LAWS OF THE UNITED STATES.—The term 'customs laws of the United States' means any law or regulation enforced or administered by U.S. Customs and Border Protection.*

*''(4) EXPORT CHARGES.—The term 'export charges' means any tax, charge, or other fee collected by the country from which softwood lumber or a softwood lumber product, described in section 804(a), is exported pursuant to an international agreement entered into by that country and the United States.*

*''(5) EXPORT PRICE.—*

*''(A) IN GENERAL.—The term 'export price' means one of the following:*

*''(i) In the case of softwood lumber or a softwood lumber product that has undergone only primary processing, the value that would be determined F.O.B. at the facility where the product underwent the last primary processing before export.*

*''(ii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the lumber or product underwent the last primary processing.*

*''(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that underwent the last remanufacturing before export by a manufacturer who—*

*''(aa) does not hold tenure rights provided by the country of export;*

*''(bb) did not acquire standing timber directly from the country of export; and*

*''(cc) is not related to the person who holds tenure rights or acquired standing timber directly from the country of export.*

*''(iii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the product underwent the last processing before export.*

*''(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that undergoes the last remanufacturing before export by a manufacturer who—*

*''(aa) holds tenure rights provided by the country of export;*

*''(bb) acquired standing timber directly from the country of export; or*

*''(cc) is related to a person who holds tenure rights or acquired standing timber directly from the country of export.*

*''(B) RELATED PERSONS.—For purposes of this paragraph, a person is related to another person if—*

*''(i) the person bears a relationship to such other person described in section 152(a) of the Internal Revenue Code of 1986;*

''(ii) the person bears a relationship to such other person described in section 267(b) of such Code, except that '5 percent' shall be substituted for '50 percent' each place it appears;

''(iii) the person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of such Code, except that '5 percent' shall be substituted for '80 percent' each place it appears;

''(iv) the person is an officer or director of such other person; or

''(v) the person is the employer of such other person.

''(C) TENURE RIGHTS.—For purposes of this paragraph, the term 'tenure rights' means rights to harvest timber from public land granted by the country of export.

''(D) EXPORT PRICE WHERE F.O.B. VALUE CANNOT BE DETERMINED.—

''(i) IN GENERAL.—In the case of softwood lumber or a softwood lumber product described in clause (i), (ii), or (iii) of subparagraph (A) for which an F.O.B. value cannot be determined, the export price shall be the market price for the identical lumber or product sold in an arm's-length transaction in the country of export at approximately the same time as the exported lumber or product. The market price shall be determined in the following order of preference:

''(I) The market price for the lumber or a product sold at substantially the same level of trade as the exported lumber or product but in different quantities.

''(II) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product but in similar quantities.

''(III) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product and in different quantities.

''(ii) LEVEL OF TRADE.—For purposes of clause (i), 'level of trade' shall be determined in the same manner as provided under section 351.412(c) of title 19, Code of Federal Regulations (as in effect on January 1, 2008).

''(6) F.O.B.—The term 'F.O.B.' means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

''(7) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) (as in effect on January 1, 2008).

''(8) PERSON.—The term 'person' includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

''(9) UNITED STATES.—The term 'United States' means the customs territory of the United States, as defined in General Note 2 of the HTS.

**"SEC. 803. ESTABLISHMENT OF SOFTWOOD LUMBER IMPORTER DECLARATION PROGRAM.**

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—The President shall establish and maintain an importer declaration program with respect to the importation of softwood lumber and softwood lumber products described in section 804(a). The importer declaration program shall require importers of softwood lumber and softwood lumber products described in section 804(a) to provide the information required under subsection (b) and declare the information required by subsection (c), and require that such information accompany the entry summary documentation.

''(2) ELECTRONIC RECORD.—The President shall establish an electronic record that includes the importer information required under subsection (b) and the declarations required under subsection (c).

''(b) REQUIRED INFORMATION.—The President shall require the following information to be submitted by any person seeking to import softwood lumber or softwood lumber products described in section 804(a):

''(1) The export price for each shipment of softwood lumber or softwood lumber products.

''(2) The estimated export charge, if any, applicable to each shipment of softwood lumber or softwood lumber products as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805 to the export price provided in subsection (b)(1).

''(c) IMPORTER DECLARATIONS.—Pursuant to procedures prescribed by the President, any person seeking to import softwood lumber or softwood lumber products described in section 804(a) shall declare that—

''(1) the person has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805(b); and

''(2) to the best of the person's knowledge and belief—

''(A) the export price provided pursuant to subsection (b)(1) is determined in accordance with the definition provided in section 802(5);

''(B) the export price provided pursuant to subsection (b)(1) is consistent with the export price provided on the export permit, if any, granted by the country of export; and

''(C) the exporter has paid, or committed to pay, all export charges due—

''(i) in accordance with the volume, export price, and export charge rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States; and

''(ii) consistent with the export charge determinations published by the Under Secretary for International Trade pursuant to section 805(b).

**"SEC. 804. SCOPE OF SOFTWOOD LUMBER IMPORTER DECLARATION PROGRAM.**

''(a) PRODUCTS INCLUDED IN PROGRAM.—The following products shall be subject to the importer declaration program established under section 803:

''(1) IN GENERAL.—All softwood lumber and softwood lumber products classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 of the HTS, including the following softwood lumber, flooring, and siding:

''(A) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 millimeters.

''(B) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

''(C) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed.

''(D) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

''(E) Coniferous drilled and notched lumber and angle cut lumber.

''(2) PRODUCTS CONTINUALLY SHAPED.—Any product classified under subheading 4409.10.05 of the HTS that is continually shaped along its end or side edges.

''(3) OTHER LUMBER PRODUCTS.—Except as otherwise provided in subsection (b) or (c), softwood lumber products that are stringers, radius-cut box-spring frame components, fence pickets, truss components, pallet components, and door and window frame parts classified under subheading 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of the HTS.

''(b) PRODUCTS EXCLUDED FROM PROGRAM.—The following products shall be excluded from the importer declaration program established under section 803:

''(1) Trusses and truss kits, properly classified under subheading 4418.90 of the HTS.

''(2) I-joist beams.

''(3) Assembled box-spring frames.

''(4) Pallets and pallet kits, properly classified under subheading 4415.20 of HTS.

''(5) Garage doors.

''(6) Edge-glued wood, properly classified under subheading 4421.90.97.40 of the HTS.

''(7) Complete door frames.

''(8) Complete window frames.

''(9) Furniture.

''(10) Articles brought into the United States temporarily and for which an exemption from duty is claimed under subchapter XIII of chapter 98 of the HTS.

''(11) Household and personal effects.

''(c) EXCEPTIONS FOR CERTAIN PRODUCTS.—The following softwood lumber products shall not be subject to the importer declaration program established under section 803:

''(1) STRINGERS.—Stringers (pallet components used for runners), if the stringers—

''(A) have at least 2 notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades; and

''(B) are properly classified under subheading 4421.90.97.40 of the HTS.

''(2) BOX-SPRING FRAME KITS.—

''(A) IN GENERAL.—Box-spring frame kits, if—

''(i) the kits contain—

''(I) 2 wooden side rails;

''(II) 2 wooden end (or top) rails; and

''(III) varying numbers of wooden slats; and

''(ii) the side rails and the end rails are radius-cut at both ends.

''(B) PACKAGING.—Any kit described in subparagraph (A) shall be individually packaged, and contain the exact number of wooden components needed to make the box-spring frame described on the entry documents, with no further processing required. None of the components contained in the package may exceed 1 inch in actual thickness or 83 inches in length.

''(3) RADIUS-CUT BOX-SPRING FRAME COMPONENTS.—Radius-cut box-spring frame components, not exceeding 1 inch in actual thickness or 83 inches in length, ready for assembly without further processing, if radius cuts are present on both ends of the boards and are substantial cuts so as to completely round 1 corner.

''(4) FENCE PICKETS.—Fence pickets requiring no further processing and properly classified under subheading 4421.90.70 of the HTS, 1 inch or less in actual thickness, up to 8 inches wide, and 6 feet or less in length, and having finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards shall be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ of an inch or more.

''(5) UNITED STATES-ORIGIN LUMBER.—Lumber originating in the United States that is exported to another country for minor processing and imported into the United States if—

''(A) the processing occurring in another country is limited to kiln drying, planing to create smooth-to-size board, and sanding; and

''(B) the importer establishes to the satisfaction of U.S. Customs and Border Protection upon entry that the lumber originated in the United States.

''(6) SOFTWOOD LUMBER.—Any softwood lumber or softwood lumber product that originated in the United States, if the importer, exporter, foreign processor, or original United States producer establishes to the satisfaction of U.S. Customs and Border Protection upon entry that the

*softwood lumber entered and documented as originating in the United States was first produced in the United States.*

*''(7) HOME PACKAGES OR KITS.—*

*''(A) IN GENERAL.—Softwood lumber or softwood lumber products contained in a single family home package or kit, regardless of the classification under the HTS, if the importer declares that the following requirements have been met:*

*''(i) The package or kit constitutes a full package of the number of wooden pieces specified in the plan, design, or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design, or blueprint.*

*''(ii) The package or kit contains—*

*''(I) all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, and connectors; and*

*''(II) if included in the purchase contract, the decking, trim, drywall, and roof shingles specified in the plan, design, or blueprint.*

*''(iii) Prior to importation, the package or kit is sold to a United States retailer that sells complete home packages or kits pursuant to a valid purchase contract referencing the particular home design, plan, or blueprint, and the contract is signed by a customer not affiliated with the importer.*

*''(iv) Softwood lumber products entered as part of the package or kit, whether in a single entry or multiple entries on multiple days, are to be used solely for the construction of the single family home specified by the home design, plan, or blueprint matching the U.S. Customs and Border Protection import entry.*

*''(B) ADDITIONAL DOCUMENTATION REQUIRED FOR HOME PACKAGES AND KITS.—In the case of each entry of products described in clauses (i) through (iv) of subparagraph (A) the following documentation shall be retained by the importer and made available to U.S. Customs and Border Protection upon request:*

*''(i) A copy of the appropriate home design, plan, or blueprint matching the customs entry in the United States.*

*''(ii) A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer.*

*''(iii) A listing of all parts in the package or kit being entered into the United States that conforms to the home design, plan, or blueprint for which such parts are being imported.*

*''(iv) If a single contract involves multiple entries, an identification of all the items required to be listed under clause (iii) that are included in each individual shipment.*

*''(d) PRODUCTS COVERED.—For purposes of determining if a product is covered by the importer declaration program, the President shall be guided by the article descriptions provided in this section.*

***"SEC. 805. EXPORT CHARGE DETERMINATION AND PUBLICATION.***

*''(a) DETERMINATION.—The Under Secretary for International Trade of the Department of Commerce shall determine, on a monthly basis, any export charges (expressed as a percentage of export price) to be collected by a country of export from exporters of softwood lumber or softwood lumber products described in section 804(a) in order to ensure compliance with any international agreement entered into by that country and the United States.*

*''(b) PUBLICATION.—The Under Secretary for International Trade shall immediately publish any determination made under subsection (a) on the website of the International Trade Administration of the Department of Commerce, and in any other manner the Under Secretary considers appropriate.*

***"SEC. 806. RECONCILIATION.***

*''The Secretary of the Treasury shall conduct reconciliations to ensure the proper implementation and operation of international agreements entered into between a country of export of softwood lumber or softwood lumber products described in section 804(a) and the United States. The Secretary of Treasury shall reconcile the following:*

*''(1) The export price declared by a United States importer pursuant to section 803(b)(1) with the export price reported to the United States by the country of export, if any.*

*''(2) The export price declared by a United States importer pursuant to section 803(b)(1) with the revised export price reported to the United States by the country of export, if any.*

***"SEC. 807. VERIFICATION.***

*''(a) IN GENERAL.—The Secretary of Treasury shall periodically verify the declarations made by a United States importer pursuant to section 803(c), including by determining whether—*

*''(1) the export price declared by a United States importer pursuant to section 803(b)(1) is the same as the export price provided on the export permit, if any, issued by the country of export; and*

*''(2) the estimated export charge declared by a United States importer pursuant to section 803(b)(2) is consistent with the determination published by the Under Secretary for International Trade pursuant to section 805(b).*

*''(b) EXAMINATION OF BOOKS AND RECORDS.—*

*''(1) IN GENERAL.—Any record relating to the importer declaration program required under section 803 shall be treated as a record required to be maintained and produced under title V of this Act.*

*''(2) EXAMINATION OF RECORDS.—The Secretary of the Treasury is authorized to take such action, and examine such records, under section 509 of this Act, as the Secretary determines necessary to verify the declarations made pursuant to section 803(c) are true and accurate.*

***"SEC. 808. PENALTIES.***

*''(a) IN GENERAL.—It shall be unlawful for any person to import into the United States softwood lumber or softwood lumber products in knowing violation of this title.*

*''(b) CIVIL PENALTIES.—Any person who commits an unlawful act as set forth in subsection (a) shall be liable for a civil penalty not to exceed $10,000 for each knowing violation.*

*''(c) OTHER PENALTIES.—In addition to the penalties provided for in subsection (b), any violation of this title that violates any other customs law of the United States shall be subject to any applicable civil and criminal penalty, including seizure and forfeiture, that may be imposed under such custom law or title 18, United States Code, with respect to the importation of softwood lumber and softwood lumber products described in section 804(a).*

*''(d) FACTORS TO CONSIDER IN ASSESSING PENALTIES.—In determining the amount of civil penalties to be assessed under this section, consideration shall be given to any history of prior violations of this title by the person, the ability of the person to pay the penalty, the seriousness of the violation, and such other matters as fairness may require.*

*''(e) NOTICE.—No penalty may be assessed under this section against a person for violating a provision of this title unless the person is given notice and opportunity to make statements, both oral and written, with respect to such violation.*

*''(f) EXCEPTION.—Notwithstanding any other provision of this title, and without limitation, an importer shall not be found to have violated subsection 803(c) if—*

*''(1) the importer made an appropriate inquiry in accordance with section 803(c)(1) with respect to the declaration;*

*''(2) the importer produces records maintained pursuant to section 807(b) that substantiate the declaration; and*

*''(3) there is not substantial evidence indicating that the importer knew that the fact to which the importer made the declaration was false.*

***"SEC. 809. REPORTS.***

*''(a) SEMIANNUAL REPORTS.—Not later than 180 days after the effective date of this title, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report—*

*''(1) describing the reconciliations conducted under section 806, and the verifications conducted under section 807;*

*''(2) identifying the manner in which the United States importers subject to reconciliations conducted under section 806 and verifications conducted under section 807 were chosen;*

*''(3) identifying any penalties imposed under section 808;*

*''(4) identifying any patterns of noncompliance with this title; and*

*''(5) identifying any problems or obstacles encountered in the implementation and enforcement of this title.*

*''(b) SUBSIDIES REPORTS.—Not later than 180 days after the date of the enactment of this title, and every 180 days thereafter, the Secretary of Commerce shall provide to the appropriate congressional committees a report on any subsidies on softwood lumber or softwood lumber products, including stumpage subsidies, provided by countries of export.*

*''(c) GAO REPORTS.—The Comptroller General of the United States shall submit the following reports to the appropriate congressional committees:*

*''(1) Not later than 18 months after the date of the enactment of this title, a report on the effectiveness of the reconciliations conducted under section 806, and verifications conducted under section 807.*

*''(2) Not later than 12 months after the date of the enactment of this title, a report on whether countries that export softwood lumber or softwood lumber products to the United States are complying with any international agreements entered into by those countries and the United States.''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act.*

## *TITLE IV—NUTRITION*

### *Subtitle A—Food Stamp Program*

### *PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM*

***SEC. 4001. RENAMING OF FOOD STAMP ACT AND PROGRAM.***

*(a) SHORT TITLE.—The first section of the Food Stamp Act of 1977 (7 U.S.C. 2011 note; Public Law 88–525) is amended by striking ''Food Stamp Act of 1977'' and inserting ''Food and Nutrition Act of 2008''.*

*(b) PROGRAM.—The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (as amended by subsection (a)) is amended by striking ''food stamp program'' each place it appears and inserting ''supplemental nutrition assistance program''.*

***SEC. 4002. CONFORMING AMENDMENTS.***

*(a) IN GENERAL.—*

*(1) Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended in the section heading by striking ''**FOOD STAMP PROGRAM**'' and inserting ''**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**''.*

*(2) Section 5(h)(2)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)(2)(A)) is amended by striking ''Food Stamp Disaster Task Force'' and inserting ''Disaster Task Force''.*

*(3) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—*

*(A) in subsection (d)(3), by striking ''for food stamps'';*

*(B) in subsection (j), in the subsection heading, by striking ''FOOD STAMP''; and*

*(C) in subsection (o)—*

*(i) in paragraph (2), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(ii) in paragraph (6)—*

*(I) in subparagraph (A)—*

*(aa) in clause (i), by striking ''food stamps'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(bb) in clause (ii)—*

*(AA) in the matter preceding subclause (I), by striking ''a food stamp recipient'' and inserting ''a member of a household that receives supplemental nutrition assistance program benefits''; and*

*(BB) by striking ''food stamp benefits'' each place it appears and inserting ''supplemental nutrition assistance program benefits''; and*

*(II) in subparagraphs (D) and (E), by striking ''food stamp recipients'' each place it appears and inserting ''members of households that receive supplemental nutrition assistance program benefits''.*

*(4) Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—*

*(A) in subsection (i)—*

*(i) in paragraph (3)(B)(ii), by striking ''food stamp households'' and inserting ''households receiving supplemental nutrition assistance program benefits''; and*

*(ii) in paragraph (7), by striking ''food stamp issuance'' and inserting ''supplemental nutrition assistance issuance''; and*

*(B) in subsection (k)—*

*(i) in paragraph (2), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(ii) in paragraph (3), by striking ''food stamp retail'' and inserting ''retail''.*

*(5) Section 9(b)(1) of that Food and Nutrition Act of 2008 (7 U.S.C. 2018(b)(1)) is amended by striking ''food stamp households'' and inserting ''households that receive supplemental nutrition assistance program benefits''.*

*(6) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—*

*(A) in subsection (e)—*

*(i) by striking ''food stamps'' each place it appears and inserting ''supplemental nutrition assistance program benefits'';*

*(ii) by striking ''food stamp offices'' each place it appears and inserting ''supplemental nutrition assistance program offices'';*

*(iii) by striking ''food stamp office'' each place it appears and inserting ''supplemental nutrition assistance program office''; and*

*(iv) in paragraph (25)—*

*(I) in the matter preceding subparagraph (A), by striking ''Simplified Food Stamp Program'' and inserting ''Simplified Supplemental Nutrition Assistance Program''; and*

*(II) in subparagraph (A), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits'';*

*(B) in subsection (k), by striking ''may issue, upon request by the State agency, food stamps'' and inserting ''may provide, on request by the State agency, supplemental nutrition assistance program benefits'';*

*(C) in subsection (l), by striking ''food stamp participation'' and inserting ''supplemental nutrition assistance program participation'';*

*(D) in subsections (q) and (r), in the subsection headings, by striking ''FOOD STAMPS'' each place it appears and inserting ''BENEFITS'';*

*(E) in subsection (s), by striking ''food stamp benefits'' each place it appears and inserting ''supplemental nutrition assistance program benefits''; and*

*(F) in subsection (t)(1)—*

*(i) in subparagraph (A), by striking ''food stamp application'' and inserting ''supplemental nutrition assistance program application''; and*

*(ii) in subparagraph (B), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits''.*

*(7) Section 14(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2023(b)) is amended by striking ''food stamp''.*

*(8) Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended—*

*(A) in subsection (a)(4), by striking ''food stamp informational activities'' and inserting ''informational activities relating to the supplemental nutrition assistance program'';*

*(B) in subsection (c)(9)(C), by striking ''food stamp caseload'' and inserting ''the caseload under the supplemental nutrition assistance program''; and*

*(C) in subsection (h)(1)(E)(i), by striking ''food stamp recipients'' and inserting ''members of households receiving supplemental nutrition assistance program benefits''.*

*(9) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—*

*(A) in subsection (a)(2), by striking ''food stamp benefits'' each place it appears and inserting ''supplemental nutrition assistance program benefits'';*

*(B) in subsection (b)—*

*(i) in paragraph (1)—*

*(I) in subparagraph (A), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(II) in subparagraph (B)—*

*(aa) in clause (ii)(II), by striking ''food stamp recipients'' and inserting ''supplemental nutrition assistance program recipients'';*

*(bb) in clause (iii)(I), by striking ''the State's food stamp households'' and inserting ''the number of households in the State receiving supplemental nutrition assistance program benefits''; and*

*(cc) in clause (iv)(IV)(bb), by striking ''food stamp deductions'' and inserting ''supplemental nutrition assistance program deductions'';*

*(ii) in paragraph (2), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(iii) in paragraph (3)—*

*(I) in subparagraph (A), by striking ''food stamp employment'' and inserting ''supplemental nutrition assistance program employment'';*

*(II) in subparagraph (B), by striking ''food stamp recipients'' and inserting ''supplemental nutrition assistance program recipients'';*

*(III) in subparagraph (C), by striking ''food stamps'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(IV) in subparagraph (D), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits'';*

*(C) in subsection (c), by striking ''food stamps'' and inserting ''supplemental nutrition assistance'';*

*(D) in subsection (d)—*

*(i) in paragraph (1)(B), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits'';*

*(ii) in paragraph (2)—*

*(I) in subparagraph (A), by striking ''food stamp allotments'' each place it appears and inserting ''allotments''; and*

*(II) in subparagraph (C)(ii), by striking ''food stamp benefit'' and inserting ''supplemental nutrition assistance program benefits''; and*

*(iii) in paragraph (3)(E), by striking ''food stamp benefits'' and inserting ''supplemental nutrition assistance program benefits'';*

*(E) in subsections (e) and (f), by striking ''food stamp benefits'' each place it appears and inserting ''supplemental nutrition assistance program benefits'';*

*(F) in subsection (g), in the first sentence, by striking ''receipt of food stamp'' and inserting ''receipt of supplemental nutrition assistance program''; and*

*(G) in subsection (j), by striking ''food stamp agencies'' and inserting ''supplemental nutrition assistance program agencies''.*

*(10) Section 18(a)(3)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(A)(ii)) is amended by striking ''food stamps'' and inserting ''supplemental nutrition assistance program benefits''.*

*(11) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—*

*(A) in the section heading, by striking ''**FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN**'' and inserting ''**MINNESOTA FAMILY INVESTMENT PROJECT**'';*

*(B) in subsections (b)(12) and (d)(3), by striking ''the Food Stamp Act, as amended,'' each place it appears and inserting ''this Act''; and*

*(C) in subsection (g)(1), by striking ''the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)'' and inserting ''this Act''.*

*(12) Section 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2035) is amended—*

*(A) in the section heading, by striking ''**SIMPLIFIED FOOD STAMP PROGRAM**'' and inserting ''**SIMPLIFIED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**''; and*

*(B) in subsection (b), by striking ''simplified food stamp program'' and inserting ''simplified supplemental nutrition assistance program''.*

*(b) CONFORMING CROSS-REFERENCES.—*

*(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended (as applicable)—*

*(A) by striking ''food stamp program'' each place it appears and inserting ''supplemental nutrition assistance program'';*

*(B) by striking ''Food Stamp Act of 1977'' each place it appears and inserting ''Food and Nutrition Act of 2008'';*

*(C) by striking ''Food Stamp Act'' each place it appears and inserting ''Food and Nutrition Act of 2008'';*

*(D) by striking ''food stamp'' each place it appears and inserting ''supplemental nutrition assistance program benefits'';*

*(E) by striking ''food stamps'' each place it appears and inserting ''supplemental nutrition assistance program benefits'';*

*(F) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking ''**FOOD STAMP ACT**'' each place it appears and inserting ''**FOOD AND NUTRITION ACT OF 2008**'';*

*(G) in each applicable subsection and appropriations heading, by striking ''FOOD STAMP ACT'' each place it appears and inserting ''FOOD AND NUTRITION ACT OF 2008'';*

*(H) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking ''**FOOD STAMP ACT**'' each place it appears and inserting ''**FOOD AND NUTRITION ACT OF 2008**'';*

*(I) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking ''**FOOD STAMP PROGRAM**'' each place it appears and inserting ''**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**'';*

*(J) in each applicable subsection and appropriations heading, by striking ''FOOD STAMP PROGRAM'' each place it appears and inserting ''SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM'';*

*(K) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking ''**FOOD STAMP PROGRAM**'' each place it appears and inserting ''**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**'';*

*(L) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking ''**FOOD STAMPS**'' each place it appears and inserting ''**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**'';*

*(M) in each applicable subsection and appropriations heading, by striking ''FOOD STAMPS'' each place it appears and inserting ''SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS''; and*

*(N) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking ''**FOOD STAMPS**'' each place it appears and inserting ''**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**''.*

*(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:*

*(A) The Hunger Prevention Act of 1988 (Public Law 100–435; 102 Stat. 1645).*

*(B) The Food Stamp Program Improvements Act of 1994 (Public Law 103–225; 108 Stat. 106).*

*(C) Title IV of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 305).*

*(D) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note).*

*(E) Section 807(b) of the Stewart B. McKinney Homeless Assistance Act (7 U.S.C. 2014 note; Public Law 100–77).*

*(F) The Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Public Law 106–171; 114 Stat. 3).*

*(G) Section 502(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 2025 note; Public Law 105–185).*

*(H) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.).*

*(I) The Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).*

*(J) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.).*

*(K) Section 8119 of the Department of Defense Appropriations Act, 1999 (10 U.S.C. 113 note; Public Law 105–262).*

*(L) The Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5901 et seq.).*

*(M) Title 18, United States Code.*

*(N) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).*

*(O) The Internal Revenue Code of 1986.*

*(P) Section 650 of the Treasury and General Government Appropriations Act, 2000 (26 U.S.C. 7801 note; Public Law 106–58).*

*(Q) The Wagner-Peysner Act (29 U.S.C. 49 et seq.).*

*(R) The Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).*

*(S) Title 31, United States Code.*

*(T) Title 37, United States Code.*

*(U) The Public Health Service Act (42 U.S.C. 201 et seq.).*

*(V) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.).*

*(W) Section 406 of the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2400).*

*(X) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a).*

*(Y) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).*

*(Z) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).*

*(AA) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).*

*(BB) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).*

*(CC) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728).*

*(DD) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).*

*(EE) The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).*

*(FF) Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i).*

*(GG) The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).*

*(HH) Public Law 95–348 (92 Stat. 487).*

*(II) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213).*

*(JJ) The Disaster Assistance Act of 1988 (Public Law 100–387; 102 Stat. 924).*

*(KK) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).*

*(LL) The Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4079).*

*(MM) Section 388 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 98).*

*(NN) The Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1818).*

*(OO) The Act of March 26, 1992 (Public Law 102–265; 106 Stat. 90).*

*(PP) Public Law 105–379 (112 Stat. 3399).*

*(QQ) Section 101(c) of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 528).*

*(c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the ''food stamp program'' established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to the ''supplemental nutrition assistance program'' established under that Act.*

## *PART II—BENEFIT IMPROVEMENTS*

### *SEC. 4101. EXCLUSION OF CERTAIN MILITARY PAYMENTS FROM INCOME.*

*Section 5(d) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(d)) is amended—*

*(1) by striking ''(d) Household'' and inserting ''(d) EXCLUSIONS FROM INCOME.—Household'';*

*(2) by striking ''only (1) any'' and inserting ''only—*

*''(1) any'';*

*(3) by indenting each of paragraphs (2) through (18) so as to align with the margin of paragraph (1) (as amended by paragraph (2));*

*(4) by striking the comma at the end of each of paragraphs (1) through (16) and inserting a semicolon;*

*(5) in paragraph (3)—*

*(A) by striking ''like (A) awarded'' and inserting ''like—*

*''(A) awarded'';*

*(B) by striking ''thereof, (B) to'' and inserting ''thereof;*

*''(B) to''; and*

*(C) by striking ''program, and (C) to'' and inserting ''program; and*

*''(C) to'';*

*(6) in paragraph (11), by striking ''))', or (B) a'' and inserting '')); or*

*''(B) a'';*

*(7) in paragraph (17), by striking '', and'' at the end and inserting a semicolon;*

*(8) in paragraph (18), by striking the period at the end and inserting ''; and''; and*

*(9) by adding at the end the following:*

*''(19) any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—*

*''(A) is the result of deployment to or service in a combat zone; and*

*''(B) was not received immediately prior to serving in a combat zone.''.*

### *SEC. 4102. STRENGTHENING THE FOOD PURCHASING POWER OF LOW-INCOME AMERICANS.*

*Section 5(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(1)) is amended—*

*(1) in subparagraph (A)(ii), by striking ''not less than $134'' and all that follows through the end of the clause and inserting the following: ''not less than—*

*''(I) for fiscal year 2009, $144, $246, $203, and $127, respectively; and*

*''(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.'';*

*(2) in subparagraph (B)(ii), by striking ''not less than $269'' and all that follows through the end of the clause and inserting the following: ''not less than—*

*''(I) for fiscal year 2009, $289; and*

*''(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.''; and*

*(3) by adding at the end the following:*

*''(C) REQUIREMENT.—Each adjustment under subparagraphs (A)(ii)(II) and (B)(ii)(II) shall be based on the unrounded amount for the prior 12-month period.''.*

### *SEC. 4103. SUPPORTING WORKING FAMILIES WITH CHILD CARE EXPENSES.*

*Section 5(e)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(3)(A)) is amended by striking '', the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent,''.*

### *SEC. 4104. ASSET INDEXATION, EDUCATION, AND RETIREMENT ACCOUNTS.*

*(a) ADJUSTING COUNTABLE RESOURCES FOR INFLATION.—Section (5)(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended—*

*(1) by striking ''(g)(1) The Secretary'' and inserting the following:*

*''(g) ALLOWABLE FINANCIAL RESOURCES.—*

*''(1) TOTAL AMOUNT.—*

*''(A) IN GENERAL.—The Secretary''.*

*(2) in subparagraph (A) (as so designated by paragraph (1))—*

*(A) by inserting ''(as adjusted in accordance with subparagraph (B))'' after ''$2,000''; and*

*(B) by inserting ''(as adjusted in accordance with subparagraph (B))'' after ''$3,000''; and*

*(3) by adding at the end the following:*

*''(B) ADJUSTMENT FOR INFLATION.—*

*''(i) IN GENERAL.—Beginning on October 1, 2008, and each October 1 thereafter, the amounts specified in subparagraph (A) shall be adjusted and rounded down to the nearest $250 increment to reflect changes for the 12-month period ending the preceding June in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.*

*''(ii) REQUIREMENT.—Each adjustment under clause (i) shall be based on the unrounded amount for the prior 12-month period.''.*

*(b) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—*

*(1) IN GENERAL.—Section 5(g)(2)(B)(v) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)(2)(B)(v)) is amended by striking ''or retirement account (including an individual account)'' and inserting ''account''.*

*(2) MANDATORY AND DISCRETIONARY EXCLUSIONS.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended by adding at the end the following:*

*''(7) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—*

*''(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of—*

*''(i) any funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided in section 8439 of title 5, United States Code; and*

*''(ii) any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.*

*''(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other retirement plans, contracts, or accounts (as determined by the Secretary).''.*

*(c) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) (as amended by subsection (b)) is amended by adding at the end the following:*

*''(8) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—*

*''(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this*

*subsection the value of any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code.*

*''(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other education programs, contracts, or accounts (as determined by the Secretary).''.*

***SEC. 4105. FACILITATING SIMPLIFIED REPORTING.***

*Section 6(c)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(c)(1)(A)) is amended—*

*(1) by striking ''reporting by'' and inserting ''reporting'';*

*(2) in clause (i), by inserting ''for periods shorter than 4 months by'' before ''migrant'';*

*(3) in clause (ii), by inserting ''for periods shorter than 4 months by'' before ''households''; and*

*(4) in clause (iii), by inserting ''for periods shorter than 1 year by'' before ''households''.*

***SEC. 4106. TRANSITIONAL BENEFITS OPTION.***

*Section 11(s)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(s)(1)) is amended—*

*(1) by striking ''benefits to a household''; and inserting ''benefits—*

*''(A) to a household'';*

*(2) by striking the period at the end and inserting ''; or''; and*

*(3) by adding at the end the following:*

*''(B) at the option of the State, to a household with children that ceases to receive cash assistance under a State-funded public assistance program.''.*

***SEC. 4107. INCREASING THE MINIMUM BENEFIT.***

*Section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) is amended by striking ''$10 per month'' and inserting ''8 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment''.*

***SEC. 4108. EMPLOYMENT, TRAINING, AND JOB RETENTION.***

*Section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amended—*

*(1) in subparagraph (B)—*

*(A) by redesignating clause (vii) as clause (viii); and*

*(B) by inserting after clause (vi) the following:*

*''(vii) Programs intended to ensure job retention by providing job retention services, if the job retention services are provided for a period of not more than 90 days after an individual who received employment and training services under this paragraph gains employment.''; and*

*(2) in subparagraph (F), by adding at the end the following:*

*''(iii) Any individual voluntarily electing to participate in a program under this paragraph shall not be subject to the limitations described in clauses (i) and (ii).''.*

## *PART III—PROGRAM OPERATIONS*

***SEC. 4111. NUTRITION EDUCATION.***

*(a) AUTHORITY TO PROVIDE NUTRITION EDUCATION.—Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended in the first sentence by inserting ''and, through an approved State plan, nutrition education'' after ''an allotment''.*

*(b) IMPLEMENTATION.—Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (f) and inserting the following:*

*''(f) NUTRITION EDUCATION.—*

*''(1) IN GENERAL.—State agencies may implement a nutrition education program for individuals eligible for program benefits that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).*

*''(2) DELIVERY OF NUTRITION EDUCATION.—State agencies may deliver nutrition education directly to eligible persons or through agreements with the National Institute of Food and Agriculture, including through the expanded food and nutrition education program under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and other State and community health and nutrition providers and organizations.*

*''(3) NUTRITION EDUCATION STATE PLANS.—*

*''(A) IN GENERAL.—A State agency that elects to provide nutrition education under this subsection shall submit a nutrition education State plan to the Secretary for approval.*

*''(B) REQUIREMENTS.—The plan shall—*

*''(i) identify the uses of the funding for local projects; and*

*''(ii) conform to standards established by the Secretary through regulations or guidance.*

*''(C) REIMBURSEMENT.—State costs for providing nutrition education under this subsection shall be reimbursed pursuant to section 16(a).*

*''(4) NOTIFICATION.—To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible program participants of the availability of nutrition education under this subsection.''.*

***SEC. 4112. TECHNICAL CLARIFICATION REGARDING ELIGIBILITY.***

*Section 6(k) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(k)) is amended—*

*(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;*

*(2) by striking ''No member'' and inserting the following:*

*''(1) IN GENERAL.—No member''; and*

*(3) by adding at the end the following:*

*''(2) PROCEDURES.—The Secretary shall—*

*''(A) define the terms 'fleeing' and 'actively seeking' for purposes of this subsection; and*

*''(B) ensure that State agencies use consistent procedures established by the Secretary that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against the individual.''.*

***SEC. 4113. CLARIFICATION OF SPLIT ISSUANCE.***

*Section 7(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(h)) is amended by striking paragraph (2) and inserting the following:*

*''(2) REQUIREMENTS.—*

*''(A) IN GENERAL.—Any procedure established under paragraph (1) shall—*

*''(i) not reduce the allotment of any household for any period; and*

*''(ii) ensure that no household experiences an interval between issuances of more than 40 days.*

*''(B) MULTIPLE ISSUANCES.—The procedure may include issuing benefits to a household in more than 1 issuance during a month only when a benefit correction is necessary.''.*

***SEC. 4114. ACCRUAL OF BENEFITS.***

*Section 7(i) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(i)) is amended by adding at the end the following:*

*''(12) RECOVERING ELECTRONIC BENEFITS.—*

*''(A) IN GENERAL.—A State agency shall establish a procedure for recovering electronic benefits from the account of a household due to inactivity.*

*''(B) BENEFIT STORAGE.—A State agency may store recovered electronic benefits off-line in accordance with subparagraph (D), if the household has not accessed the account after 6 months.*

*''(C) BENEFIT EXPUNGING.—A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months.*

*''(D) NOTICE.—A State agency shall—*

*''(i) send notice to a household the benefits of which are stored under subparagraph (B); and*

*''(ii) not later than 48 hours after request by the household, make the stored benefits available to the household.''.*

***SEC. 4115. ISSUANCE AND USE OF PROGRAM BENEFITS.***

*(a) IN GENERAL.—Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—*

*(1) by striking the section designation and heading and all that follows through ''subsection (j)) shall be'' and inserting the following:*

***''SEC. 7. ISSUANCE AND USE OF PROGRAM BENEFITS.***

*''(a) IN GENERAL.—Except as provided in subsection (i), EBT cards shall be'';*

*(2) in subsection (b)—*

*(A) by striking ''(b) Coupons'' and inserting the following:*

*''(b) USE.—Benefits''; and*

*(B) by striking the second proviso;*

*(3) in subsection (c)—*

*(A) by striking ''(c) Coupons'' and inserting the following:*

*''(c) DESIGN.—*

*''(1) IN GENERAL.—EBT cards'';*

*(B) in the first sentence, by striking ''and define their denomination''; and*

*(C) by striking the second sentence and inserting the following:*

*''(2) PROHIBITION.—The name of any public official shall not appear on any EBT card.'';*

*(4) by striking subsection (d);*

*(5) in subsection (e)—*

*(A) by striking ''coupons'' each place it appears and inserting ''benefits''; and*

*(B) by striking ''coupon issuers'' each place it appears and inserting ''benefit issuers'';*

*(6) in subsection (f)—*

*(A) by striking ''coupons'' each place it appears and inserting ''benefits'';*

*(B) by striking ''coupon issuer'' and inserting ''benefit issuers'';*

*(C) by striking ''including any losses'' and all that follows through ''section 11(e)(20),''; and*

*(D) by striking ''and allotments'';*

*(7) by striking subsection (g) and inserting the following:*

*''(g) ALTERNATIVE BENEFIT DELIVERY.—*

*''(1) IN GENERAL.—If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the supplemental nutrition assistance program, the Secretary shall require a State agency to issue or deliver benefits using alternative methods.*

*''(2) NO IMPOSITION OF COSTS.—The cost of documents or systems that may be required by this subsection may not be imposed upon a retail food store participating in the supplemental nutrition assistance program.*

*''(3) DEVALUATION AND TERMINATION OF ISSUANCE OF PAPER COUPONS.—*

*''(A) COUPON ISSUANCE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, no State shall issue any coupon, stamp, certificate, or authorization card to a household that receives supplemental nutrition assistance under this Act.*

*''(B) EBT CARDS.—Effective beginning on the date that is 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, only an EBT card issued under subsection (i) shall be eligible for exchange at any retail food store.*

*''(C) DE-OBLIGATION OF COUPONS.—Coupons not redeemed during the 1-year period beginning on the date of enactment of the Food, Conservation, and Energy Act of 2008 shall—*

*''(i) no longer be an obligation of the Federal Government; and*

*''(ii) not be redeemable.'';*

*(8) in subsection (h)(1), by striking ''coupons'' and inserting ''benefits'';*

*(9) in subsection (i), by adding at the end the following:*

*''(12) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this subsection.'';*

*(10) in subsection (j)—*

*(A) in paragraph (2)(A)(ii), by striking ''printing, shipping, and redeeming coupons'' and inserting ''issuing and redeeming benefits''; and*

*(B) in paragraph (5), by striking ''coupon'' and inserting ''benefit'';*

*(11) in subsection (k)—*

*(A) by striking ''coupons in the form of'' each place it appears and inserting ''program benefits in the form of'';*

*(B) by striking ''a coupon issued in the form of'' each place it appears and inserting ''program benefits in the form of''; and*

*(C) in subparagraph (A), by striking ''subsection (i)(11)(A)'' and inserting ''subsection (h)(11)(A)''; and*

*(12) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012) is amended—*

*(A) in subsection (a), by striking ''coupons'' and inserting ''benefits'';*

*(B) by striking subsection (b) and inserting the following:*

*''(b) BENEFIT.—The term 'benefit' means the value of supplemental nutrition assistance provided to a household by means of—*

*''(1) an electronic benefit transfer under section 7(i); or*

*''(2) other means of providing assistance, as determined by the Secretary.'';*

*(C) in subsection (c), in the first sentence, by striking ''authorization cards'' and inserting ''benefits'';*

*(D) in subsection (d), by striking ''or access device'' and all that follows through the end of the subsection and inserting a period;*

*(E) in subsection (e)—*

*(i) by striking ''(e) 'Coupon issuer' means'' and inserting the following:*

*''(e) BENEFIT ISSUER.—The term 'benefit issuer' means''; and*

*(ii) by striking ''coupons'' and inserting ''benefits'';*

*(F) in subsection (g)(7), by striking ''subsection (r)'' and inserting ''subsection (j)'';*

*(G) in subsection (i)(5)—*

*(i) in subparagraph (B), by striking ''subsection (r)'' and inserting ''subsection (j)''; and*

*(ii) in subparagraph (D), by striking ''coupons'' and inserting ''benefits'';*

*(H) in subsection (j), by striking ''(as that term is defined in subsection (p))'';*

*(I) in subsection (k)—*

*(i) in paragraph (1)(A), by striking ''subsection (u)(1)'' and inserting ''subsection (r)(1)'';*

*(ii) in paragraph (2), by striking ''subsections (g)(3), (4), (5), (7), (8), and (9) of this section'' and inserting ''paragraphs (3), (4), (5), (7), (8), and (9) of subsection (k)''; and*

*(iii) in paragraph (3), by striking ''subsection (g)(6) of this section'' and inserting ''subsection (k)(6)'';*

*(J) in subsection (t), by inserting '', including point of sale devices,'' after ''other means of access'';*

*(K) in subsection (u), by striking ''(as defined in subsection (g))'';*

*(L) by adding at the end the following:*

*''(v) EBT CARD.—The term 'EBT card' means an electronic benefit transfer card issued under section 7(i).''; and*

*(M) by redesignating subsections (a) through (v) as subsections (b), (d), (f), (g), (e), (h), (k), (l), (n), (o), (p), (q), (s), (t), (u), (v), (c), (j), (m), (a), (r), and (i), respectively, and moving the subsections so as to appear in alphabetical order.*

*(2) Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended—*

*(A) by striking ''coupons'' each place it appears and inserting ''benefits''; and*

*(B) by striking ''Coupons issued'' and inserting ''benefits issued''.*

*(3) Section 5 of the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is amended—*

*(A) in subsection (a), by striking ''section 3(i)(4)'' and inserting ''section 3(n)(4)'';*

*(B) in subsection (h)(3)(B), in the second sentence, by striking ''section 7(i)'' and inserting ''section 7(h)''; and*

*(C) in subsection (i)(2)(E), by striking '', as defined in section 3(i) of this Act,''.*

*(4) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—*

*(A) in subsection (b)(1)—*

*(i) in subparagraph (B), by striking ''coupons or authorization cards'' and inserting ''program benefits''; and*

*(ii) by striking ''coupons'' each place it appears and inserting ''benefits''; and*

*(B) in subsection (d)(4)(L), by striking ''section 11(e)(22)'' and inserting ''section 11(e)(19)''.*

*(5) Section 8 of the Food and Nutrition Act of 2008 (7 U.S.C. 2017) is amended—*

*(A) in subsection (b), by striking '', whether through coupons, access devices, or otherwise''; and*

*(B) in subsections (e)(1) and (f), by striking ''section 3(i)(5)'' each place it appears and inserting ''section 3(n)(5)''.*

*(6) Section 9 of the Food and Nutrition Act of 2008 (7 U.S.C. 2018) is amended—*

*(A) by striking ''coupons'' each place it appears and inserting ''benefits'';*

*(B) in subsection (a)—*

*(i) in paragraph (1), by striking ''coupon business'' and inserting ''benefit transactions''; and*

*(ii) by striking paragraph (3) and inserting the following:*

*''(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem benefits shall be valid under the supplemental nutrition assistance program.''; and*

*(C) in subsection (g), by striking ''section 3(g)(9)'' and inserting ''section 3(k)(9)''.*

*(7) Section 10 of the Food and Nutrition Act of 2008 (7 U.S.C. 2019) is amended—*

*(A) by striking the section designation and heading and all that follows through ''Regulations'' and inserting the following:*

***''SEC. 10. REDEMPTION OF PROGRAM BENEFITS.***

*''Regulations'';*

*(B) by striking ''section 3(k)(4) of this Act'' and inserting ''section 3(p)(4)'';*

*(C) by striking ''section 7(i)'' and inserting ''section 7(h)''; and*

*(D) by striking ''coupons'' each place it appears and inserting ''benefits''.*

*(8) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—*

*(A) in subsection (d)—*

*(i) by striking ''section 3(n)(1) of this Act'' each place it appears and inserting ''section 3(t)(1)''; and*

*(ii) by striking ''section 3(n)(2) of this Act'' each place it appears and inserting ''section 3(t)(2)'';*

*(B) in subsection (e)—*

*(i) in paragraph (8)(E), by striking ''paragraph (16) or (20)(B)'' and inserting ''paragraph (15) or (18)(B)'';*

*(ii) by striking paragraphs (15) and (19);*

*(iii) by redesignating paragraphs (16) through (18) and (20) through (25) as paragraphs (15) through (17) and (18) through (23), respectively; and*

*(iv) in paragraph (17) (as so redesignated), by striking ''(described in section 3(n)(1) of this Act)'' and inserting ''described in section 3(t)(1)'';*

*(C) in subsection (h), by striking ''coupon or coupons'' and inserting ''benefits'';*

*(D) by striking ''coupon'' each place it appears and inserting ''benefit'';*

*(E) by striking ''coupons'' each place it appears and inserting ''benefits''; and*

*(F) in subsection (q), by striking ''section 11(e)(20)(B)'' and inserting ''subsection (e)(18)(B)''.*

*(9) Section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022) is amended by striking ''coupons'' each place it appears and inserting ''benefits''.*

*(10) Section 15 of the Food and Nutrition Act of 2008 (7 U.S.C. 2024) is amended—*

*(A) in subsection (a), by striking ''coupons'' and inserting ''benefits'';*

*(B) in subsection (b)(1)—*

*(i) by striking ''coupons, authorization cards, or access devices'' each place it appears and inserting ''benefits'';*

*(ii) by striking ''coupons or authorization cards'' and inserting ''benefits''; and*

*(iii) by striking ''access device'' each place it appears and inserting ''benefit'';*

*(C) in subsection (c), by striking ''coupons'' each place it appears and inserting ''benefits'';*

*(D) in subsection (d), by striking ''Coupons'' and inserting ''Benefits'';*

*(E) by striking subsections (e) and (f);*

*(F) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively; and*

*(G) in subsection (e) (as so redesignated), by striking ''coupon, authorization cards or access devices'' and inserting ''benefits''.*

*(11) Section 16(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(a)) is amended by striking ''coupons'' each place it appears and inserting ''benefits''.*

*(12) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—*

*(A) in subsection (a)(2), by striking ''coupon'' and inserting ''benefit'';*

*(B) in subsection (b)(1)—*

*(i) in subparagraph (B)—*

*(I) in clause (iv)—*

*(aa) in subclause (I), inserting ''or otherwise providing benefits in a form not restricted to the purchase of food'' after ''of cash'';*

*(bb) in subclause (III)(aa), by striking ''section 3(i)'' and inserting ''section 3(n)''; and*

*(cc) in subclause (VII), by striking ''section 7(j)'' and inserting ''section 7(i)''; and*

*(II) in clause (v)—*

*(aa) by striking ''countersigned food coupons or similar''; and*

*(bb) by striking ''food coupons'' and inserting ''EBT cards''; and*

*(ii) in subparagraph (C)(i)(I), by striking ''coupons'' and inserting ''EBT cards'';*

*(C) in subsection (f), by striking ''section 7(g)(2)'' and inserting ''section 7(f)(2)''; and*

*(D) in subsection (j), by striking ''coupon'' and inserting ''benefit''.*

*(13) Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking ''section 3(o)(4)'' and inserting ''section 3(u)(4)''.*

*(14) Section 21 of the Food and Nutrition Act of 2008 (7 U.S.C. 2030) is repealed.*

*(15) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—*

*(A) by striking ''food coupons'' each place it appears and inserting ''benefits'';*

*(B) by striking ''coupons'' each place it appears and inserting ''benefits''; and*

*(C) in subsection (g)(1)(A), by striking ''coupon'' and inserting ''benefits''.*

*(16) Section 26(f)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2035(f)(3)) is amended—*

*(A) in subparagraph (A), by striking ''subsections (a) through (g)'' and inserting ''subsections (a) through (f)''; and*

*(B) in subparagraph (E), by striking ''(16), (18), (20), (24), and (25)'' and inserting ''(15), (17), (18), (22), and (23)''.*

*(c) CONFORMING CROSS-REFERENCES.—*

*(1) IN GENERAL.—*

*(A) USE OF TERMS.—Each provision of law described in subparagraph (B) is amended (as applicable)—*

*(i) by striking ''coupons'' each place it appears and inserting ''benefits'';*

*(ii) by striking ''coupon'' each place it appears and inserting ''benefit'';*

*(iii) by striking ''food coupons'' each place it appears and inserting ''benefits'';*

*(iv) in each section heading, by striking ''**FOOD COUPONS**'' each place it appears and inserting ''**BENEFITS**'';*

*(v) by striking ''food stamp coupon'' each place it appears and inserting ''benefit''; and*

*(vi) by striking ''food stamps'' each place it appears and inserting ''benefits''.*

*(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:*

*(i) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418).*

*(ii) Section 1956(c)(7)(D) of title 18, United States Code.*

*(iii) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.).*

*(iv) Section 401(b)(3) of the Social Security Amendments of 1972 (42 U.S.C. 1382e note; Public Law 92–603).*

*(v) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).*

*(vi) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)).*

*(2) DEFINITION REFERENCES.—*

*(A) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418) is amended by striking ''section 3(k)(1)'' and inserting ''section 3(p)(1)''.*

*(B) Section 205 of the Food Stamp Program Improvements Act of 1994 (7 U.S.C. 2012 note; Public Law 103–225) is amended by striking ''section 3(k) of such Act (as amended by section 201)'' and inserting ''section 3(p) of that Act''.*

*(C) Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a) is amended—*

*(i) by striking ''section 3(h)'' each place it appears and inserting ''section 3(l)''; and*

*(ii) in subsection (e)(2), by striking ''section 3(m)'' and inserting ''section 3(s)''.*

*(D) Section 402(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)) is amended—*

*(i) in paragraph (2)(F)(ii), by striking ''section 3(r)'' and inserting ''section 3(j)''; and*

*(ii) in paragraph (3)(B), by striking ''section 3(h)'' and inserting ''section 3(l)''.*

*(E) Section 3803(c)(2)(C)(vii) of title 31, United States Code, is amended by striking ''section 3(h)'' and inserting ''section 3(l)''.*

*(F) Section 303(d)(4) of the Social Security Act (42 U.S.C. 503(d)(4)) is amended by striking ''section 3(n)(1)'' and inserting ''section 3(t)(1)''.*

*(G) Section 404 of the Social Security Act (42 U.S.C. 604) is amended by striking ''section 3(h)'' each place it appears and inserting ''section 3(l)''.*

*(H) Section 531 of the Social Security Act (42 U.S.C. 654) is amended by striking ''section 3(h)'' each place it appears and inserting ''section 3(l)''.*

*(I) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)) is amended by striking ''(as defined in section 3(e) of such Act)''.*

*(d) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to a ''coupon'', ''authorization card'', or other access device provided under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to a ''benefit'' provided under that Act.*

***SEC. 4116. REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.***

*Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking the section enumerator and heading and subsection (a) and inserting the following:*

***''SEC. 11. ADMINISTRATION.***

*''(a) STATE RESPONSIBILITY.—*

*''(1) IN GENERAL.—The State agency of each participating State shall have responsibility for certifying applicant households and issuing EBT cards.*

*''(2) LOCAL ADMINISTRATION.—The responsibility of the agency of the State government shall not be affected by whether the program is operated on a State-administered or county-administered basis, as provided under section 3(t)(1).*

*''(3) RECORDS.—*

*''(A) IN GENERAL.—Each State agency shall keep such records as may be necessary to determine whether the program is being conducted in compliance with this Act (including regulations issued under this Act).*

*''(B) INSPECTION AND AUDIT.—Records described in subparagraph (A) shall—*

*''(i) be available for inspection and audit at any reasonable time;*

*''(ii) subject to subsection (e)(8), be available for review in any action filed by a household to enforce any provision of this Act (including regulations issued under this Act); and*

*''(iii) be preserved for such period of not less than 3 years as may be specified in regulations.*

*''(4) REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.—*

*''(A) IN GENERAL.—The Secretary shall develop standards for identifying major changes in the operations of a State agency, including—*

*''(i) large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in subsection (e);*

*''(ii) substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in subsection (e)(6)(B);*

*''(iii) changes that potentially increase the difficulty of reporting information under subsection (e) or section 6(c); and*

*''(iv) changes that may disproportionately increase the burdens on any of the types of households described in subsection (e)(2)(A).*

*''(B) NOTIFICATION.—If a State agency implements a major change in operations, the State agency shall—*

*''(i) notify the Secretary; and*

*''(ii) collect such information as the Secretary shall require to identify and correct any adverse effects on program integrity or access, including access by any of the types of households described in subsection (e)(2)(A).''.*

***SEC. 4117. CIVIL RIGHTS COMPLIANCE.***

*Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (c) and inserting the following:*

*''(c) CIVIL RIGHTS COMPLIANCE.—*

*''(1) IN GENERAL.—In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.*

*''(2) RELATION TO OTHER LAWS.—The administration of the program by a State agency shall be consistent with the rights of households under the following laws (including implementing regulations):*

*''(A) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).*

*''(B) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).*

*''(C) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).*

*''(D) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).''.*

***SEC. 4118. CODIFICATION OF ACCESS RULES.***

*Section 11(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(1)) is amended—*

*(1) by striking ''shall (A) at'' and inserting ''shall—*

*''(A) at''; and*

*(2) by striking ''and (B) use'' and inserting ''and*

*''(B) comply with regulations of the Secretary requiring the use of''.*

***SEC. 4119. STATE OPTION FOR TELEPHONIC SIGNATURE.***

*Section 11(e)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(2)(C)) is amended—*

*(1) by striking ''(C) Nothing in this Act'' and inserting the following:*

*''(C) ELECTRONIC AND AUTOMATED SYSTEMS.—*

*''(i) IN GENERAL.—Nothing in this Act''; and*

*(2) by adding at the end the following:*

*''(ii) STATE OPTION FOR TELEPHONIC SIGNATURE.—A State agency may establish a system by which an applicant household may sign an application through a recorded verbal assent over the telephone.*

*''(iii) REQUIREMENTS.—A system established under clause (ii) shall—*

*''(I) record for future reference the verbal assent of the household member and the information to which assent was given;*

*''(II) include effective safeguards against impersonation, identity theft, and invasions of privacy;*

*''(III) not deny or interfere with the right of the household to apply in writing;*

*''(IV) promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions;*

*''(V) comply with paragraph (1)(B);*

*''(VI) satisfy all requirements for a signature on an application under this Act and other laws applicable to the supplemental nutrition assistance program, with the date on which the household member provides verbal assent considered as the date of application for all purposes; and*

*''(VII) comply with such other standards as the Secretary may establish.''.*

***SEC. 4120. PRIVACY PROTECTIONS.***

*Section 11(e)(8) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(8)) is amended—*

*(1) in the matter preceding subparagraph (A)—*

*(A) by striking ''limit'' and inserting ''prohibit''; and*

*(B) by striking ''to persons'' and all that follows through ''State programs'';*

*(2) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;*

*(3) by inserting before subparagraph (B) (as so redesignated) the following:*

*''(A) the safeguards shall permit—*

*''(i) the disclosure of such information to persons directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally-assisted State programs; and*

*''(ii) the subsequent use of the information by persons described in clause (i) only for such administration or enforcement;''; and*

*(4) in subparagraph (F) (as so redesignated) by inserting ''or subsection (u)'' before the semicolon at the end.*

***SEC. 4121. PRESERVATION OF ACCESS AND PAYMENT ACCURACY.***

*Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended by striking subsection (g) and inserting the following:*

*''(g) COST SHARING FOR COMPUTERIZATION.—*

*''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) for the costs incurred by the State agency in the planning, design, development, or installation of 1 or more automatic data processing and information retrieval systems that the Secretary determines—*

*''(A) would assist in meeting the requirements of this Act;*

*''(B) meet such conditions as the Secretary prescribes;*

*''(C) are likely to provide more efficient and effective administration of the supplemental nutrition assistance program;*

*''(D) would be compatible with other systems used in the administration of State programs, including the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);*

*''(E) would be tested adequately before and after implementation, including through pilot projects in limited areas for major systems changes as determined under rules promulgated by the Secretary, data from which shall be thoroughly evaluated before the Secretary approves the system to be implemented more broadly; and*

*''(F) would be operated in accordance with an adequate plan for—*

*''(i) continuous updating to reflect changed policy and circumstances; and*

*''(ii) testing the effect of the system on access for eligible households and on payment accuracy.*

*''(2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—*

''(A) is reimbursed for the costs under any other Federal program; or

''(B) uses the systems for purposes not connected with the supplemental nutrition assistance program.''.

**SEC. 4122. FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.**

Section 16(h)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended in subparagraph (A), by striking ''to remain available until expended'' and inserting ''to remain available for 15 months''.

**PART IV—PROGRAM INTEGRITY**

**SEC. 4131. ELIGIBILITY DISQUALIFICATION.**

Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended by adding at the end the following:

''(p) DISQUALIFICATION FOR OBTAINING CASH BY DESTROYING FOOD AND COLLECTING DEPOSITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally obtained cash by purchasing products with supplemental nutrition assistance program benefits that have containers that require return deposits, discarding the product, and returning the container for the deposit amount shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.

''(q) DISQUALIFICATION FOR SALE OF FOOD PURCHASED WITH SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally sold any food that was purchased using supplemental nutrition assistance program benefits shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.''.

**SEC. 4132. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

Section 12 of the Food and Nutrition Act of 2008 (7 U.S.C. 2021) is amended—

(1) by striking the section designation and heading and all that follows through the end of subsection (a) and inserting the following:

**''SEC. 12. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

''(a) DISQUALIFICATION.—

''(1) IN GENERAL.—An approved retail food store or wholesale food concern that violates a provision of this Act or a regulation under this Act may be—

''(A) disqualified for a specified period of time from further participation in the supplemental nutrition assistance program;

''(B) assessed a civil penalty of up to $100,000 for each violation; or

''(C) both.

''(2) REGULATIONS.—Regulations promulgated under this Act shall provide criteria for the finding of a violation of, the suspension or disqualification of and the assessment of a civil penalty against a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.'';

(2) in subsection (b)—

(A) by striking ''(b) Disqualification'' and inserting the following:

''(b) PERIOD OF DISQUALIFICATION.—Subject to subsection (c), a disqualification'';

(B) in paragraph (1), by striking ''of no less than six months nor more than five years'' and inserting ''not to exceed 5 years'';

(C) in paragraph (2), by striking ''of no less than twelve months nor more than ten years'' and inserting ''not to exceed 10 years'';

(D) in paragraph (3)(B)—

(i) by inserting ''or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards'' after ''concern'' the first place it appears; and

(ii) by striking ''civil money penalties'' and inserting ''civil penalties''; and

(E) by striking ''civil money penalty'' each place it appears and inserting ''civil penalty'';

(3) in subsection (c)—

(A) by striking ''(c) The action'' and inserting the following:

''(c) CIVIL PENALTY AND REVIEW OF DISQUALIFICATION AND PENALTY DETERMINATIONS.—

''(1) CIVIL PENALTY.—In addition to a disqualification under this section, the Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation.

''(2) REVIEW.—The action''; and

(B) in paragraph (2) (as designated by subparagraph (A)), by striking ''civil money penalty'' and inserting ''civil penalty'';

(4) in subsection (d)—

(A) by striking ''(d)'' and all that follows through ''. The Secretary shall'' and inserting the following:

''(d) CONDITIONS OF AUTHORIZATION.—

''(1) IN GENERAL.—As a condition of authorization to accept and redeem benefits, the Secretary may require a retail food store or wholesale food concern that, pursuant to subsection (a), has been disqualified for more than 180 days, or has been subjected to a civil penalty in lieu of a disqualification period of more than 180 days, to furnish a collateral bond or irrevocable letter of credit for a period of not more than 5 years to cover the value of benefits that the store or concern may in the future accept and redeem in violation of this Act.

''(2) COLLATERAL.—The Secretary also may require a retail food store or wholesale food concern that has been sanctioned for a violation and incurs a subsequent sanction regardless of the length of the disqualification period to submit a collateral bond or irrevocable letter of credit.

''(3) BOND REQUIREMENTS.—The Secretary shall'';

(B) by striking ''If the Secretary finds'' and inserting the following

''(4) FORFEITURE.—If the Secretary finds''; and

(C) by striking ''Such store or concern'' and inserting the following:

''(5) HEARING.—A store or concern described in paragraph (4)'';

(5) in subsection (e), by striking ''civil money penalty'' each place it appears and inserting ''civil penalty''; and

(6) by adding at the end the following:

''(h) FLAGRANT VIOLATIONS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Inspector General of the Department of Agriculture, shall establish procedures under which the processing of program benefit redemptions for a retail food store or wholesale food concern may be immediately suspended pending administrative action to disqualify the retail food store or wholesale food concern.

''(2) REQUIREMENTS.—Under the procedures described in paragraph (1), if the Secretary, in consultation with the Inspector General, determines that a retail food store or wholesale food concern is engaged in flagrant violations of this Act (including regulations promulgated under this Act), unsettled program benefits that have been redeemed by the retail food store or wholesale food concern—

''(A) may be suspended; and

''(B)(i) if the program disqualification is upheld, may be subject to forfeiture pursuant to section 15(g); or

''(ii) if the program disqualification is not upheld, shall be released to the retail food store or wholesale food concern.

''(3) NO LIABILITY FOR INTEREST.—The Secretary shall not be liable for the value of any interest on funds suspended under this subsection.''.

**SEC. 4133. MAJOR SYSTEMS FAILURES.**

Section 13(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2022(b)) is amended by adding at the end the following:

''(5) OVERISSUANCES CAUSED BY SYSTEMIC STATE ERRORS.—

''(A) IN GENERAL.—If the Secretary determines that a State agency overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

''(B) PROCEDURES.—

''(i) INFORMATION REPORTING BY STATES.—Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance of benefits to households by the State agency in the applicable fiscal year.

''(ii) FINAL DETERMINATION.—After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

''(I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and

''(II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

''(iii) ESTABLISHING A CLAIM.—Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal to the value of the overissuance caused by the systemic error.

''(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative and judicial review, as provided in section 14, shall apply to the final determinations by the Secretary under clause (ii).

''(v) REMISSION TO THE SECRETARY.—

''(I) DETERMINATION NOT APPEALED.—If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

''(II) DETERMINATION APPEALED.—If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial review under clause (iv), and a finding of liability on the part of the State, the appealing State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

''(vi) ALTERNATIVE METHOD OF COLLECTION.—

''(I) IN GENERAL.—If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount due.

''(II) ACCRUAL OF INTEREST.—During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

''(vii) LIMITATION.—Any liability amount established under section 16(c)(1)(C) shall be reduced by the amount of the claim established under this subparagraph.''.

**PART V—MISCELLANEOUS**

**SEC. 4141. PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.**

Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended by adding at the end the following:

''(k) PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out, under such terms and conditions as the Secretary considers to be appropriate, pilot projects to develop and test methods—

''(A) of using the supplemental nutrition assistance program to improve the dietary and health status of households eligible for or participating in the supplemental nutrition assistance program; and

''(B) to reduce overweight, obesity (including childhood obesity), and associated comorbidities in the United States.

''(2) GRANTS.—

''(A) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as defined by the Secretary), for use in accordance with projects that meet the strategy goals of this subsection.

''(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this paragraph, an organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(C) SELECTION CRITERIA.—Pilot projects shall be evaluated against publicly disseminated criteria that may include—

''(i) identification of a low-income target audience that corresponds to individuals living in households with incomes at or below 185 percent of the poverty level;

''(ii) incorporation of a scientifically based strategy that is designed to improve diet quality through more healthful food purchases, preparation, or consumption;

''(iii) a commitment to a pilot project that allows for a rigorous outcome evaluation, including data collection;

''(iv) strategies to improve the nutritional value of food served during school hours and during after-school hours;

''(v) innovative ways to provide significant improvement to the health and wellness of children;

''(vi) other criteria, as determined by the Secretary.

''(D) USE OF FUNDS.—Funds provided under this paragraph shall not be used for any project that limits the use of benefits under this Act.

''(3) PROJECTS.—Pilot projects carried out under paragraph (1) may include projects to determine whether healthier food purchases by and healthier diets among households participating in the supplemental nutrition assistance program result from projects that—

''(A) increase the supplemental nutrition assistance purchasing power of the participating households by providing increased supplemental nutrition assistance program benefit allotments to the participating households;

''(B) increase access to farmers markets by participating households through the electronic redemption of supplemental nutrition assistance program benefits at farmers' markets;

''(C) provide incentives to authorized supplemental nutrition assistance program retailers to increase the availability of healthy foods to participating households;

''(D) subject authorized supplemental nutrition assistance program retailers to stricter retailer requirements with respect to carrying and stocking healthful foods;

''(E) provide incentives at the point of purchase to encourage households participating in the supplemental nutrition assistance program to purchase fruits, vegetables, or other healthful foods; or

''(F) provide to participating households integrated communication and education programs, including the provision of funding for a portion of a school-based nutrition coordinator to implement a broad nutrition action plan and parent nutrition education programs in elementary schools, separately or in combination with pilot projects carried out under subparagraphs (A) through (E).

''(4) EVALUATION AND REPORTING.—

''(A) EVALUATION.—

''(i) INDEPENDENT EVALUATION.—

''(I) IN GENERAL.—The Secretary shall provide for an independent evaluation of projects selected under this subsection that measures the impact of the pilot program on health and nutrition as described in paragraph (1).

''(II) REQUIREMENT.—The independent evaluation under subclause (I) shall use rigorous methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective.

''(ii) COSTS.—The Secretary may use funds provided to carry out this section to pay costs associated with monitoring and evaluating each pilot project.

''(B) REPORTING.—Not later than 90 days after the last day of fiscal year 2009 and each fiscal year thereafter until the completion of the last evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

''(i) the status of each pilot project;

''(ii) the results of the evaluation completed during the previous fiscal year; and

''(iii) to the maximum extent practicable—

''(I) the impact of the pilot project on appropriate health, nutrition, and associated behavioral outcomes among households participating in the pilot project;

''(II) baseline information relevant to the stated goals and desired outcomes of the pilot project; and

''(III) equivalent information about similar or identical measures among control or comparison groups that did not participate in the pilot project.

''(C) PUBLIC DISSEMINATION.—In addition to the reporting requirements under subparagraph (B), evaluation results shall be shared broadly to inform policy makers, service providers, other partners, and the public in order to promote wide use of successful strategies.

''(5) FUNDING.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

''(B) MANDATORY FUNDING.—Out of any funds made available under section 18, on October 1, 2008, the Secretary shall make available $20,000,000 to carry out a project described in paragraph (3)(E), to remain available until expended.''.

**SEC. 4142. STUDY ON COMPARABLE ACCESS TO SUPPLEMENTAL NUTRITION ASSISTANCE FOR PUERTO RICO.**

(a) IN GENERAL.—The Secretary shall carry out a study of the feasibility and effects of including the Commonwealth of Puerto Rico in the definition of the term ''State'' under section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), in lieu of providing block grants under section 19 of that Act (7 U.S.C. 2028).

(b) INCLUSIONS.—The study shall include—

(1) an assessment of the administrative, financial management, and other changes that would be necessary for the Commonwealth to establish a comparable supplemental nutrition assistance program, including compliance with appropriate program rules under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), such as—

(A) benefit levels under section 3(u) of that Act (7 U.S.C. 2012(u));

(B) income eligibility standards under sections 5(c) and 6 of that Act (7 U.S.C. 2014(c), 2015); and

(C) deduction levels under section 5(e) of that Act (7 U.S.C. 2014(e));

(2) an estimate of the impact on Federal and Commonwealth benefit and administrative costs;

(3) an assessment of the impact of the program on low-income Puerto Ricans, as compared to the program under section 19 of that Act (7 U.S.C. 2028); and

(4) such other matters as the Secretary considers to be appropriate.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under this section.

(d) FUNDING.—

(1) IN GENERAL.—On October 1, 2008, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $1,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

***Subtitle B—Food Distribution Programs***

***PART I—EMERGENCY FOOD ASSISTANCE PROGRAM***

**SEC. 4201. EMERGENCY FOOD ASSISTANCE.**

(a) PURCHASE OF COMMODITIES.—Section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) is amended by –

(1) by striking ''(A) PURCHASE OF COMMODITIES'' and all that follows through ''$140,000,000 of'' and inserting the following:

''(a) PURCHASE OF COMMODITIES.—

''(1) IN GENERAL.—From amounts made available to carry out this Act, for each of the fiscal years 2008 through 2012, the Secretary shall purchase a dollar amount described in paragraph (2) of''; and

(2) by adding at the end the following:

''(2) AMOUNTS.—The Secretary shall use to carry out paragraph (1)—

''(A) for fiscal year 2008, $190,000,000;

''(B) for fiscal year 2009, $250,000,000; and

''(C) for each of fiscal years 2010 through 2012, the dollar amount of commodities specified in subparagraph (B) adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) between June 30, 2008, and June 30 of the immediately preceding fiscal year.''.

(b) STATE PLANS.—Section 202A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7503) is amended by striking subsection (a) and inserting the following:

''(a) PLANS.—

''(1) IN GENERAL.—To receive commodities under this Act, a State shall submit to the Secretary an operation and administration plan for the provision of benefits under this Act.

''(2) UPDATES.—A State shall submit to the Secretary for approval any amendment to a plan submitted under paragraph (1) in any case in which the State proposes to make a change to the operation or administration of a program described in the plan.''.

(c) AUTHORIZATION AND APPROPRIATIONS.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking ''$60,000,000'' and inserting ''$100,000,000''; and

(2) by inserting ''and donated wild game'' before the period at the end.

**SEC. 4202. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.**

The Emergency Food Assistance Act of 1983 is amended by inserting after section 208 (7 U.S.C. 7511) the following:

**''SEC. 209. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.**

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means an emergency feeding organization.

''(b) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary shall use funds made available under subsection (d) to make grants to eligible entities to pay the costs of an activity described in subsection (c).

''(2) RURAL PREFERENCE.—The Secretary shall use not less than 50 percent of the funds described in paragraph (1) for a fiscal year to

*make grants to eligible entities that serve predominantly rural communities for the purposes of—*

*''(A) expanding the capacity and infrastructure of food banks, State-wide food bank associations, and food bank collaboratives that operate in rural areas; and*

*''(B) improving the capacity of the food banks to procure, receive, store, distribute, track, and deliver time-sensitive or perishable food products.*

*''(c) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—*

*''(1) the development and maintenance of a computerized system for the tracking of time-sensitive food products;*

*''(2) capital, infrastructure, and operating costs associated with the collection, storage, distribution, and transportation of time-sensitive and perishable food products;*

*''(3) improving the security and diversity of the emergency food distribution and recovery systems of the United States through the support of small or mid-size farms and ranches, fisheries, and aquaculture, and donations from local food producers and manufacturers to persons in need;*

*''(4) providing recovered foods to food banks and similar nonprofit emergency food providers to reduce hunger in the United States;*

*''(5) improving the identification of—*

*''(A) potential providers of donated foods;*

*''(B) potential nonprofit emergency food providers; and*

*''(C) persons in need of emergency food assistance in rural areas; and*

*''(6) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community.*

*''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2008 through 2012.''.*

### *PART II—FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS*

#### *SEC. 4211. ASSESSING THE NUTRITIONAL VALUE OF THE FDPIR FOOD PACKAGE.*

*(a) IN GENERAL.—Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by striking subsection (b) and inserting the following:*

*''(b) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—*

*''(1) IN GENERAL.—Distribution of commodities, with or without the supplemental nutrition assistance program, shall be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.*

*''(2) ADMINISTRATION.—*

*''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for the distribution.*

*''(B) ADMINISTRATION BY TRIBAL ORGANIZATION.—If the Secretary determines that a tribal organization is capable of effectively and efficiently administering a distribution described in paragraph (1), then the tribal organization shall administer the distribution.*

*''(C) PROHIBITION.—The Secretary shall not approve any plan for a distribution described in paragraph (1) that permits any household on any Indian reservation to participate simultaneously in the supplemental nutrition assistance program and the program established under this subsection.*

*''(3) DISQUALIFIED PARTICIPANTS.—An individual who is disqualified from participation in the food distribution program on Indian reservations under this subsection is not eligible to participate in the supplemental nutrition assistance program under this Act for a period of time to be determined by the Secretary.*

*''(4) ADMINISTRATIVE COSTS.—The Secretary is authorized to pay such amounts for administrative costs and distribution costs on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.*

*''(5) BISON MEAT.—Subject to the availability of appropriations to carry out this paragraph, the Secretary may purchase bison meat for recipients of food distributed under this subsection, including bison meat from—*

*''(A) Native American bison producers; and*

*''(B) producer–owned cooperatives of bison ranchers.*

*''(6) TRADITIONAL AND LOCALLY-GROWN FOOD FUND.—*

*''(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a fund for use in purchasing traditional and locally-grown foods for recipients of food distributed under this subsection.*

*''(B) NATIVE AMERICAN PRODUCERS.—Where practicable, of the food provided under subparagraph (A), at least 50 percent shall be produced by Native American farmers, ranchers, and producers.*

*''(C) DEFINITION OF TRADITIONAL AND LOCALLY GROWN.—The Secretary shall determine the definition of the term 'traditional and locally-grown' with respect to food distributed under this paragraph.*

*''(D) SURVEY.—In carrying out this paragraph, the Secretary shall—*

*''(i) survey participants of the food distribution program on Indian reservations established under this subsection to determine which traditional foods are most desired by those participants; and*

*''(ii) purchase or offer to purchase those traditional foods that may be procured cost-effectively.*

*''(E) REPORT.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities carried out under this paragraph during the preceding calendar year.*

*''(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $5,000,000 for each of fiscal years 2008 through 2012.''.*

*(b) FDPIR FOOD PACKAGE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—*

*(1) how the Secretary derives the process for determining the food package under the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) (referred to in this subsection as the ''food package'');*

*(2) the extent to which the food package—*

*(A) addresses the nutritional needs of low-income Native Americans compared to the supplemental nutrition assistance program, particularly for very low-income households;*

*(B) conforms (or fails to conform) to the 2005 Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);*

*(C) addresses (or fails to address) the nutritional and health challenges that are specific to Native Americans; and*

*(D) is limited by distribution costs or challenges in infrastructure; and*

*(3)(A) any plans of the Secretary to revise and update the food package to conform with the most recent Dietary Guidelines for Americans, including any costs associated with the planned changes; or*

*(B) if the Secretary does not plan changes to the food package, the rationale of the Secretary for retaining the food package.*

### *PART III—COMMODITY SUPPLEMENTAL FOOD PROGRAM*

#### *SEC. 4221. COMMODITY SUPPLEMENTAL FOOD PROGRAM.*

*Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended by striking subsection (g) and inserting the following:*

*''(g) PROHIBITION.—Notwithstanding any other provision of law (including regulations), the Secretary may not require a State or local agency to prioritize assistance to a particular group of individuals that are—*

*''(1) low-income persons aged 60 and older; or*

*''(2) women, infants, and children.''.*

### *PART IV—SENIOR FARMERS' MARKET NUTRITION PROGRAM*

#### *SEC. 4231. SENIORS FARMERS' MARKET NUTRITION PROGRAM.*

*Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended—*

*(1) in subsection (b)(1), by inserting ''honey,'' after ''vegetables,'';*

*(2) by striking subsection (c) and inserting the following:*

*''(c) EXCLUSION OF BENEFITS IN DETERMINING ELIGIBILITY FOR OTHER PROGRAMS.—The value of any benefit provided to any eligible seniors farmers' market nutrition program recipient under this section shall not be considered to be income or resources for any purposes under any Federal, State, or local law.''; and*

*(3) by adding at the end the following:*

*''(d) PROHIBITION ON COLLECTION OF SALES TAX.—Each State shall ensure that no State or local tax is collected within the State on a purchase of food with a benefit distributed under the seniors farmers' market nutrition program.*

*''(e) REGULATIONS.—The Secretary may promulgate such regulations as the Secretary considers to be necessary to carry out the seniors farmers' market nutrition program.''.*

### *Subtitle C—Child Nutrition and Related Programs*

#### *SEC. 4301. STATE PERFORMANCE ON ENROLLING CHILDREN RECEIVING PROGRAM BENEFITS FOR FREE SCHOOL MEALS.*

*(a) IN GENERAL.—Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as ''program benefits'') for free school meals using direct certification.*

*(b) SPECIFIC MEASURES.—The assessment of the Secretary of the performance of each State shall include—*

*(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;*

*(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and*

*(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children attended a school operating under the special assistance provisions of section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.*

*(c) PERFORMANCE INNOVATIONS.—The report of the Secretary shall describe best practices from States with the best performance or the most improved performance from the previous year.*

**SEC. 4302. PURCHASES OF LOCALLY PRODUCED FOODS.**

*Section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) is amended to read as follows:*

*''(j) PURCHASES OF LOCALLY PRODUCED FOODS.—The Secretary shall—*

*''(1) encourage institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;*

*''(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and*

*''(3) allow institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.''.*

**SEC. 4303. HEALTHY FOOD EDUCATION AND PROGRAM REPLICABILITY.**

*Section 18(h) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(h)) is amended—*

*(1) in paragraph (1)(C), by inserting ''promotes healthy food education in the school curriculum and'' before ''incorporates'';*

*(2) by redesignating paragraph (2) as paragraph (4); and*

*(3) by inserting after paragraph (1) the following:*

*''(2) ADMINISTRATION.—In providing grants under paragraph (1), the Secretary shall give priority to projects that can be replicated in schools.*

*''(3) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—*

*''(A) DEFINITIONS.—In this paragraph:*

*''(i) ELIGIBLE PROGRAM.—The term 'eligible program' means—*

*''(I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or*

*''(II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.*

*''(ii) ELIGIBLE SCHOOL.—The term 'eligible school' means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this Act.*

*''(B) ESTABLISHMENT.—The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—*

*''(i) be planted, cared for, and harvested by students at the eligible schools; and*

*''(ii) teach the students participating in the community gardens about agriculture production practices and diet.*

*''(C) PRIORITY STATES.—Of the States in which grantees under this paragraph are located—*

*''(i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;*

*''(ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and*

*''(iii) at least 1 State shall be a State that is not described in clause (i) or (ii).*

*''(D) USE OF PRODUCE.—Produce from a community garden provided a grant under this paragraph may be—*

*''(i) used to supplement food provided at the eligible school;*

*''(ii) distributed to students to bring home to the families of the students; or*

*''(iii) donated to a local food bank or senior center nutrition program.*

*''(E) NO COST-SHARING REQUIREMENT.—A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.*

*''(F) EVALUATION.—A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation in accordance with paragraph (1)(H).''.*

**SEC. 4304. FRESH FRUIT AND VEGETABLE PROGRAM.**

*(a) PROGRAM.—*

*(1) IN GENERAL.—The Richard B. Russell National School Lunch Act is amended by inserting after section 18 (42 U.S.C. 1769) the following:*

**''SEC. 19. FRESH FRUIT AND VEGETABLE PROGRAM.**

*''(a) IN GENERAL.—For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free fresh fruits and vegetables available in elementary schools (referred to in this section as the 'program').*

*''(b) PROGRAM.—A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.*

*''(c) FUNDING TO STATES.—*

*''(1) MINIMUM GRANT.—Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.*

*''(2) ADDITIONAL FUNDING.—Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 4 based on the proportion that—*

*''(A) the population of the State; bears to*

*''(B) the population of the United States.*

*''(d) SELECTION OF SCHOOLS.—*

*''(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—*

*''(A) ensure that each school chosen to participate in the program is a school—*

*''(i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this Act; and*

*''(ii) that submits an application in accordance with subparagraph (D);*

*''(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this Act;*

*''(C) ensure that each school selected is an elementary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));*

*''(D) solicit applications from interested schools that include—*

*''(i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this Act;*

*''(ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);*

*''(iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and*

*''(iv) such other information as may be requested by the Secretary; and*

*''(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).*

*''(2) EXCEPTION.—Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a sufficient number of additional schools that meet the requirement of that clause.*

*''(3) OUTREACH TO LOW-INCOME SCHOOLS.—*

*''(A) IN GENERAL.—Prior to making decisions regarding school participation in the program, a State agency shall inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).*

*''(B) REQUIREMENT.—In providing information to schools in accordance with subparagraph (A), a State agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).*

*''(e) NOTICE OF AVAILABILITY.—If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.*

*''(f) PER-STUDENT GRANT.—The per-student grant provided to a school under this section shall be—*

*''(1) determined by a State agency; and*

*''(2) not less than $50, nor more than $75.*

*''(g) LIMITATION.—To the maximum extent practicable, each State agency shall ensure that in making the fruits and vegetables provided under this section available to students, schools offer the fruits and vegetables separately from meals otherwise provided at the school under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).*

*''(h) EVALUATION AND REPORTS.—*

*''(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program, including a determination as to whether children experienced, as a result of participating in the program—*

*''(A) increased consumption of fruits and vegetables;*

*''(B) other dietary changes, such as decreased consumption of less nutritious foods; and*

*''(C) such other outcomes as are considered appropriate by the Secretary.*

*''(2) REPORT.—Not later than September 30, 2011, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under paragraph (1).*

*''(i) FUNDING.—*

*''(1) IN GENERAL.—Out of the funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use the following amounts to carry out this section:*

*''(A) On October 1, 2008, $40,000,000.*

*''(B) On July 1, 2009, $65,000,000.*

*''(C) On July 1, 2010, $101,000,000.*

*''(D) On July 1, 2011, $150,000,000.*

*''(E) On July 1, 2012, and each July 1 thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding April 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.*

''(2) MAINTENANCE OF EXISTING FUNDING.—In allocating funding made available under paragraph (1) among the States in accordance with subsection (c), the Secretary shall ensure that each State that received funding under section 18(f) on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008 shall continue to receive sufficient funding under this section to maintain the caseload level of the State under that section as in effect on that date.

''(3) EVALUATION FUNDING.—On October 1, 2008, out of any funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use to carry out the evaluation required under subsection (h), $3,000,000, to remain available for obligation until September 30, 2010.

''(4) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section any funds transferred for that purpose, without further appropriation.

''(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to carry out this section, there are authorized to be appropriated such sums as are necessary to expand the program established under this section.

''(6) ADMINISTRATIVE COSTS.—

''(A) IN GENERAL.—Of funds made available to carry out this section for a fiscal year, the Secretary may use not more than $500,000 for the administrative costs of carrying out the program.

''(B) RESERVATION OF FUNDS.—The Secretary shall allow each State to reserve such funding as the Secretary determines to be necessary to administer the program in the State (with adjustments for the size of the State and the grant amount), but not to exceed the amount required to pay the costs of 1 full-time coordinator for the program in the State.

''(7) REALLOCATION.—

''(A) AMONG STATES.—The Secretary may reallocate any amounts made available to carry out this section that are not obligated or expended by a date determined by the Secretary.

''(B) WITHIN STATES.—A State that receives a grant under this section may reallocate any amounts made available under the grant that are not obligated or expended by a date determined by the Secretary.''.

(2) TRANSITION OF EXISTING SCHOOLS.—

(A) EXISTING SECONDARY SCHOOLS.—Section 19(d)(1)(C) of the Richard B. Russell National School Lunch Act (as amended by paragraph (1)) may be waived by a State until July 1, 2010, for each secondary school in the State that has been awarded funding under section 18(f) of that Act (42 U.S.C. 1769(f)) for the school year beginning July 1, 2008.

(B) SCHOOL YEAR BEGINNING JULY 1, 2008.—To facilitate transition from the program authorized under section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act) to the program established under section 19 of that Act (as amended by paragraph (1))—

(i) for the school year beginning July 1, 2008, the Secretary may permit any school selected for participation under section 18(f) of that Act (42 U.S.C. 1769(f)) for that school year to continue to participate under section 19 of that Act until the end of that school year; and

(ii) funds made available under that Act for fiscal year 2009 may be used to support the participation of any schools selected to participate in the program authorized under section 18(f) of that Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act).

(b) CONFORMING AMENDMENTS.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively.

**SEC. 4305. WHOLE GRAIN PRODUCTS.**

(a) PURPOSE.—The purpose of this section is to encourage greater awareness and interest in the number and variety of whole grain products available to schoolchildren, as recommended by the 2005 Dietary Guidelines for Americans.

(b) DEFINITION OF ELIGIBLE WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In this section, the terms ''whole grains'' and ''whole grain products'' have the meaning given the terms by the Food and Nutrition Service in the HealthierUS School Challenge.

(c) PURCHASE OF WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), the Secretary shall purchase whole grains and whole grain products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(d) EVALUATION.—Not later than September 30, 2011, the Secretary shall conduct an evaluation of the activities conducted under subsection (c) that includes—

(1) an evaluation of whether children participating in the school lunch and breakfast programs increased their consumption of whole grains;

(2) an evaluation of which whole grains and whole grain products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of whole grain products in the school lunch and breakfast programs; and

(4) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) REPORT.—As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representative a report describing the results of the evaluation.

**SEC. 4306. BUY AMERICAN REQUIREMENTS.**

(a) FINDINGS.—The Congress finds the following:

(1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin.

(2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers.

(3) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) requires the use of domestic food products for all meals served under the program, including food products purchased with local funds.

(b) BUY AMERICAN STATUTORY REQUIREMENTS.—The Department of Agriculture should undertake training, guidance, and enforcement of the various current Buy American statutory requirements and regulations, including those of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

**SEC. 4307. SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.**

(a) IN GENERAL.—For fiscal year 2009, the Secretary shall carry out a nationally representative survey of the foods purchased during the most recent school year for which data is available by school authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(b) REPORT.—

(1) IN GENERAL.—On completion of the survey, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the survey.

(2) INTERIM REQUIREMENT.—If the initial report required under paragraph (1) is not submitted to the Committees referred to in that paragraph by June 30, 2009, the Secretary shall submit to the Committees an interim report that describes the relevant survey data, or a sample of such data, available to the Secretary as of that date.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section not more than $3,000,000.

**Subtitle D—Miscellaneous**

**SEC. 4401. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.**

Section 4404 of the Farm Security and Rural Investment Act of 2002 (2 U.S.C. 1161) is amended to read as follows:

**''SEC. 4404. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.**

''(a) SHORT TITLE.—This section may be cited as the 'Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008'.

''(b) DEFINITIONS.—In this subsection:

''(1) DIRECTOR.—The term 'Director' means the head of the Congressional Hunger Center.

''(2) FELLOW.—The term 'fellow' means—

''(A) a Bill Emerson Hunger Fellow; or

''(B) Mickey Leland Hunger Fellow.

''(3) FELLOWSHIP PROGRAMS.—The term 'Fellowship Programs' means the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program established under subsection (c)(1).

''(c) FELLOWSHIP PROGRAMS.—

''(1) IN GENERAL.—There is established the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program.

''(2) PURPOSES.—

''(A) IN GENERAL.—The purposes of the Fellowship Programs are—

''(i) to encourage future leaders of the United States—

''(I) to pursue careers in humanitarian and public service;

''(II) to recognize the needs of low-income people and hungry people;

''(III) to provide assistance to people in need; and

''(IV) to seek public policy solutions to the challenges of hunger and poverty;

''(ii) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities; and

''(iii) to increase awareness of the importance of public service.

''(B) BILL EMERSON HUNGER FELLOWSHIP PROGRAM.—The purpose of the Bill Emerson Hunger Fellowship Program is to address hunger and poverty in the United States.

''(C) MICKEY LELAND HUNGER FELLOWSHIP PROGRAM.—The purpose of the Mickey Leland Hunger Fellowship Program is to address international hunger and other humanitarian needs.

''(3) ADMINISTRATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall offer to provide a grant to the Congressional Hunger Center to administer the Fellowship Programs.

''(B) TERMS OF GRANT.—The terms of the grant provided under subparagraph (A), including the length of the grant and provisions for the alteration or termination of the grant, shall be determined by the Secretary in accordance with this section.

''(d) FELLOWSHIPS.—

''(1) IN GENERAL.—The Director shall make available Bill Emerson Hunger Fellowships and Mickey Leland Hunger Fellowships in accordance with this subsection.

''(2) CURRICULUM.—

''(A) IN GENERAL.—The Fellowship Programs shall provide experience and training to develop

*the skills necessary to train fellows to carry out the purposes described in subsection (c)(2), including—*

*''(i) training in direct service programs for the hungry and other anti-hunger programs in conjunction with community-based organizations through a program of field placement; and*

*''(ii) providing experience in policy development through placement in a governmental entity or nongovernmental, nonprofit, or private sector organization.*

*''(B) WORK PLAN.—To carry out subparagraph (A) and assist in the evaluation of the fellowships under paragraph (6), the Director shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities relating to those objectives.*

*''(3) PERIOD OF FELLOWSHIP.—*

*''(A) BILL EMERSON HUNGER FELLOW.—A Bill Emerson Hunger Fellowship awarded under this section shall be for not more than 15 months.*

*''(B) MICKEY LELAND HUNGER FELLOW.—A Mickey Leland Hunger Fellowship awarded under this section shall be for not more than 2 years.*

*''(4) SELECTION OF FELLOWS.—*

*''(A) IN GENERAL.—Fellowships shall be awarded pursuant to a nationwide competition established by the Director.*

*''(B) QUALIFICATIONS.—A successful program applicant shall be an individual who has demonstrated—*

*''(i) an intent to pursue a career in humanitarian services and outstanding potential for such a career;*

*''(ii) leadership potential or actual leadership experience;*

*''(iii) diverse life experience;*

*''(iv) proficient writing and speaking skills;*

*''(v) an ability to live in poor or diverse communities; and*

*''(vi) such other attributes as are considered to be appropriate by the Director.*

*''(5) AMOUNT OF AWARD.—*

*''(A) IN GENERAL.—A fellow shall receive—*

*''(i) a living allowance during the term of the Fellowship; and*

*''(ii) subject to subparagraph (B), an end-of-service award.*

*''(B) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each fellow shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service completed, as determined by the Director.*

*''(C) TERMS OF FELLOWSHIP.—A fellow shall not be considered an employee of—*

*''(i) the Department of Agriculture;*

*''(ii) the Congressional Hunger Center; or*

*''(iii) a host agency in the field or policy placement of the fellow.*

*''(D) RECOGNITION OF FELLOWSHIP AWARD.—*

*''(i) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an 'Emerson Fellow'.*

*''(ii) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a 'Leland Fellow'.*

*''(6) EVALUATIONS AND AUDITS.—Under terms stipulated in the contract entered into under subsection (c)(3), the Director shall—*

*''(A) conduct periodic evaluations of the Fellowship Programs; and*

*''(B) arrange for annual independent financial audits of expenditures under the Fellowship Programs.*

*''(e) AUTHORITY.—*

*''(1) IN GENERAL.—Subject to paragraph (2), in carrying out this section, the Director may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of facilitating the work of the Fellowship Programs.*

*''(2) LIMITATION.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be used exclusively for the purposes of the Fellowship Programs.*

*''(f) REPORT.—The Director shall annually submit to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—*

*''(1) describes the activities and expenditures of the Fellowship Programs during the preceding fiscal year, including expenditures made from funds made available under subsection (g); and*

*''(2) includes the results of evaluations and audits required by subsection (d).*

*''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.''.*

***SEC. 4402. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.***

*Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—*

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

*''(a) DEFINITIONS.—In this section:*

*''(1) COMMUNITY FOOD PROJECT.—In this section, the term 'community food project' means a community-based project that—*

*''(A) requires a 1-time contribution of Federal assistance to become self-sustaining; and*

*''(B) is designed—*

*''(i)(I) to meet the food needs of low-income individuals;*

*''(II) to increase the self-reliance of communities in providing for the food needs of the communities; and*

*''(III) to promote comprehensive responses to local food, farm, and nutrition issues; or*

*''(ii) to meet specific State, local, or neighborhood food and agricultural needs, including needs relating to—*

*''(I) infrastructure improvement and development;*

*''(II) planning for long-term solutions; or*

*''(III) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.*

*''(2) CENTER.—The term 'Center' means the healthy urban food enterprise development center established under subsection (h).*

*''(3) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community or an Indian tribe) that, as determined by the Secretary, has—*

*''(A) limited access to affordable, healthy foods, including fresh fruits and vegetables;*

*''(B) a high incidence of a diet-related disease (including obesity) as compared to the national average;*

*''(C) a high rate of hunger or food insecurity; or*

*''(D) severe or persistent poverty.'';*

*(2) by redesignating subsection (h) as subsection (i); and*

*(3) by inserting after subsection (g) the following:*

*''(h) HEALTHY URBAN FOOD ENTERPRISE DEVELOPMENT CENTER.—*

*''(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—*

*''(A) a nonprofit organization;*

*''(B) a cooperative;*

*''(C) a commercial entity;*

*''(D) an agricultural producer;*

*''(E) an academic institution;*

*''(F) an individual; and*

*''(G) such other entities as the Secretary may designate.*

*''(2) ESTABLISHMENT.—The Secretary shall offer to provide a grant to a nonprofit organization to establish and support a healthy urban food enterprise development center to carry out the purpose described in paragraph (3).*

*''(3) PURPOSE.—The purpose of the Center is to increase access to healthy affordable foods, including locally produced agricultural products, to underserved communities.*

*''(4) ACTIVITIES.—*

*''(A) TECHNICAL ASSISTANCE AND INFORMATION.—The Center shall collect, develop, and provide technical assistance and information to small and medium-sized agricultural producers, food wholesalers and retailers, schools, and other individuals and entities regarding best practices and the availability of assistance for aggregating, storing, processing, and marketing locally produced agricultural products and increasing the availability of such products in underserved communities.*

*''(B) AUTHORITY TO SUBGRANT.—The Center may provide subgrants to eligible entities—*

*''(i) to carry out feasibility studies to establish businesses for the purpose described in paragraph (3); and*

*''(ii) to establish and otherwise assist enterprises that process, distribute, aggregate, store, and market healthy affordable foods.*

*''(5) PRIORITY.—In providing technical assistance and grants under paragraph (4), the Center shall give priority to applications that include projects—*

*''(A) to benefit underserved communities; and*

*''(B) to develop market opportunities for small and mid-sized farm and ranch operations.*

*''(6) REPORT.—For each fiscal year for which the nonprofit organization described in paragraph (2) receives funds, the organization shall submit to the Secretary a report describing the activities carried out in the preceding fiscal year, including—*

*''(A) a description of technical assistance provided by the Center;*

*''(B) the total number and a description of the subgrants provided under paragraph (4)(B);*

*''(C) a complete listing of cases in which the activities of the Center have resulted in increased access to healthy, affordable foods, such as fresh fruit and vegetables, particularly for school-aged children and individuals in low-income communities; and*

*''(D) a determination of whether the activities identified in subparagraph (C) are sustained during the years following the initial provision of technical assistance and subgrants under this section.*

*''(7) COMPETITIVE AWARD PROCESS.—The Secretary shall use a competitive process to award funds to establish the Center.*

*''(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the total amount allocated for this subsection in a given fiscal year may be used for administrative expenses.*

*''(9) FUNDING.—*

*''(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2011.*

*''(B) ADDITIONAL FUNDING.—There is authorized to be appropriated $2,000,000 to carry out this subsection for fiscal year 2012.''.*

***SEC. 4403. JOINT NUTRITION MONITORING AND RELATED RESEARCH ACTIVITIES.***

*The Secretary and the Secretary of Health and Human Services shall continue to provide jointly for national nutrition monitoring and related research activities carried out as of the date of enactment of this Act—*

*(1) to collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample;*

*(2) to periodically collect data on special at-risk populations, as identified by the Secretaries;*

*(3) to distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion;*

*(4) to analyze new data that becomes available;*

*(5) to continuously update food composition tables; and*

*(6) to research and develop data collection methods and standards.*

**SEC. 4404. SECTION 32 FUNDS FOR PURCHASE OF FRUITS, VEGETABLES, AND NUTS TO SUPPORT DOMESTIC NUTRITION ASSISTANCE PROGRAMS.**

*(a) FUNDING FOR ADDITIONAL PURCHASES OF FRUITS, VEGETABLES, AND NUTS.—In addition to the purchases of fruits, vegetables, and nuts required by section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4), the Secretary of Agriculture shall purchase fruits, vegetables, and nuts for the purpose of providing nutritious foods for use in domestic nutrition assistance programs, using, of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the following amounts:*

*(1) $190,000,000 for fiscal year 2008.*

*(2) $193,000,000 for fiscal year 2009.*

*(3) $199,000,000 for fiscal year 2010.*

*(4) $203,000,000 for fiscal year 2011.*

*(5) $206,000,000 for fiscal year 2012 and each fiscal year thereafter.*

*(b) FORM OF PURCHASES.—Fruits, vegetables, and nuts may be purchased under this section in the form of frozen, canned, dried, or fresh fruits, vegetables, and nuts.*

*(c) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—Section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4) is amended by striking subsection (b) and inserting the following:*

*''(b) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—The Secretary of Agriculture shall purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) using, of the amount specified in subsection (a), not less than $50,000,000 for each of fiscal years 2008 through 2012.''.*

**SEC. 4405. HUNGER-FREE COMMUNITIES.**

*(a) DEFINITIONS.—In this section:*

*(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a public food program service provider or nonprofit organization, including an emergency feeding organization, that has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.*

*(2) EMERGENCY FEEDING ORGANIZATION.—The term ''emergency feeding organization'' has the meaning given the term in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).*

*(3) HUNGER-FREE COMMUNITIES GOAL.—The term ''hunger-free communities goal'' means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).*

*(b) HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.—*

*(1) PROGRAM.—*

*(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).*

*(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.*

*(C) NON-FEDERAL SHARE.—*

*(i) CALCULATION.—The non-Federal share of the cost of an activity under this subsection may be provided in cash or fairly evaluated in-kind contributions, including facilities, equipment, or services.*

*(ii) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this subsection through a State government, a local government, or a private source.*

*(2) USE OF FUNDS.—An eligible entity in a community shall use a grant received under this subsection for any fiscal year for hunger relief activities, including—*

*(A) meeting the immediate needs of people who experience hunger in the community served by the eligible entity by—*

*(i) distributing food;*

*(ii) providing community outreach to assist in participation in federally assisted nutrition programs, including—*

*(I) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);*

*(II) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);*

*(III) the summer food service program for children established under section 13 of that Act; and*

*(IV) other Federal programs that provide food for children in child care facilities and homeless and older individuals; or*

*(iii) improving access to food as part of a comprehensive service; and*

*(B) developing new resources and strategies to help reduce hunger in the community and prevent hunger in the future by—*

*(i) developing creative food resources, such as community gardens, buying clubs, food cooperatives, community-owned and operated grocery stores, and farmers' markets;*

*(ii) coordinating food services with park and recreation programs and other community-based outlets to reduce barriers to access; or*

*(iii) creating nutrition education programs for at-risk populations to enhance food-purchasing and food-preparation skills and to heighten awareness of the connection between diet and health.*

*(c) HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.—*

*(1) PROGRAM AUTHORIZED.—*

*(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available for a fiscal year under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).*

*(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.*

*(2) APPLICATION.—*

*(A) IN GENERAL.—To receive a grant under this subsection, an eligible entity shall submit an application at such time, in such form, and containing such information as the Secretary may prescribe.*

*(B) CONTENTS.—Each application submitted under subparagraph (A) shall—*

*(i) identify any activity described in paragraph (3) that the grant will be used to fund; and*

*(ii) describe the means by which an activity identified under clause (i) will reduce hunger in the community of the eligible entity.*

*(C) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate 2 or more of the following:*

*(i) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.*

*(ii) The eligible entity serves a community that has successfully carried out long-term efforts to reduce hunger in the community.*

*(iii) The eligible entity serves a community that provides public support for the efforts of the eligible entity.*

*(iv) The eligible entity is committed to achieving more than 1 hunger-free communities goal.*

*(3) USE OF FUNDS.—An eligible entity shall use a grant received under this subsection to construct, expand, or repair a facility or equipment to support hunger relief efforts in the community.*

*(d) REPORT.—If funds are made available under subsection (e) to carry out this section, not later than September 30, 2012, the Secretary shall submit to Congress a report that describes—*

*(1) each grant made under this section, including—*

*(A) a description of any activity funded; and*

*(B) the degree of success of each activity funded in achieving hunger free-communities goals; and*

*(2) the degree of success of all activities funded under this section in achieving domestic hunger goals.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.*

**SEC. 4406. REAUTHORIZATION OF FEDERAL FOOD ASSISTANCE PROGRAMS.**

*(a) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking ''for each of the fiscal years 2003 through 2007'' and inserting ''for each of fiscal years 2008 through 2012''.*

*(2) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—Section 11(t)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(t)(1)) is amended by striking ''For each of fiscal years 2003 through 2007'' and inserting ''Subject to the availability of appropriations under section 18(a), for each fiscal year''.*

*(3) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—Section 16(h)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)) is amended—*

*(A) in subparagraph (A), by striking ''the amount of—'' and all that follows through the end of the subparagraph and inserting '', $90,000,000 for each fiscal year.''; and*

*(B) in subparagraph (E)(i), by striking ''for each of fiscal years 2002 through 2007'' and inserting ''for each fiscal year''.*

*(4) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(k)(3)) is amended—*

*(A) in the first sentence of subparagraph (A), by striking ''effective for each of fiscal years 1999 through 2007,''; and*

*(B) in subparagraph (B)(ii), by striking ''through fiscal year 2007''.*

*(5) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended—*

*(A) by striking ''Any pilot'' and inserting ''Subject to the availability of appropriations under section 18(a), any pilot''; and*

*(B) by striking ''through October 1, 2007,''.*

*(6) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking ''for each of fiscal years 2004 through 2007'' and inserting ''subject to the availability of appropriations under section 18(a), for each fiscal year thereafter''.*

*(7) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—*

*(A) in subsection (b)(2)(B), by striking ''for each of fiscal years 1997 through 2007'' and inserting ''for fiscal year 2008 and each fiscal year thereafter''; and*

*(B) in subsection (i)(4) (as redesignated by section 4402), by striking ''of fiscal years 2003 through 2007'' and inserting ''fiscal year thereafter''.*

*(b) COMMODITY DISTRIBUTION.—*

*(1) EMERGENCY FOOD ASSISTANCE.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence by striking ''for each of the fiscal years 2003 through 2007'' and inserting ''for fiscal year 2008 and each fiscal year thereafter''.*

*(2) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking ''years 1991 through 2007'' and inserting ''years 2008 through 2012''.*

*(3) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—*

*(A) in subsection (a)—*

*(i) in paragraph (1), by striking ''each of fiscal years 2003 through 2007'' and inserting ''each of fiscal years 2008 through 2012''; and*

*(ii) in paragraph (2)(B), by striking the subparagraph designation and heading and all that follows through ''2007'' and inserting the following:*

*''(B) SUBSEQUENT FISCAL YEARS.—For each of fiscal years 2004 through 2012''; and*

*(B) in subsection (d)(2), by striking ''each of the fiscal years 1991 through 2007'' and inserting ''each of fiscal years 2008 through 2012''.*

*(4) DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking ''Effective through September 30, 2007'' and inserting ''For each of fiscal years 2008 through 2012''.*

*(c) FARM SECURITY AND RURAL INVESTMENT.—*

*(1) SENIORS FARMERS' MARKET NUTRITION PROGRAM.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by striking by striking subsection (a) and inserting the following:*

*''(a) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out and expand the seniors farmers' market nutrition program $20,600,000 for each of fiscal years 2008 through 2012.''.*

*(2) NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.—Section 4403(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3171 note; Public Law 107–171) is amended by striking ''2007'' and inserting ''2012''.*

***SEC. 4407. EFFECTIVE AND IMPLEMENTATION DATES.***

*Except as otherwise provided in this title, this title and the amendments made by this title take effect on October 1, 2008.*

## *TITLE V—CREDIT*

### *Subtitle A—Farm Ownership Loans*

***SEC. 5001. DIRECT LOANS.***

*Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended—*

*(1) by striking the section designation and heading and all that follows through ''(a) The Secretary is authorized to'' and inserting the following:*

***''SEC. 302. PERSONS ELIGIBLE FOR REAL ESTATE LOANS.***

*''(a) IN GENERAL.—The Secretary may''; and*

*(2) in subsection (a)(2), by inserting '', taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences'' after ''farming operations''.*

***SEC. 5002. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.***

*Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended to read as follows:*

***''SEC. 304. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.***

*''(a) IN GENERAL.—The Secretary may make or guarantee qualified conservation loans to eligible borrowers under this section.*

*''(b) DEFINITIONS.—In this section:*

*''(1) QUALIFIED CONSERVATION LOAN.—The term 'qualified conservation loan' means a loan, the proceeds of which are used to cover the costs to the borrower of carrying out a qualified conservation project.*

*''(2) QUALIFIED CONSERVATION PROJECT.—The term 'qualified conservation project' means conservation measures that address provisions of a conservation plan of the eligible borrower.*

*''(3) CONSERVATION PLAN.—The term 'conservation plan' means a plan, approved by the Secretary, that, for a farming or ranching operation, identifies the conservation activities that will be addressed with loan funds provided under this section, including—*

*''(A) the installation of conservation structures to address soil, water, and related resources;*

*''(B) the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;*

*''(C) the installation of water conservation measures;*

*''(D) the installation of waste management systems;*

*''(E) the establishment or improvement of permanent pasture;*

*''(F) compliance with section 1212 of the Food Security Act of 1985; and*

*''(G) other purposes consistent with the plan, including the adoption of any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.*

*''(c) ELIGIBILITY.—*

*''(1) IN GENERAL.—The Secretary may make or guarantee loans to farmers or ranchers in the United States, farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies that are controlled by farmers or ranchers and engaged primarily and directly in agricultural production in the United States.*

*''(2) REQUIREMENTS.—To be eligible for a loan under this section, applicants shall meet the requirements in paragraphs (1) and (2) of section 302(a).*

*''(d) PRIORITY.—In making or guaranteeing loans under this section, the Secretary shall give priority to—*

*''(1) qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers;*

*''(2) owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and*

*''(3) producers who use the loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985.*

*''(e) LIMITATIONS APPLICABLE TO LOAN GUARANTEES.—The portion of a loan that the Secretary may guarantee under this section shall be 75 percent of the principal amount of the loan.*

*''(f) ADMINISTRATIVE PROVISIONS.—The Secretary shall ensure, to the maximum extent practicable, that loans made or guaranteed under this section are distributed across diverse geographic regions.*

*''(g) CREDIT ELIGIBILITY.—The provisions of paragraphs (1) and (3) of section 333 shall not apply to loans made or guaranteed under this section.*

*''(h) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2008 through 2012, there are authorized to be appropriated to the Secretary such funds as are necessary to carry out this section.''.*

***SEC. 5003. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.***

*Section 305(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)(2)) is amended by striking ''$200,000'' and inserting ''$300,000''.*

***SEC. 5004. DOWN PAYMENT LOAN PROGRAM.***

*Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—*

*(1) in subsection (a)(1), by striking ''and ranchers'' and inserting ''or ranchers and socially disadvantaged farmers or ranchers'';*

*(2) in subsection (b)—*

*(A) by striking paragraph (1) and inserting the following;*

*''(1) PRINCIPAL.—Each loan made under this section shall be in an amount that does not exceed 45 percent of the least of—*

*''(A) the purchase price of the farm or ranch to be acquired;*

*''(B) the appraised value of the farm or ranch to be acquired; or*

*''(C) $500,000.*

*''(2) INTEREST RATE.—The interest rate on any loan made by the Secretary under this section shall be a rate equal to the greater of—*

*''(A) the difference obtained by subtracting 4 percent from the interest rate for farm ownership loans under this subtitle; or*

*''(B) 1.5 percent.''; and*

*(B) in paragraph (3), by striking ''15'' and inserting ''20'';*

*(3) in subsection (c)—*

*(A) in paragraph (1), by striking ''10'' and inserting ''5'';*

*(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and*

*(C) in paragraph (2)(B) (as so redesignated), by striking ''15-year'' and inserting ''20-year'';*

*(4) in subsection (d)—*

*(A) in paragraph (3)—*

*(i) by inserting ''and socially disadvantaged farmers or ranchers'' after ''ranchers''; and*

*(ii) by striking ''and'' at the end;*

*(B) in paragraph (4), by striking ''and ranchers.'' and inserting '' or ranchers or socially disadvantaged farmers or ranchers; and''; and*

*(C) by adding at the end the following:*

*''(5) establish annual performance goals to promote the use of the down payment loan program and other joint financing arrangements as the preferred choice for direct real estate loans made by any lender to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher.''; and*

*(5) by adding at the end the following:*

*''(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER DEFINED.—In this section, the term 'socially disadvantaged farmer or rancher' has the meaning given that term in section 355(e)(2).''.*

***SEC. 5005. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.***

*Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is amended to read as follows:*

***''SEC. 310F. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.***

*''(a) IN GENERAL.—The Secretary shall, in accordance with this section, guarantee a loan made by a private seller of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher (as defined in section 355(e)(2)) on a contract land sales basis.*

*''(b) ELIGIBILITY.—In order to be eligible for a loan guarantee under subsection (a)—*

*''(1) the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher shall—*

*''(A) on the date the contract land sale that is subject of the loan is complete, own and operate the farm or ranch that is the subject of the contract land sale;*

*''(B) have a credit history that—*

*''(i) includes a record of satisfactory debt repayment, as determined by the Secretary; and*

*''(ii) is acceptable to the Secretary; and*

*''(C) demonstrate to the Secretary that the farmer or rancher, as the case may be, is unable to obtain sufficient credit without a guarantee to finance any actual need of the farmer or rancher, as the case may be, at a reasonable rate or term; and*

*''(2) the loan shall meet applicable underwriting criteria, as determined by the Secretary.*

*''(c) LIMITATIONS.—*

*''(1) DOWN PAYMENT.—The Secretary shall not provide a loan guarantee under subsection (a) if the contribution of the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher to the down payment for the farm or ranch that is the subject of the contract land sale would be less than 5 percent of the purchase price of the farm or ranch.*

*''(2) MAXIMUM PURCHASE PRICE.—The Secretary shall not provide a loan guarantee under*

*subsection (a) if the purchase price or the appraisal value of the farm or ranch that is the subject of the contract land sale is greater than $500,000.*

*''(d) PERIOD OF GUARANTEE.—The period during which a loan guarantee under this section is in effect shall be the 10-year period beginning with the date the guarantee is provided.*

*''(e) GUARANTEE PLAN.—*

*''(1) SELECTION OF PLAN.—A private seller of a farm or ranch who makes a loan that is guaranteed by the Secretary under subsection (a) may select—*

*''(A) a prompt payment guarantee plan, which shall cover—*

*''(i) 3 amortized annual installments; or*

*''(ii) an amount equal to 3 annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments); or*

*''(B) a standard guarantee plan, which shall cover an amount equal to 90 percent of the outstanding principal of the loan.*

*''(2) ELIGIBLITY FOR STANDARD GUARANTEE PLAN.—In order for a private seller to be eligible for a standard guarantee plan referred to in paragraph (1)(B), the private seller shall—*

*''(A) secure a commercial lending institution or similar entity, as determined by the Secretary, to serve as an escrow agent; or*

*''(B) in cooperation with the farmer or rancher, use an appropriate alternate arrangement, as determined by the Secretary.*

*''(f) TRANSITION FROM PILOT PROGRAM.—*

*''(1) IN GENERAL.—The Secretary may phase-in the implementation of the changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program provided for in this section.*

*''(2) LIMITATION.—All changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program must be implemented for the 2011 Fiscal Year.''.*

***Subtitle B—Operating Loans***

***SEC. 5101. FARMING EXPERIENCE AS ELIGIBILITY REQUIREMENT.***

*Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended—*

*(1) by striking the section designation and all that follows through ''(a) The Secretary is authorized to'' and inserting the following:*

***''SEC. 311. PERSONS ELIGIBLE FOR LOANS.***

*''(a) IN GENERAL.—The Secretary may'';*

*(2) in subsection (a)(2), by inserting '', taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences'' after ''farming operations''.*

***SEC. 5102. LIMITATIONS ON AMOUNT OF OPERATING LOANS.***

*Section 313(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943(a)(1)) is amended by striking ''$200,000'' and inserting ''$300,000''.*

***SEC. 5103. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.***

*Section 5102 of the Farm Security And Rural Investment Act of 2002 (7 U.S.C. 1949 note; Public Law 107–171) is amended by striking ''September 30, 2007'' and inserting ''December 31, 2010''.*

***Subtitle C—Emergency Loans***

***SEC. 5201. ELIGIBILITY OF EQUINE FARMERS AND RANCHERS FOR EMERGENCY LOANS.***

*Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—*

*(1) in paragraph (1), by striking ''farmers, ranchers'' and inserting ''farmers or ranchers (including equine farmers or ranchers)''; and*

*(2) in paragraph (2)(A), by striking ''farming, ranching,'' and inserting ''farming or ranching (including equine farming or ranching)''.*

***Subtitle D—Administrative Provisions***

***SEC. 5301. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.***

*Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 333A the following:*

***''SEC. 333B. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.***

*''(a) DEFINITIONS.—In this section:*

*''(1) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a demonstration program carried out by a qualified entity under the pilot program established in subsection (b)(1).*

*''(2) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means a qualified beginning farmer or rancher that—*

*''(A) lacks significant financial resources or assets; and*

*''(B) has an income that is less than—*

*''(i) 80 percent of the median income of the State in which the farmer or rancher resides; or*

*''(ii) 200 percent of the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services for the State.*

*''(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term 'individual development account' means a savings account described in subsection (b)(4)(A).*

*''(4) QUALIFIED ENTITY.—*

*''(A) IN GENERAL.—The term 'qualified entity' means—*

*''(i) 1 or more organizations—*

*''(I) described in section 501(c)(3) of the Internal Revenue Code of 1986; and*

*''(II) exempt from taxation under section 501(a) of such Code; or*

*''(ii) a State, local, or tribal government submitting an application jointly with an organization described in clause (i).*

*''(B) NO PROHIBITION ON COLLABORATION.—An organization described in subparagraph (A)(i) may collaborate with a financial institution or for-profit community development corporation to carry out the purposes of this section.*

*''(b) PILOT PROGRAM.—*

*''(1) IN GENERAL.—The Secretary shall establish a pilot program to be known as the 'New Farmer Individual Development Accounts Pilot Program' under which the Secretary shall work through qualified entities to establish demonstration programs—*

*''(A) of at least 5 years in duration; and*

*''(B) in at least 15 States.*

*''(2) COORDINATION.—The Secretary shall operate the pilot program through, and in coordination with the farm loan programs of, the Farm Service Agency.*

*''(3) RESERVE FUNDS.—*

*''(A) IN GENERAL.—A qualified entity carrying out a demonstration program under this section shall establish a reserve fund consisting of a non-Federal match of 50 percent of the total amount of the grant awarded to the demonstration program under this section.*

*''(B) FEDERAL FUNDS.—After the qualified entity has deposited the non-Federal matching funds described in subparagraph (A) in the reserve fund, the Secretary shall provide the total amount of the grant awarded under this section to the demonstration program for deposit in the reserve fund.*

*''(C) USE OF FUNDS.—Of the funds deposited under subparagraph (B) in the reserve fund established for a demonstration program, the qualified entity carrying out the demonstration program—*

*''(i) may use up to 10 percent for administrative expenses; and*

*''(ii) shall use the remainder in making matching awards described in paragraph (4)(B)(ii)(I).*

*''(D) INTEREST.—Any interest earned on amounts in a reserve fund established under subparagraph (A) may be used by the qualified entity as additional matching funds for, or to administer, the demonstration program.*

*''(E) GUIDANCE.—The Secretary shall issue guidance regarding the investment requirements of reserve funds established under this paragraph.*

*''(F) REVERSION.—On the date on which all funds remaining in any individual development account established by a qualified entity have reverted under paragraph (5)(B)(ii) to the reserve fund established by the qualified entity, there shall revert to the Treasury of the United States a percentage of the amount (if any) in the reserve fund equal to—*

*''(i) the amount of Federal funds deposited in the reserve fund under subparagraph (B) that were not used for administrative expenses; divided by*

*''(ii) the total amount of funds deposited in the reserve fund.*

*''(4) INDIVIDUAL DEVELOPMENT ACCOUNTS.—*

*''(A) IN GENERAL.—A qualified entity receiving a grant under this section shall establish and administer individual development accounts for eligible participants.*

*''(B) CONTRACT REQUIREMENTS.—To be eligible to receive funds under this section from a qualified entity, an eligible participant shall enter into a contract with only 1 qualified entity under which—*

*''(i) the eligible participant agrees—*

*''(I) to deposit a certain amount of funds of the eligible participant in a personal savings account, as prescribed by the contractual agreement between the eligible participant and the qualified entity;*

*''(II) to use the funds described in subclause (I) only for 1 or more eligible expenditures described in paragraph (5)(A); and*

*''(III) to complete financial training; and*

*''(ii) the qualified entity agrees—*

*''(I) to deposit, not later than 1 month after an amount is deposited pursuant to clause (i)(I), at least a 100-percent, and up to a 200-percent, match of that amount into the individual development account established for the eligible participant; and*

*''(II) with uses of funds proposed by the eligible participant.*

*''(C) LIMITATION.—*

*''(i) IN GENERAL.—A qualified entity administering a demonstration program under this section may provide not more than $6,000 for each fiscal year in matching funds to the individual development account established by the qualified entity for an eligible participant.*

*''(ii) TREATMENT OF AMOUNT.—An amount provided under clause (i) shall not be considered to be a gift or loan for mortgage purposes.*

*''(5) ELIGIBLE EXPENDITURES.—*

*''(A) IN GENERAL.—An eligible expenditure described in this subparagraph is an expenditure—*

*''(i) to purchase farmland or make a down payment on an accepted purchase offer for farmland;*

*''(ii) to make mortgage payments on farmland purchased pursuant to clause (i), for up to 180 days after the date of the purchase;*

*''(iii) to purchase breeding stock, fruit or nut trees, or trees to harvest for timber; and*

*''(iv) for other similar expenditures, as determined by the Secretary.*

*''(B) TIMING.—*

*''(i) IN GENERAL.—An eligible participant may make an eligible expenditure at any time during the 2-year period beginning on the date on which the last matching funds are provided under paragraph (4)(B)(ii)(I) to the individual development account established for the eligible participant.*

*''(ii) UNEXPENDED FUNDS.—At the end of the period described in clause (i), any funds remaining in an individual development account established for an eligible participant shall revert to the reserve fund of the demonstration program under which the account was established.*

*''(c) APPLICATIONS.—*

*''(1) IN GENERAL.—A qualified entity that seeks to carry out a demonstration program*

*under this section may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.*

*''(2) CRITERIA.—In considering whether to approve an application to carry out a demonstration program under this section, the Secretary shall assess—*

*''(A) the degree to which the demonstration program described in the application is likely to aid eligible participants in successfully pursuing new farming opportunities;*

*''(B) the experience and ability of the qualified entity to responsibly administer the demonstration program;*

*''(C) the experience and ability of the qualified entity in recruiting, educating, and assisting eligible participants to increase economic independence and pursue or advance farming opportunities;*

*''(D) the aggregate amount of direct funds from non-Federal public sector and private sources that are formally committed to the demonstration program as matching contributions;*

*''(E) the adequacy of the plan of the qualified entity to provide information relevant to an evaluation of the demonstration program; and*

*''(F) such other factors as the Secretary considers to be appropriate.*

*''(3) PREFERENCES.—In considering an application to conduct a demonstration program under this section, the Secretary shall give preference to an application from a qualified entity that demonstrates—*

*''(A) a track record of serving clients targeted by the program, including, as appropriate, socially disadvantaged farmers or ranchers (as defined in section 355(e)(2)); and*

*''(B) expertise in dealing with financial management aspects of farming.*

*''(4) APPROVAL.—Not later than 1 year after the date of enactment of this section, in accordance with this section, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration programs as the Secretary considers appropriate.*

*''(5) TERM OF AUTHORITY.—If the Secretary approves an application to carry out a demonstration program, the Secretary shall authorize the applicant to carry out the project for a period of 5 years, plus an additional 2 years to make eligible expenditures in accordance with subsection (b)(5)(B).*

*''(d) GRANT AUTHORITY.—*

*''(1) IN GENERAL.—The Secretary shall make a grant to a qualified entity authorized to carry out a demonstration program under this section.*

*''(2) MAXIMUM AMOUNT OF GRANTS.—The aggregate amount of grant funds provided to a demonstration program carried out under this section shall not exceed $250,000.*

*''(3) TIMING OF GRANT PAYMENTS.—The Secretary shall pay the amounts awarded under a grant made under this section—*

*''(A) on the awarding of the grant; or*

*''(B) pursuant to such payment plan as the qualified entity may specify.*

*''(e) REPORTS.—*

*''(1) ANNUAL PROGRESS REPORTS.—*

*''(A) IN GENERAL.—Not later than 60 days after the end of the calendar year in which the Secretary authorizes a qualified entity to carry out a demonstration program under this section, and annually thereafter until the conclusion of the demonstration program, the qualified entity shall prepare an annual report that includes, for the period covered by the report—*

*''(i) an evaluation of the progress of the demonstration program;*

*''(ii) information about the demonstration program, including the eligible participants and the individual development accounts that have been established; and*

*''(iii) such other information as the Secretary may require.*

*''(B) SUBMISSION OF REPORTS.—A qualified entity shall submit each report required under subparagraph (A) to the Secretary.*

*''(2) REPORTS BY THE SECRETARY.—Not later than 1 year after the date on which all demonstration programs under this section are concluded, the Secretary shall submit to Congress a final report that describes the results and findings of all reports and evaluations carried out under this section.*

*''(f) ANNUAL REVIEW.—The Secretary may conduct an annual review of the financial records of a qualified entity—*

*''(1) to assess the financial soundness of the qualified entity; and*

*''(2) to determine the use of grant funds made available to the qualified entity under this section.*

*''(g) REGULATIONS.—In carrying out this section, the Secretary may promulgate regulations to ensure that the program includes provisions for—*

*''(1) the termination of demonstration programs;*

*''(2) control of the reserve funds in the case of such a termination;*

*''(3) transfer of demonstration programs to other qualified entities; and*

*''(4) remissions from a reserve fund to the Secretary in a case in which a demonstration program is terminated without transfer to a new qualified entity.*

*''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.''.*

***SEC. 5302. INVENTORY SALES PREFERENCES; LOAN FUND SET-ASIDES.***

*(a) INVENTORY SALES PREFERENCES.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—*

*(1) in paragraph (1)—*

*(A) in subparagraph (B)—*

*(i) in the subparagraph heading, by inserting ''; SOCIALLY DISADVANTAGED FARMER OR RANCHER'' after ''OR RANCHER'';*

*(ii) in clause (i), by inserting '' or a socially disadvantaged farmer or rancher'' after ''or rancher'';*

*(iii) in clause (ii), by inserting ''or socially disadvantaged farmer or rancher'' after ''or rancher'';*

*(iv) in clause (iii), by inserting ''or a socially disadvantaged farmer or rancher'' after ''or rancher''; and*

*(v) in clause (iv), by striking ''and ranchers'' and inserting ''or ranchers and socially disadvantaged farmers or ranchers''; and*

*(B) in subparagraph (C), by inserting ''or a socially disadvantaged farmer or rancher'' after ''or rancher'';*

*(2) in paragraph (5)(B)—*

*(A) in clause (i)—*

*(i) in the clause heading, by inserting ''; SOCIALLY DISADVANTAGED FARMER OR RANCHER'' after ''OR RANCHER'';*

*(ii) by inserting ''or a socially disadvantaged farmer or rancher'' after ''a beginning farmer or rancher''; and*

*(iii) by inserting ''or the socially disadvantaged farmer or rancher'' after ''the beginning farmer or rancher''; and*

*(B) in clause (ii)—*

*(i) in the matter preceding subclause (I), by inserting ''or a socially disadvantaged farmer or rancher'' after ''or rancher''; and*

*(ii) in subclause (II), by inserting ''or the socially disadvantaged farmer or rancher'' after ''or rancher''; and*

*(3) in paragraph (6)—*

*(A) in subparagraph (A), by inserting ''or a socially disadvantaged farmer or rancher'' after ''or rancher''; and*

*(B) in subparagraph (C)—*

*(i) in clause (i)(I), by striking ''and ranchers'' and inserting ''or ranchers and socially disadvantaged farmers or ranchers''; and*

*(ii) in clause (ii), by inserting ''or socially disadvantaged farmers or ranchers'' after ''or ranchers''.*

*(b) LOAN FUND SET-ASIDES.—Section 346(b)(2) of such Act (7 U.S.C. 1994(b)(2)) is amended—*

*(1) in subparagraph (A)—*

*(A) in clause (i)—*

*(i) in subclause (I), by striking ''70 percent'' and inserting ''an amount that is not less than 75 percent of the total amount''; and*

*(ii) in subclause (II)—*

*(I) in the subclause heading, by inserting ''; JOINT FINANCING ARRANGEMENTS'' after ''PAYMENT LOANS'';*

*(II) by striking ''60 percent'' and inserting ''an amount not less than ⅔ of the amount''; and*

*(III) by inserting ''and joint financing arrangements under section 307(a)(3)(D)'' after ''section 310E''; and*

*(B) in clause (ii)(III), by striking ''2003 through 2007, 35 percent'' and inserting ''2008 through 2012, an amount that is not less than 50 percent of the total amount''; and*

*(2) in subparagraph (B)(i), by striking ''25 percent'' and inserting ''an amount that is not less than 40 percent of the total amount''.*

***SEC. 5303. LOAN AUTHORIZATION LEVELS.***

*Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended—*

*(1) in the matter preceding subparagraph (A), by striking ''$3,796,000,000 for each of fiscal years 2003 through 2007'' and inserting ''$4,226,000,000 for each of fiscal years 2008 through 2012''; and*

*(2) in subparagraph (A)—*

*(A) in the matter preceding clause (i), by striking ''$770,000,000'' and inserting ''$1,200,000,000'';*

*(B) in clause (i), by striking ''$205,000,000'' and inserting ''$350,000,000''; and*

*(C) in clause (ii), by striking ''$565,000,000'' and inserting ''$850,000,000''.*

***SEC. 5304. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.***

*Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 344 the following:*

***''SEC. 345. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.***

*''(a) IN GENERAL.—In making or insuring a farm loan under subtitle A or B, the Secretary shall establish a plan and promulgate regulations (including performance criteria) that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest period of time practicable.*

*''(b) COORDINATION.—In carrying out this section, the Secretary shall integrate and coordinate the transition policy described in subsection (a) with—*

*''(1) the borrower training program established by section 359;*

*''(2) the loan assessment process established by section 360;*

*''(3) the supervised credit requirement established by section 361;*

*''(4) the market placement program established by section 362; and*

*''(5) other appropriate programs and authorities, as determined by the Secretary.''.*

***SEC. 5305. EXTENSION OF THE RIGHT OF FIRST REFUSAL TO REACQUIRE HOMESTEAD PROPERTY TO IMMEDIATE FAMILY MEMBERS OF BORROWER-OWNER.***

*Section 352(c)(4)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)(4)(B)) is amended—*

*(1) in the 1st sentence, by striking '', the borrower-owner'' inserting ''of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 355(e)(2)), the borrower-owner or a member of the immediate family of the borrower-owner''; and*

*(2) in the 2nd sentence, by inserting ''or immediate family member, as the case may be,'' before ''from''.*

***SEC. 5306. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.***

*Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is*

*amended by inserting after section 364 the following:*

**"SEC. 365. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.**

*''The Secretary may not complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.''.*

**Subtitle E—Farm Credit**

**SEC. 5401. FARM CREDIT SYSTEM INSURANCE CORPORATION.**

*(a) IN GENERAL.—Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—*

*(1) in the first sentence, by striking ''Each Farm'' and inserting the following;*

*''(1) IN GENERAL.—Each Farm''; and*

*(2) by striking the second sentence and inserting the following:*

*''(2) COMPUTATION.—The assessment on any association or other financing institution described in paragraph (1) for any period shall be computed in an equitable manner, as determined by the Corporation.''.*

*(b) RULES AND REGULATIONS.—Section 5.58(10) of such Act (12 U.S.C. 2277a-7(10)) is amended by inserting ''and section 1.12(b)'' after ''part''.*

**SEC. 5402. TECHNICAL CORRECTION.**

*Section 3.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2124(b)) is amended in the first sentence by striking ''per'' and inserting ''par''.*

**SEC. 5403. BANK FOR COOPERATIVES VOTING STOCK.**

*(a) IN GENERAL.—Section 3.3(c) of the Farm Credit Act of 1971 (12 U.S.C. 2124(c)) is amended by striking ''and (ii)'' and inserting ''(ii) other categories of persons and entities described in sections 3.7 and 3.8 eligible to borrow from the bank, as determined by the bank's board of directors; and (iii)''.*

*(b) CONFORMING AMENDMENTS.—Section 4.3A(c)(1)(D) of such Act (12 U.S.C. 2154a(c)(1)(D)) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting after clause (i) the following:*

*''(ii) persons and entities eligible to borrow from the banks for cooperatives, as described in section 3.3(c)(ii);''.*

**SEC. 5404. PREMIUMS.**

*(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Section 5.55(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(a)) is amended—*

*(1) in paragraph (1)—*

*(A) in the matter preceding subparagraph (A)—*

*(i) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and*

*(ii) by striking ''annual'' ; and*

*(B) by striking subparagraphs (A) through (D) and inserting the following:*

*''(A) the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and*

*''(B) the product obtained by multiplying—*

*''(i) the sum of—*

*''(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and*

*''(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by*

*''(ii) 0.0010.'';*

*(2) by striking paragraph (4);*

*(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;*

*(4) by inserting after paragraph (1) the following:*

*''(2) DEDUCTIONS FROM AVERAGE OUTSTANDING INSURED OBLIGATIONS.—The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)—*

*''(A) 90 percent of each of—*

*''(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and*

*''(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and*

*''(B) 80 percent of each of—*

*''(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and*

*''(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.'';*

*(5) in paragraph (3) (as so redesignated by paragraph (3) of this subsection), by striking ''annual''; and*

*(6) in paragraph (4) (as so redesignated by paragraph (3) of this subsection)—*

*(A) in the paragraph heading, by inserting ''OR INVESTMENTS'' after ''LOANS'' ; and*

*(B) in the matter preceding subparagraph (A), by striking ''As used'' and all that follows through ''guaranteed—'' and inserting ''In this section, the term 'government-guaranteed', when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—''.*

*(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—Section 5.55(b) of such Act (12 U.S.C. 2277a-4(b)) is amended by striking ''annual''.*

*(c) SECURE BASE AMOUNT.—Section 5.55(c) of such Act (12 U.S.C. 2277a-4(c)) is amended—*

*(1) by striking ''For purposes'' and inserting the following:*

*''(1) IN GENERAL.—For purposes'';*

*(2) by striking ''(adjusted downward'' and all that follows through ''by the Corporation)'' and inserting ''(as adjusted under paragraph (2))''; and*

*(3) by adding at the end the following:*

*''(2) ADJUSTMENT.—The aggregate outstanding insured obligations of all insured System banks under paragraph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)—*

*''(A) 90 percent of each of—*

*''(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and*

*''(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and*

*''(B) 80 percent of each of—*

*''(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and*

*''(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.''.*

*(d) DETERMINATION OF LOAN AND INVESTMENT AMOUNTS.—Section 5.55(d) of such Act (12 U.S.C. 2277a-4(d)) is amended—*

*(1) in the subsection heading, by striking ''PRINCIPAL OUTSTANDING'' and inserting ''LOAN AND INVESTMENT AMOUNTS'';*

*(2) in the matter preceding paragraph (1), by striking ''For the purpose'' and all that follows through ''made—'' and inserting ''For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—'';*

*(3) in each of paragraphs (1), (2), and (3), by inserting ''all loans or investments made'' before ''by'' the first place it appears; and*

*(4) in each of paragraphs (1) and (2), by inserting ''or investments'' after ''that is able to make such loans'' each place it appears.*

*(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—Section 5.55(e) of such Act (12 U.S.C. 2277a-4(e)) is amended—*

*(1) in paragraph (3), by striking ''the average secure base amount for the calendar year (as calculated on an average daily balance basis)'' and inserting ''the secure base amount'';*

*(2) in paragraph (4), by striking subparagraph (B) and inserting the following:*

*''(B) there shall be credited to the allocated insurance reserves account of each insured system bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as—*

*''(i) the average principal outstanding for the calendar year on insured obligations issued by the bank (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to*

*''(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)).''; and*

*(3) in paragraph (6)—*

*(A) in subparagraph (A)—*

*(i) in the matter preceding clause (i), by striking ''beginning more'' and all that follows through ''January 1, 2005'';*

*(ii) by striking clause (i) and inserting the following:*

*''(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and''; and*

*(iii) in clause (ii)—*

*(I) by striking ''subparagraphs (C), (E), and (F)'' and inserting ''subparagraphs (C) and (E)''; and*

*(II) by striking '', of the lesser of—'' and all that follows through the end of subclause (II) and inserting ''at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).'';*

*(B) in subparagraph (C)—*

*(i) in clause (i), by striking ''(in addition to the amounts described in subparagraph (F)(ii))''; and*

*(ii) by striking clause (ii) and inserting the following:*

*''(ii) TERMINATION OF ACCOUNT.—On disbursement of an amount equal to $56,000,000, the Corporation shall—*

*''(I) close the account established under paragraph (1)(B); and*

*''(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.''; and*

*(C) by striking subparagraph (F).*

**SEC. 5405. CERTIFICATION OF PREMIUMS.**

*(a) FILING CERTIFIED STATEMENT.—Section 5.56 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5) is amended by striking subsection (a) and inserting the following:*

*''(a) FILING CERTIFIED STATEMENT.—On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became insured before the beginning of the period for which premiums are being assessed (referred to in this section as the 'period') shall file with the Corporation a certified statement showing—*

*''(1) the average outstanding insured obligations for the period issued by the bank;*

''(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

''(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

''(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

''(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

''(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

''(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

''(5) the amount of the premium due the Corporation from the bank for the period.''.

(b) PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended by striking subsection (c) and inserting the following:

''(c) PREMIUM PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

''(2) PREMIUM AMOUNT.—The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.''.

(c) SUBSEQUENT PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

**SEC. 5406. RURAL UTILITY LOANS.**

(a) DEFINITION OF QUALIFIED LOAN.—Section 8.0(9) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)) is amended—

(1) in subparagraph (A)(iii), by striking ''or'' at the end;

(2) in subparagraph (B)(ii), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) that is a loan, or an interest in a loan, for an electric or telephone facility by a cooperative lender to a borrower that has received, or is eligible to receive, a loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).''.

(b) GUARANTEE OF QUALIFIED LOANS.—Section 8.6(a)(1) of such Act (12 U.S.C. 2279aa–6(a)(1)) is amended by inserting ''applicable'' before ''standards'' each place it appears in subparagraphs (A) and (B)(i).

(c) STANDARDS FOR QUALIFIED LOANS.—Section 8.8 of such Act (12 U.S.C. 2279aa–8) is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following:

''(1) IN GENERAL.—The Corporation shall establish underwriting, security appraisal, and repayment standards for qualified loans taking into account the nature, risk profile, and other differences between different categories of qualified loans.

''(2) SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.—The standards shall be subject to the authorities of the Farm Credit Administration under section 8.11.''; and

(B) in the last sentence, by striking ''In establishing'' and inserting the following:

''(3) MORTGAGE LOANS.—In establishing'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''with respect to loans secured by agricultural real estate'' after ''subsection (a)''; and

(B) in paragraph (5)—

(i) by striking ''borrower'' the first place it appears and inserting ''farmer or rancher''; and

(ii) by striking ''site'' and inserting ''farm or ranch'';

(3) in subsection (c)(1), by inserting ''secured by agricultural real estate'' after ''A loan'';

(4) by striking subsection (d); and

(5) by redesignating subsection (e) as subsection (d).

(d) RISK-BASED CAPITAL LEVELS.—Section 8.32(a)(1) of such Act (12 U.S.C. 2279bb–1(a)(1)) is amended—

(1) by striking ''With respect'' and inserting the following:

''(A) IN GENERAL.—With respect''; and

(2) by adding at the end the following:

''(B) RURAL UTILITY LOANS.—With respect to securities representing an interest in, or obligation backed by, a pool of qualified loans described in section 8.0(9)(C) owned or guaranteed by the Corporation, losses occur at a rate of default and severity reasonably related to risks in electric and telephone facility loans (as applicable), as determined by the Director.''.

**SEC. 5407. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.**

(a) IN GENERAL.—The Farm Credit Act of 1971 is amended by inserting after section 7.6 (12 U.S.C. 2279b) the following:

**''SEC. 7.7. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.**

''(a) EQUALIZATION OF LOAN-MAKING POWERS.—

''(1) IN GENERAL.—

''(A) FEDERAL LAND BANK ASSOCIATIONS.—Subject to paragraph (2), any association that owns a Federal land bank association authorized as of January 1, 2007, to make long-term loans under title I in its chartered territory within the geographic area described in subsection (b) may make short- and intermediate-term loans and otherwise operate as a production credit association under title II within that same chartered territory.

''(B) PRODUCTION CREDIT ASSOCIATIONS.—Subject to paragraph (2), any association that under its charter has title I lending authority and that owns a production credit association authorized as of January 1, 2007, to make short- and intermediate-term loans under title II in the geographic area described in subsection (b) may make long-term loans and otherwise operate, directly or through a subsidiary association, as a Federal land bank association or Federal land credit association under title I in the geographic area.

''(C) FARM CREDIT BANK.—Notwithstanding section 5.17(a), the Farm Credit Bank with which any association had a written financing agreement as of January 1, 2007, may make loans and extend other comparable financial assistance with respect to, and may purchase, any loans made under the new authority provided under subparagraph (A) or (B) by an association exercising such authority.

''(2) REQUIRED APPROVALS.—An association may exercise the additional authority provided for in paragraph (1) only after the exercise of the authority is approved by—

''(A) the board of directors of the association; and

''(B) a majority of the voting stockholders of the association (or, if the association is a subsidiary of another association, the voting stockholders of the parent association) voting, in person or by proxy, at a duly authorized meeting of stockholders in accordance with the process described in section 7.11.

''(b) APPLICABILITY.—This section applies only to associations the chartered territory of which was within the geographic area served by the Federal intermediate credit bank immediately prior to its merger with a Farm Credit Bank under section 410(e)(1) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233).''.

(b) CHARTER AMENDMENTS.—Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

''(15)(A) Approve amendments to the charters of institutions of the Farm Credit System to implement the equalization of loan-making powers of a Farm Credit System association under section 7.7.

''(B) Amendments described in subparagraph (A) to the charters of an association and the related Farm Credit Bank shall be approved by the Farm Credit Administration, subject to any conditions of approval imposed, by not later than 30 days after the date on which the Farm Credit Administration receives all approvals required by section 7.7(a)(2).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended—

(A) by striking ''(2)(A)'' and inserting ''(2)''; and

(B) by striking subparagraphs (B) and (C).

(2) SECTION 410 OF THE 1987 ACT.—Section 410(e)(1)(A)(iii) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233) is amended by inserting ''(except section 7.7 of that Act)'' after ''(12 U.S.C. 2001 et seq.)''.

(3) SECTION 401 OF THE 1992 ACT.—Section 401(b) of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (12 U.S.C. 2011 note; Public Law 102–552) is amended—

(A) by inserting ''(except section 7.7 of the Farm Credit Act of 1971)'' after ''provision of law''; and

(B) by striking '', subject to such limitations'' and all that follows through the end of the paragraph and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2010.

### Subtitle F—Miscellaneous

**SEC. 5501. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.**

The first section of Public Law 91–229 (25 U.S.C. 488) is amended—

(1) by striking ''That the Secretary'' and inserting the following:

**''SECTION 1. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.**

''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(b) HIGHLY FRACTIONATED LAND.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) to eligible purchasers of highly fractionated land pursuant to section 205(c) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)).

''(2) EXCLUSION.—Section 4 shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).''.

## TITLE VI—RURAL DEVELOPMENT

### Subtitle A—Consolidated Farm and Rural Development Act

**SEC. 6001. WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.**

Section 306(a)(2)(B)(vii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)(B)(vii)) is amended by striking ''2002 through 2007'' and inserting ''2008 through 2012''.

**SEC. 6002. SEARCH GRANTS.**

(a) IN GENERAL.—Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by adding at the end the following:

''(C) SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM.—

''(i) IN GENERAL.—The Secretary may establish the Special Evaluation Assistance for Rural Communities and Households (SEARCH) program, to make predevelopment planning grants

*for feasibility studies, design assistance, and technical assistance, to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects described in paragraph (1), this paragraph, and paragraph (24).*

*''(ii) TERMS.—*

*''(I) DOCUMENTATION.—With respect to grants made under this subparagraph, the Secretary shall require the lowest amount of documentation practicable.*

*''(II) MATCHING.—Notwithstanding any other provisions in this subsection, the Secretary may fund up to 100 percent of the eligible costs of grants provided under this subparagraph, as determined by the Secretary.*

*''(iii) FUNDING.—The Secretary may use not more than 4 percent of the total amount of funds made available for a fiscal year for water, waste disposal, and essential community facility activities under this title to carry out this subparagraph.*

*''(iv) RELATIONSHIP TO OTHER AUTHORITY.—The funds and authorities provided under this subparagraph are in addition to any other funds or authorities the Secretary may have to carry out activities described in clause (i).''.*

*(b) CONFORMING AMENDMENT.—Subtitle D of title VI of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2009ee et seq.) is repealed.*

***SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.***

*Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended by striking ''1996 through 2007'' and inserting ''2008 through 2012''.*

***SEC. 6004. CHILD DAY CARE FACILITY GRANTS, LOANS, AND LOAN GUARANTEES.***

*Section 306(a)(19)(C)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)(C)(ii)) is amended by striking ''April'' and inserting ''June''.*

***SEC. 6005. COMMUNITY FACILITY GRANTS TO ADVANCE BROADBAND.***

*Section 306(a)(20)(E) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)(E)) is amended—*

*(1) by striking ''state'' and inserting ''State''; and*

*(2) by striking ''dial-up Internet access or''.*

***SEC. 6006. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.***

*Section 306(a)(22)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(22)(C)) is amended by striking ''$15,000,000 for fiscal year 2003'' and inserting ''$25,000,000 for fiscal year 2008''.*

***SEC. 6007. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.***

*Section 306(a)(25) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(25)) is amended—*

*(1) in subparagraph (A)—*

*(A) by striking ''tribal colleges and universities'' and inserting ''an entity that is a Tribal College or University''; and*

*(B) by striking ''tribal college or university'' and inserting ''Tribal College or University'';*

*(2) by striking subparagraph (B) and inserting the following:*

*''(B) FEDERAL SHARE.—The Secretary shall establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph, except that the Secretary may not require non-Federal financial support in an amount that is greater than 5 percent of the total cost of the facility.''; and*

*(3) in subparagraph (C), by striking ''2003 through 2007'' and inserting ''2008 through 2012''.*

***SEC. 6008. EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANT PROGRAM.***

*Section 306A(i)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a(i)(2)) is amended by striking ''2003 through 2007'' and inserting ''2008 through 2012''.*

***SEC. 6009. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.***

*(a) IN GENERAL.—Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking ''2001 through 2007'' and inserting ''2008 through 2012''.*

*(b) RURAL COMMUNITIES ASSISTANCE.—Section 4009 of the Solid Waste Disposal Act (42 U.S.C. 6949) is amended by adding at the end the following:*

*''(e) ADDITIONAL APPROPRIATIONS.—*

*''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for the Denali Commission to provide assistance to municipalities in the State of Alaska $1,500,000 for each of fiscal years 2008 through 2012.*

*''(2) ADMINISTRATION.—For the purpose of carrying out this subsection, the Denali Commission shall—*

*''(A) be considered a State; and*

*''(B) comply with all other requirements and limitations of this section.''.*

***SEC. 6010. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.***

*Section 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926e) is amended—*

*(1) in subsection (b)(2)(C), by striking ''$8,000'' and inserting ''$11,000''; and*

*(2) in subsection (d), by striking ''2003 through 2007'' and inserting ''2008 through 2012''.*

***SEC. 6011. INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.***

*Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end the following:*

*''(E) INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.—*

*''(i) IN GENERAL.—Except as provided in clause (ii) and notwithstanding subparagraph (A), in the case of a direct loan for a water or waste disposal facility—*

*''(I) in the case of a loan that would be subject to the 5 percent interest rate limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 60 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent; and*

*''(II) in the case of a loan that would be subject to the 7 percent limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 80 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent.*

*''(ii) EXCEPTION.—Clause (i) does not apply to a loan for a specific project that is the subject of a loan that has been approved, but not closed, as of the date of enactment of this subparagraph.''.*

***SEC. 6012. COOPERATIVE EQUITY SECURITY GUARANTEE.***

*(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—*

*(1) by striking ''SEC. 310B. (a)'' and inserting the following:*

***''SEC. 310B. ASSISTANCE FOR RURAL ENTITIES.***

*''(a) LOANS TO PRIVATE BUSINESS ENTERPRISES.—*

*''(1) DEFINITIONS.—In this subsection:'';*

*(2) in subsection (a)—*

*(A) by moving the second and fourth sentences so as to appear as the second and first sentences, respectively;*

*(B) in the sentence beginning ''As used in this subsection, the'' (as moved by subparagraph (A)), by striking ''As used in this subsection, the'' and inserting the following:*

*''(A) AQUACULTURE.—The'';*

*(C) in the sentence beginning ''For the purposes of this subsection, the'', by striking ''For the purposes of this subsection, the'' and inserting the following:*

*''(B) SOLAR ENERGY.—The'';*

*(D) in the sentence beginning ''The Secretary may also''—*

*(i) by striking ''The Secretary may also'' and inserting the following:*

*''(2) LOAN PURPOSES.—The Secretary may'';*

*(ii) by inserting ''and private investment funds that invest primarily in cooperative organizations'' after ''or nonprofit'';*

*(iii) by striking ''of (1) improving'' and inserting ''of—*

*''(A) improving'';*

*(iv) by striking ''control, (2) the'' and inserting ''control;*

*''(B) the'';*

*(v) by striking ''areas, (3) reducing'' and inserting ''areas;*

*''(C) reducing'';*

*(vi) by striking ''areas, and (4) to'' and inserting ''areas; and*

*''(D) to'';*

*(E) in the sentence beginning ''Such loans,'', by striking ''Such loans,'' and inserting the following:*

*''(3) LOAN GUARANTEES.—Loans described in paragraph (2),''; and*

*(F) in the last sentence, by striking ''No loan'' and inserting the following:*

*''(4) MAXIMUM AMOUNT OF PRINCIPAL.—No loan''; and*

*(3) in subsection (g)—*

*(A) in paragraph (1), by inserting '', including guarantees described in paragraph (3)(A)(ii)'' before the period at the end;*

*(B) in paragraph (3)(A)—*

*(i) by striking ''(A) IN GENERAL.—The Secretary'' and inserting the following:*

*''(A) ELIGIBILITY.—*

*''(i) IN GENERAL.—The Secretary''; and*

*(ii) by adding at the end the following:*

*''(ii) EQUITY.—The Secretary may guarantee a loan made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations, if the guarantee significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.''; and*

*(C) in paragraph (8)(A)(ii), by striking ''a project—'' and all that follows through the end of subclause (II) and inserting ''a project that—*

*''(I)(aa) is in a rural area; and*

*''(bb) provides for the value-added processing of agricultural commodities; or*

*''(II) significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii) and inserting the following:*

*''(ii) section 310B(a)(2)(A); and''.*

*(2) Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by striking ''subsection (a)(1)'' each place it appears in paragraphs (1), (6)(A)(iii), and (8)(C) and inserting ''subsection (a)(2)(A)''.*

*(3) Section 333A(g)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)(B)) is amended by striking ''section 310B(a)(1)'' and inserting ''section 310B(a)(2)(A)''.*

*(4) Section 381E(d)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d(d)(3)(B)) is amended by striking ''section 310B(a)(1)'' and inserting ''section 310B(a)(2)(A)''.*

**SEC. 6013. RURAL COOPERATIVE DEVELOPMENT GRANTS.**

(a) ELIGIBILITY.—Section 310B(e)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(5)) is amended—

(1) in subparagraph (A), by striking ''administering a nationally coordinated, regionally or State-wide operated project'' and inserting ''carrying out activities to promote and assist the development of cooperatively and mutually owned businesses'';

(2) in subparagraph (B), by inserting ''to promote and assist the development of cooperatively and mutually owned businesses'' before the semicolon;

(3) by striking subparagraph (D);

(4) by redesignating subparagraph (E) as subparagraph (D);

(5) in subparagraph (D) (as so redesignated), by striking ''and'' at the end;

(6) by inserting after subparagraph (D) (as so redesignated) the following:

''(E) demonstrate a commitment to—

''(i) networking with and sharing the results of the efforts of the center with other cooperative development centers and other organizations involved in rural economic development efforts; and

''(ii) developing multiorganization and multistate approaches to addressing the economic development and cooperative needs of rural areas; and''; and

(7) in subparagraph (F), by striking ''providing greater than'' and inserting ''providing''.

(b) AUTHORITY TO AWARD MULTIYEAR GRANTS.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by striking paragraph (6) and inserting the following:

''(6) GRANT PERIOD.—

''(A) IN GENERAL.—A grant awarded to a center that has received no prior funding under this subsection shall be made for a period of 1 year.

''(B) MULTIYEAR GRANTS.—If the Secretary determines it to be in the best interest of the program, the Secretary shall award grants for a period of more than 1 year, but not more than 3 years, to a center that has successfully met the parameters described in paragraph (5), as determined by the Secretary.''.

(c) AUTHORITY TO EXTEND GRANT PERIOD.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (12), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) AUTHORITY TO EXTEND GRANT PERIOD.—The Secretary may extend for 1 additional 12-month period the period in which a grantee may use a grant made under this subsection.''.

(d) COOPERATIVE RESEARCH PROGRAM.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (9) (as redesignated by subsection (c)(1)) the following:

''(10) COOPERATIVE RESEARCH PROGRAM.—The Secretary shall enter into a cooperative research agreement with 1 or more qualified academic institutions in each fiscal year to conduct research on the effects of all types of cooperatives on the national economy.''.

(e) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (10) (as added by subsection (d)) the following:

''(11) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—

''(A) DEFINITION OF SOCIALLY DISADVANTAGED GROUP.—In this paragraph, the term 'socially disadvantaged group' has the meaning given the term in section 355(e).

''(B) RESERVATION OF FUNDS.—

''(i) IN GENERAL.—If the total amount appropriated under paragraph (12) for a fiscal year exceeds $7,500,000, the Secretary shall reserve an amount equal to 20 percent of the total amount appropriated for grants for cooperative development centers, individual cooperatives, or groups of cooperatives—

''(I) that serve socially disadvantaged groups; and

''(II) a majority of the boards of directors or governing boards of which are comprised of individuals who are members of socially disadvantaged groups.

''(ii) INSUFFICIENT APPLICATIONS.—To the extent there are insufficient applications to carry out clause (i), the Secretary shall use the funds as otherwise authorized by this subsection.''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (12) of section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) (as redesignated by subsection (c)(1)) is amended by striking ''1996 through 2007'' and inserting ''2008 through 2012''.

**SEC. 6014. GRANTS TO BROADCASTING SYSTEMS.**

Section 310B(f)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)(3)) is amended by striking ''2002 through 2007'' and inserting ''2008 through 2012''.

**SEC. 6015. LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.**

Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by adding at the end the following:

''(9) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCT.—The term 'locally or regionally produced agricultural food product' means any agricultural food product that is raised, produced, and distributed in—

''(I) the locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or

''(II) the State in which the product is produced.

''(ii) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community and an Indian tribal community) that has, as determined by the Secretary—

''(I) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and

''(II) a high rate of hunger or food insecurity or a high poverty rate.

''(B) LOAN AND LOAN GUARANTEE PROGRAM.—

''(i) IN GENERAL.—The Secretary shall make or guarantee loans to individuals, cooperatives, cooperative organizations, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally or regionally produced agricultural food products to support community development and farm and ranch income.

''(ii) REQUIREMENT.—The recipient of a loan or loan guarantee under clause (i) shall include in an appropriate agreement with retail and institutional facilities to which the recipient sells locally or regionally produced agricultural food products a requirement to inform consumers of the retail or institutional facilities that the consumers are purchasing or consuming locally or regionally produced agricultural food products.

''(iii) PRIORITY.—In making or guaranteeing a loan under clause (i), the Secretary shall give priority to projects that have components benefitting underserved communities.

''(iv) REPORTS.—Not later than 2 years after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes projects carried out using loans or loan guarantees made under clause (i), including—

''(I) the characteristics of the communities served; and

''(II) resulting benefits.

''(v) RESERVATION OF FUNDS.—

''(I) IN GENERAL.—For each of fiscal years 2008 through 2012, the Secretary shall reserve not less than 5 percent of the funds made available to carry out this subsection to carry out this subparagraph.

''(II) AVAILABILITY OF FUNDS.—Funds reserved under subclause (I) for a fiscal year shall be reserved until April 1 of the fiscal year.''.

**SEC. 6016. APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

''(i) APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS PROGRAM.—

''(1) DEFINITION OF NATIONAL NONPROFIT AGRICULTURAL ASSISTANCE INSTITUTION.—In this subsection, the term 'national nonprofit agricultural assistance institution' means an organization that—

''(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code;

''(B) has staff and offices in multiple regions of the United States;

''(C) has experience and expertise in operating national agriculture technical assistance programs;

''(D) expands markets for the agricultural commodities produced by producers through the use of practices that enhance the environment, natural resource base, and quality of life; and

''(E) improves the economic viability of agricultural operations.

''(2) ESTABLISHMENT.—The Secretary shall establish a national appropriate technology transfer for rural areas program to assist agricultural producers that are seeking information to—

''(A) reduce input costs;

''(B) conserve energy resources;

''(C) diversify operations through new energy crops and energy generation facilities; and

''(D) expand markets for agricultural commodities produced by the producers by using practices that enhance the environment, natural resource base, and quality of life.

''(3) IMPLEMENTATION.—

''(A) IN GENERAL.—The Secretary shall carry out the program under this subsection by making a grant to, or offering to enter into a cooperative agreement with, a national nonprofit agricultural assistance institution.

''(B) GRANT AMOUNT.—A grant made, or cooperative agreement entered into, under subparagraph (A) shall provide 100 percent of the cost of providing information described in paragraph (2).

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 6017. RURAL ECONOMIC AREA PARTNERSHIP ZONES.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) (as amended by section 6016) is amended by adding at the end the following:

''(j) RURAL ECONOMIC AREA PARTNERSHIP ZONES.—Effective beginning on the date of enactment of this subsection through September 30, 2012, the Secretary shall carry out those rural economic area partnership zones administratively in effect on the date of enactment of this subsection in accordance with the terms and conditions contained in the memorandums of agreement entered into by the Secretary for the rural economic area partnership zones, except as otherwise provided in this subsection.''.

**SEC. 6018. DEFINITIONS.**

(a) RURAL AREA.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by striking paragraph (13) and inserting the following:

''(13) RURAL AND RURAL AREA.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (G), the terms 'rural' and 'rural area' mean any area other than—

''(i) a city or town that has a population of greater than 50,000 inhabitants; and

''(ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).

''(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

''(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 306(a), the terms 'rural' and 'rural area' mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

''(D) AREAS RURAL IN CHARACTER.—

''(i) APPLICATION.—This subparagraph applies to—

''(I) an urbanized area described in subparagraphs (A)(ii) and (F) that—

''(aa) has 2 points on its boundary that are at least 40 miles apart; and

''(bb) is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or an urbanized area of such city or town; and

''(II) an area within an urbanized area described in subparagraphs (A)(ii) and (F) that is within ¼-mile of a rural area described in subparagraph (A).

''(ii) DETERMINATION.—Notwithstanding any other provision of this paragraph, on the petition of a unit of local government in an area described in clause (i) or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that a part of an area described in clause (i) is a rural area for the purposes of this paragraph, if the Under Secretary finds that the part is rural in character, as determined by the Under Secretary.

''(iii) ADMINISTRATION.—In carrying out this subparagraph, the Under Secretary for Rural Development shall—

''(I) not delegate the authority to carry out this subparagraph;

''(II) consult with the applicable rural development State or regional director of the Department of Agriculture and the governor of the respective State;

''(III) provide to the petitioner an opportunity to appeal to the Under Secretary a determination made under this subparagraph;

''(IV) release to the public notice of a petition filed or initiative of the Under Secretary under this subparagraph not later than 30 days after receipt of the petition or the commencement of the initiative, as appropriate;

''(V) make a determination under this subparagraph not less than 15 days, and not more than 60 days, after the release of the notice under subclause (IV);

''(VI) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on actions taken to carry out this subparagraph; and

''(VII) terminate a determination under this subparagraph that part of an area is a rural area on the date that data is available for the next decennial census conducted under section 141(a) of title 13, United States Code.

''(E) EXCLUSIONS.—Notwithstanding any other provision of this paragraph, in determining which census blocks in an urbanized area are not in a rural area (as defined in this paragraph), the Secretary shall exclude any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not more than 2 census blocks that are otherwise considered not in a rural area under this paragraph.

''(F) URBAN AREA GROWTH.—

''(i) APPLICATION.—This subparagraph applies to—

''(I) any area that—

''(aa) is a collection of census blocks that are contiguous to each other;

''(bb) has a housing density that the Secretary estimates is greater than 200 housing units per square mile; and

''(cc) is contiguous or adjacent to an existing boundary of a rural area; and

''(II) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A)(i).

''(ii) ADJUSTMENTS.—The Secretary may, by regulation only, consider—

''(I) an area described in clause (i)(I) not to be a rural area for purposes of subparagraphs (A) and (C); and

''(II) an area described in clause (i)(II) not to be a rural area for purposes of subparagraph (C).

''(iii) APPEALS.—A program applicant may appeal an estimate made under clause (i)(I) based on appropriate data for an area, as determined by the Secretary.

''(G) HAWAII AND PUERTO RICO.—Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.''.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) assesses the various definitions of the term ''rural'' and ''rural area'' that are used with respect to programs administered by the Secretary;

(2) describes the effects that the variations in those definitions have on those programs;

(3) make recommendations for ways to better target funds provided through rural development programs; and

(4) determines the effect of the amendment made by subsection (a) on the level of rural development funding and participation in those programs in each State.

**SEC. 6019. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.**

Section 378 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008m) is amended—

(1) in subsection (g)(1), by striking ''2003 through 2007'' and inserting ''2008 through 2012''; and

(2) in subsection (h), by striking ''the date that is 5 years after the date of enactment of this section'' and inserting ''September 30, 2012''.

**SEC. 6020. HISTORIC BARN PRESERVATION.**

(a) GRANT PRIORITY.—Section 379A(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)) is amended—

(1) in paragraph (2)—

(A) in subparagraphs (A) and (B), by striking ''a historic barn'' each place it appears and inserting ''historic barns''; and

(B) in subparagraph (C), by striking ''on a historic barn'' and inserting ''on historic barns (including surveys)'';

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

(3) by inserting after paragraph (2) the following:

''(3) PRIORITY.—In making grants under this subsection, the Secretary shall give the highest priority to funding projects described in paragraph (2)(C).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 379A(c)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)(5)) (as redesignated by subsection (a)(2)) is amended by striking ''2002 through 2007'' and inserting ''2008 through 2012''.

**SEC. 6021. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.**

Section 379B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008p(d)) is amended by striking ''2002 through 2007'' and inserting ''2008 through 2012''.

**SEC. 6022. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following:

**''SEC. 379E. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.**

''(a) DEFINITIONS.—In this section:

''(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(2) MICROENTREPRENEUR.—The term 'microentrepreneur' means an owner and operator, or prospective owner and operator, of a rural microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary.

''(3) MICROENTERPRISE DEVELOPMENT ORGANIZATION.—The term 'microenterprise development organization' means an organization that—

''(A) is—

''(i) a nonprofit entity;

''(ii) an Indian tribe, the tribal government of which certifies to the Secretary that—

''(I) no microenterprise development organization serves the Indian tribe; and

''(II) no rural microentrepreneur assistance program exists under the jurisdiction of the Indian tribe; or

''(iii) a public institution of higher education;

''(B) provides training and technical assistance to rural microentrepreneurs;

''(C) facilitates access to capital or another service described in subsection (b) for rural microenterprises; and

''(D) has a demonstrated record of delivering services to rural microentrepreneurs, or an effective plan to develop a program to deliver services to rural microentrepreneurs, as determined by the Secretary.

''(4) MICROLOAN.—The term 'microloan' means a business loan of not more than $50,000 that is provided to a rural microenterprise.

''(5) PROGRAM.—The term 'program' means the rural microentrepreneur assistance program established under subsection (b).

''(6) RURAL MICROENTERPRISE.—The term 'rural microenterprise' means—

''(A) a sole proprietorship located in a rural area; or

''(B) a business entity with not more than 10 full-time-equivalent employees located in a rural area.

''(b) RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a rural microentrepreneur assistance program to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises.

''(2) PURPOSE.—The purpose of the program is to provide microentrepreneurs with—

''(A) the skills necessary to establish new rural microenterprises; and

''(B) continuing technical and financial assistance related to the successful operation of rural microenterprises.

''(3) LOANS.—

''(A) IN GENERAL.—The Secretary shall make loans to microenterprise development organizations for the purpose of providing fixed interest rate microloans to microentrepreneurs for start-up and growing rural microenterprises.

''(B) LOAN TERMS.—A loan made by the Secretary to a microenterprise development organization under this paragraph shall—

''(i) be for a term not to exceed 20 years; and

''(ii) bear an annual interest rate of at least 1 percent.

''(C) LOAN LOSS RESERVE FUND.—The Secretary shall require each microenterprise development organization that receives a loan under this paragraph to—

''(i) establish a loan loss reserve fund; and

''(ii) maintain the reserve fund in an amount equal to at least 5 percent of the outstanding balance of such loans owed by the microenterprise development organization, until all obligations owed to the Secretary under this paragraph are repaid.

''(D) DEFERRAL OF INTEREST AND PRINCIPAL.—The Secretary may permit the deferral of payments on principal and interest due on a loan to a microenterprise development organization made under this paragraph for a 2-year period beginning on the date the loan is made.

''(4) GRANTS.—

''(A) GRANTS TO SUPPORT RURAL MICROENTERPRISE DEVELOPMENT.—

''(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to—

''(I) provide training, operational support, business planning, and market development assistance, and other related services to rural microentrepreneurs; and

''(II) carry out such other projects and activities as the Secretary determines appropriate to further the purposes of the program.

''(ii) SELECTION.—In making grants under clause (i), the Secretary shall—

''(I) place an emphasis on microenterprise development organizations that serve microentrepreneurs that are located in rural areas that have suffered significant outward migration, as determined by the Secretary; and

''(II) ensure, to the maximum extent practicable, that grant recipients include microenterprise development organizations—

''(aa) of varying sizes; and

''(bb) that serve racially and ethnically diverse populations.

''(B) GRANTS TO ASSIST MICROENTREPRENEURS.—

''(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to provide marketing, management, and other technical assistance to microentrepreneurs that—

''(I) received a loan from the microenterprise development organization under paragraph (3); or

''(II) are seeking a loan from the microenterprise development organization under paragraph (3).

''(ii) MAXIMUM AMOUNT OF GRANT.—A microenterprise development organization shall be eligible to receive an annual grant under this subparagraph in an amount equal to not more than 25 percent of the total outstanding balance of microloans made by the microenterprise development organization under paragraph (3), as of the date the grant is awarded.

''(C) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of a grant received by a microenterprise development organization for a fiscal year under this paragraph may be used to pay administrative expenses.

''(c) ADMINISTRATION.—

''(1) COST SHARE.—

''(A) FEDERAL SHARE.—Subject to subparagraph (B), the Federal share of the cost of a project funded under this section shall not exceed 75 percent.

''(B) MATCHING REQUIREMENT.—As a condition of any grant made under this subparagraph, the Secretary shall require the microenterprise development organization to match not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

''(C) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a project funded under this section may be provided—

''(i) in cash (including through fees, grants (including community development block grants), and gifts); or

''(ii) in the form of in-kind contributions.

''(2) OVERSIGHT.—At a minimum, not later than December 1 of each fiscal year, a microenterprise development organization that receives a loan or grant under this section shall provide to the Secretary such information as the Secretary may require to ensure that assistance provided under this section is used for the purposes for which the loan or grant was made.

''(d) FUNDING.—

''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

''(A) $4,000,000 for each of fiscal years 2009 through 2011; and

''(B) $3,000,000 for fiscal year 2012.

''(2) DISCRETIONARY FUNDING.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2009 through 2012.''.

**SEC. 6023. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6022) is amended by adding at the end the following:

**''SEC. 379F. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.**

''(a) DEFINITIONS.—In this section:

''(1) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

''(2) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

''(b) GRANTS.—The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, to expand and enhance employment opportunities for individuals with disabilities in rural areas.

''(c) ELIGIBILITY.—To be eligible to receive a grant under this section, a nonprofit organization or consortium of nonprofit organizations shall have—

''(1) a significant focus on serving the needs of individuals with disabilities;

''(2) demonstrated knowledge and expertise in—

''(A) employment of individuals with disabilities; and

''(B) advising private entities on accessibility issues involving individuals with disabilities;

''(3) expertise in removing barriers to employment for individuals with disabilities, including access to transportation, assistive technology, and other accommodations; and

''(4) existing relationships with national organizations focused primarily on the needs of rural areas.

''(d) USES.—A grant received under this section may be used only to expand or enhance—

''(1) employment opportunities for individuals with disabilities in rural areas by developing national technical assistance and education resources to assist small businesses in a rural area to recruit, hire, accommodate, and employ individuals with disabilities; and

''(2) self-employment and entrepreneurship opportunities for individuals with disabilities in a rural area.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 6024. HEALTH CARE SERVICES.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6023) is amended by adding at the end the following:

**''SEC. 379G. HEALTH CARE SERVICES.**

''(a) PURPOSE.—The purpose of this section is to address the continued unmet health needs in the Delta region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the region.

''(b) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta region that have experience in addressing the health care issues in the region.

''(c) GRANTS.—To carry out the purpose described in subsection (a), the Secretary may award a grant to an eligible entity for –

''(1) the development of –

''(A) health care services;

''(B) health education programs; and

''(C) health care job training programs; and

''(2) the development and expansion of public health-related facilities in the Delta region to address longstanding and unmet health needs of the region.

''(d) USE.—As a condition of the receipt of the grant, the eligible entity shall use the grant to fund projects and activities described in subsection (c), based on input solicited from local governments, public health care providers, and other entities in the Delta region.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section, $3,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 6025. DELTA REGIONAL AUTHORITY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–12(a)) is amended by striking ''2001 through 2007'' and inserting ''2008 through 2012''.

(b) TERMINATION OF AUTHORITY.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–13) is amended by striking ''2007'' and inserting ''2012''.

(c) EXPANSION.—Section 4(2) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended—

(1) in subparagraph (D), by inserting ''Beauregard, Bienville, Cameron, Claiborne, DeSoto, Jefferson Davis, Red River, St. Mary, Vermillion, Webster,'' after ''St. James,''; and

(2) in subparagraph (E)—

(A) by inserting ''Jasper,'' after ''Copiah,''; and

(B) by inserting ''Smith,'' after ''Simpson,''.

**SEC. 6026. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.**

(a) DEFINITION OF REGION.—Section 383A(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb(4)) is amended by inserting ''Missouri (other than counties included in the Delta Regional Authority),'' after ''Minnesota,''.

(b) ESTABLISHMENT.—Section 383B of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1) is amended—

(1) in subsection (a), by adding at the end the following:

''(4) FAILURE TO CONFIRM.—

''(A) FEDERAL MEMBER.—Notwithstanding any other provision of this section, if a Federal member described in paragraph (2)(A) has not been confirmed by the Senate by not later than 180 days after the date of enactment of this paragraph, the Authority may organize and operate without the Federal member.

''(B) INDIAN CHAIRPERSON.—In the case of the Indian Chairperson, if no Indian Chairperson is confirmed by the Senate, the regional authority shall consult and coordinate with the leaders of Indian tribes in the region concerning the activities of the Authority, as appropriate.'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''to establish priorities and'' and inserting ''for multistate cooperation to advance the economic and social well-being of the region and to'';

(B) in paragraph (3), by striking ''local development districts,'' and inserting ''regional and local development districts or organizations, regional boards established under subtitle I,'';

(C) in paragraph (4), by striking ''cooperation;'' and inserting ''cooperation for—

''(i) renewable energy development and transmission;

''(ii) transportation planning and economic development;

''(iii) information technology;

''(iv) movement of freight and individuals within the region;

''(v) federally-funded research at institutions of higher education; and

''(vi) conservation land management;'';

(D) by striking paragraph (6) and inserting the following:

''(6) enhance the capacity of, and provide support for, multistate development and research organizations, local development organizations and districts, and resource conservation districts in the region;''; and

(E) in paragraph (7), by inserting ''renewable energy,'' after ''commercial,''.

(3) in subsection (f)(2), by striking ''the Federal cochairperson'' and inserting ''a cochairperson'';

(4) in subsection (g)(1), by striking subparagraphs (A) through (C) and inserting the following:

''(A) for each of fiscal years 2008 and 2009, 100 percent;

''(B) for fiscal year 2010, 75 percent; and

''(C) for fiscal year 2011 and each fiscal year thereafter, 50 percent.''.

(c) INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.—

(1) IN GENERAL.—Subtitle G of the Consolidated Farm and Rural Development Act is amended—

(A) by redesignating sections 383C through 383N (7 U.S.C. 2009bb–2 through 2009bb–13) as sections 383D through 383O, respectively; and

(B) by inserting after section 383B (7 U.S.C. 2009bb–1) the following:

**''SEC. 383C. INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.**

''(a) IN GENERAL.—The Authority shall provide assistance to States in developing regional plans to address multistate economic issues, including plans—

''(1) to develop a regional transmission system for movement of renewable energy to markets outside the region;

''(2) to address regional transportation concerns, including the establishment of a Northern Great Plains Regional Transportation Working Group;

''(3) to encourage and support interstate collaboration on federally-funded research that is in the national interest; and

''(4) to establish a Regional Working Group on Agriculture Development and Transportation.

''(b) ECONOMIC ISSUES.—The multistate economic issues referred to in subsection (a) shall include—

''(1) renewable energy development and transmission;

''(2) transportation planning and economic development;

''(3) information technology;

''(4) movement of freight and individuals within the region;

''(5) federally-funded research at institutions of higher education; and

''(6) conservation land management.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 383B(c)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(c)(3)(B)) is amended by striking ''383I'' and inserting ''383J''.

(B) Section 383D(a) of the Consolidated Farm and Rural Development Act (as redesignated by paragraph (1)(A)) is amended by striking ''383I'' and inserting ''383J''.

(C) Section 383E of the Consolidated Farm and Rural Development Act (as so redesignated) is amended—

(i) in subsection (b)(1), by striking ''383F(b)'' and inserting ''383G(b)''; and

(ii) in subsection (c)(2)(A), by striking ''383I'' and inserting ''383J''.

(D) Section 383G of the Consolidated Farm and Rural Development Act (as so redesignated) is amended—

(i) in subsection (b)—

(I) in paragraph (1), by striking ''383M'' and inserting ''383N''; and

(II) in paragraph (2), by striking ''383D(b)'' and inserting ''383E(b)'';

(ii) in subsection (c)(2)(A), by striking ''383E(b)'' and inserting ''383F(b)''; and

(iii) in subsection (d)—

(I) by striking ''383M'' and inserting ''383N''; and

(II) by striking ''383C(a)'' and inserting ''383D(a)''.

(E) Section 383J(c)(2) of the Consolidated Farm and Rural Development Act (as so redesignated) is amended by striking ''383H'' and inserting ''383I''.

(d) ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.—Section 383D of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''transportation and telecommunication'' and inserting ''transportation, renewable energy transmission, and telecommunication''; and

(B) by redesignating paragraphs (1) and (2) as paragraphs (2) and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(2) in subsection (b)(2), by striking ''the activities in the following order or priority'' and inserting ''the following activities''.

(e) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 383E(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking '', including local development districts,''.

(f) MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.—Section 383F of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) by striking the section heading and inserting ''**MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.**''; and

(2) by striking subsections (a) through (c) and inserting the following:

''(a) DEFINITION OF MULTISTATE AND LOCAL DEVELOPMENT DISTRICT OR ORGANIZATION.—In this section, the term 'multistate and local development district or organization' means an entity—

''(1) that—

''(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

''(B) is—

''(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

''(ii) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

''(iii) a nonprofit agency or instrumentality of a State or local government;

''(iv) a public organization established before the date of enactment of this subtitle under State law for creation of multijurisdictional, area-wide planning organizations;

''(v) a nonprofit agency or instrumentality of a State that was established for the purpose of assisting with multistate cooperation; or

''(vi) a nonprofit association or combination of bodies, agencies, and instrumentalities described in clauses (ii) through (v); and

''(2) that has not, as certified by the Authority (in consultation with the Federal cochairperson or Secretary, as appropriate)—

''(A) inappropriately used Federal grant funds from any Federal source; or

''(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

''(b) GRANTS TO MULTISTATE, LOCAL, OR REGIONAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS.—

''(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section to multistate, local, and regional development districts and organizations.

''(2) CONDITIONS FOR GRANTS.—

''(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the multistate, local, or regional development district or organization receiving the grant.

''(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded for a period greater than 3 years.

''(3) LOCAL SHARE.—The contributions of a multistate, local, or regional development district or organization for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

''(c) DUTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a local development district shall operate as a lead organization serving multicounty areas in the region at the local level.

''(2) DESIGNATION.—The Federal cochairperson may designate an Indian tribe or multijurisdictional organization to serve as a lead organization in such cases as the Federal cochairperson or Secretary, as appropriate, determines appropriate.''.

(g) DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.—Section 383G of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) in subsection (b)(1), by striking ''75'' and inserting ''50'';

(2) by striking subsection (c);

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

(4) in subsection (c) (as so redesignated)—

(A) in the subsection heading, by inserting ''RENEWABLE ENERGY,'' after ''TELECOMMUNICATION''; and

(B) by inserting '', renewable energy,'' after ''telecommunication,''.

(h) DEVELOPMENT PLANNING PROCESS.—Section 383H of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) in subsection (c)(1), by striking subparagraph (A) and inserting the following:

''(A) multistate, regional, and local development districts and organizations; and''; and

(2) in subsection (d)(1), by striking ''State and local development districts'' and inserting ''multistate, regional, and local development districts and organizations''.

(i) PROGRAM DEVELOPMENT CRITERIA.—Section 383I(a)(1) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by inserting ''multistate or'' before ''regional''.

(j) AUTHORIZATION OF APPROPRIATIONS.—Section 383N(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking ''2002 through 2007'' and inserting ''2008 through 2012''.

(k) TERMINATION OF AUTHORITY.—Section 383O of the Consolidated Farm and Rural Development Act (as redesignated by subsection

*(c)(1)(A)) is amended by striking ''2007'' and inserting ''2012''.*

**SEC. 6027. RURAL BUSINESS INVESTMENT PROGRAM.**

*(a) ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.—Section 384F(b)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–5(b)(3)(A)) is amended by striking ''In the event'' and inserting the following:*

*''(i) AUTHORITY TO PREPAY.—A debenture may be prepaid at any time without penalty.*

*''(ii) REDUCTION OF GUARANTEE.—Subject to clause (i), if''.*

*(b) FEES.—Section 384G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–6) is amended—*

*(1) in subsection (a), by striking ''such fees as the Secretary considers appropriate'' and inserting ''a fee that does not exceed $500'';*

*(2) in subsection (b), by striking ''approved by the Secretary'' and inserting ''that does not exceed $500''; and*

*(3) in subsection (c)—*

*(A) in paragraph (1), by striking ''The'' and inserting ''Except as provided in paragraph (3), the'';*

*(B) in paragraph (2)—*

*(i) in subparagraph (A), by striking ''and'' at the end;*

*(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and*

*(iii) by adding at the end the following:*

*''(C) shall not exceed $500 for any fee collected under this subsection.''; and*

*(C) by adding at the end the following:*

*''(3) PROHIBITION ON COLLECTION OF CERTAIN FEES.—In the case of a license described in paragraph (1) that was approved before July 1, 2007, the Secretary shall not collect any fees due on or after the date of enactment of this paragraph.''.*

*(c) RURAL BUSINESS INVESTMENT COMPANIES.—Section 384I(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–8(c)) is amended—*

*(1) by redesignating paragraph (3) as paragraph (4); and*

*(2) by inserting after paragraph (2) the following:*

*''(3) TIME FRAME.—Each rural business investment company shall have a period of 2 years to meet the capital requirements of this subsection.''.*

*(d) FINANCIAL INSTITUTION INVESTMENTS.—Section 384J of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–9) is amended—*

*(1) in subsection (a)(1), by inserting '', including an investment pool created entirely by such bank or savings association'' before the period at the end; and*

*(2) in subsection (c), by striking ''15'' and inserting ''25''.*

*(e) CONTRACTING OF FUNCTIONS.—Section 384Q of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–16) is repealed.*

*(f) FUNDING.—The Consolidated Farm and Rural Development Act is amended by striking section 384S (7 U.S.C. 2009cc–18) and inserting the following:*

**''SEC. 384S. AUTHORIZATION OF APPROPRIATIONS.**

*''There is authorized to be appropriated to carry out this subtitle $50,000,000 for the period of fiscal years 2008 through 2012.''.*

**SEC. 6028. RURAL COLLABORATIVE INVESTMENT PROGRAM.**

*Subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd et seq.) is amended to read as follows:*

**''Subtitle I—Rural Collaborative Investment Program**

**''SEC. 385A. PURPOSE.**

*''The purpose of this subtitle is to establish a regional rural collaborative investment program—*

*''(1) to provide rural regions with a flexible investment vehicle, allowing for local control with Federal oversight, assistance, and accountability;*

*''(2) to provide rural regions with incentives and resources to develop and implement comprehensive strategies for achieving regional competitiveness, innovation, and prosperity;*

*''(3) to foster multisector community and economic development collaborations that will optimize the asset-based competitive advantages of rural regions with particular emphasis on innovation, entrepreneurship, and the creation of quality jobs;*

*''(4) to foster collaborations necessary to provide the professional technical expertise, institutional capacity, and economies of scale that are essential for the long-term competitiveness of rural regions; and*

*''(5) to better use Department of Agriculture and other Federal, State, and local governmental resources, and to leverage those resources with private, nonprofit, and philanthropic investments, in order to achieve measurable community and economic prosperity, growth, and sustainability.*

**''SEC. 385B. DEFINITIONS.**

*''In this subtitle:*

*''(1) BENCHMARK.—The term 'benchmark' means an annual set of goals and performance measures established for the purpose of assessing performance in meeting a regional investment strategy of a Regional Board.*

*''(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*''(3) NATIONAL BOARD.—The term 'National Board' means the National Rural Investment Board established under section 385C(c).*

*''(4) NATIONAL INSTITUTE.—The term 'National Institute' means the National Institute on Regional Rural Competitiveness and Entrepreneurship established under section 385C(b)(2).*

*''(5) REGIONAL BOARD.—The term 'Regional Board' means a Regional Rural Investment Board described in section 385D(a).*

*''(6) REGIONAL INNOVATION GRANT.—The term 'regional innovation grant' means a grant made by the Secretary to a certified Regional Board under section 385F.*

*''(7) REGIONAL INVESTMENT STRATEGY GRANT.—The term 'regional investment strategy grant' means a grant made by the Secretary to a certified Regional Board under section 385E.*

*''(8) RURAL HERITAGE.—*

*''(A) IN GENERAL.—The term 'rural heritage' means historic sites, structures, and districts.*

*''(B) INCLUSIONS.—The term 'rural heritage' includes historic rural downtown areas and main streets, neighborhoods, farmsteads, scenic and historic trails, heritage areas, and historic landscapes.*

**''SEC. 385C. ESTABLISHMENT AND ADMINISTRATION OF RURAL COLLABORATIVE INVESTMENT PROGRAM.**

*''(a) ESTABLISHMENT.—The Secretary shall establish a Rural Collaborative Investment Program to support comprehensive regional investment strategies for achieving rural competitiveness.*

*''(b) DUTIES OF SECRETARY.—In carrying out this subtitle, the Secretary shall—*

*''(1) appoint and provide administrative and program support to the National Board;*

*''(2) establish a national institute, to be known as the 'National Institute on Regional Rural Competitiveness and Entrepreneurship', to provide technical assistance to the Secretary and the National Board regarding regional competitiveness and rural entrepreneurship, including technical assistance for—*

*''(A) the development of rigorous analytic programs to assist Regional Boards in determining the challenges and opportunities that need to be addressed to receive the greatest regional competitive advantage;*

*''(B) the provision of support for best practices developed by the Regional Boards;*

*''(C) the establishment of programs to support the development of appropriate governance and leadership skills in the applicable regions; and*

*''(D) the evaluation of the progress and performance of the Regional Boards in achieving benchmarks established in a regional investment strategy;*

*''(3) work with the National Board to develop a national rural investment plan that shall—*

*''(A) create a framework to encourage and support a more collaborative and targeted rural investment portfolio in the United States;*

*''(B) establish a Rural Philanthropic Initiative, to work with rural communities to create and enhance the pool of permanent philanthropic resources committed to rural community and economic development;*

*''(C) cooperate with the Regional Boards and State and local governments, organizations, and entities to ensure investment strategies are developed that take into consideration existing rural assets; and*

*''(D) encourage the organization of Regional Boards;*

*''(4) certify the eligibility of Regional Boards to receive regional investment strategy grants and regional innovation grants;*

*''(5) provide grants for Regional Boards to develop and implement regional investment strategies;*

*''(6) provide technical assistance to Regional Boards on issues, best practices, and emerging trends relating to rural development, in cooperation with the National Rural Investment Board; and*

*''(7) provide analytic and programmatic support for regional rural competitiveness through the National Institute, including—*

*''(A) programs to assist Regional Boards in determining the challenges and opportunities that must be addressed to receive the greatest regional competitive advantage;*

*''(B) support for best practices development by the regional investment boards;*

*''(C) programs to support the development of appropriate governance and leadership skills in the region; and*

*''(D) a review and evaluation of the performance of the Regional Boards (including progress in achieving benchmarks established in a regional investment strategy) in an annual report submitted to—*

*''(i) the Committee on Agriculture of the House of Representatives; and*

*''(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.*

*''(c) NATIONAL RURAL INVESTMENT BOARD.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Rural Investment Board'.*

*''(d) DUTIES OF NATIONAL BOARD.—The National Board shall—*

*''(1) not later than 180 days after the date of establishment of the National Board, develop rules relating to the operation of the National Board; and*

*''(2) provide advice to—*

*''(A) the Secretary and subsequently review the design, development, and execution of the National Rural Investment Plan;*

*''(B) Regional Boards on issues, best practices, and emerging trends relating to rural development; and*

*''(C) the Secretary and the National Institute on the development and execution of the program under this subtitle.*

*''(e) MEMBERSHIP.—*

*''(1) IN GENERAL.—The National Board shall consist of 14 members appointed by the Secretary not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008.*

*''(2) SUPERVISION.—The National Board shall be subject to the general supervision and direction of the Secretary.*

*''(3) SECTORS REPRESENTED.—The National Board shall consist of representatives from each of—*

''(A) nationally recognized entrepreneurship organizations;

''(B) regional strategy and development organizations;

''(C) community-based organizations;

''(D) elected members of local governments;

''(E) members of State legislatures;

''(F) primary, secondary, and higher education, job skills training, and workforce development institutions;

''(G) the rural philanthropic community;

''(H) financial, lending, venture capital, entrepreneurship, and other related institutions;

''(I) private sector business organizations, including chambers of commerce and other for-profit business interests;

''(J) Indian tribes; and

''(K) cooperative organizations.

''(4) SELECTION OF MEMBERS.—

''(A) IN GENERAL.—In selecting members of the National Board, the Secretary shall consider recommendations made by—

''(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(ii) the Majority Leader and Minority Leader of the Senate; and

''(iii) the Speaker and Minority Leader of the House of Representatives.

''(B) EX-OFFICIO MEMBERS.—In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, nonvoting members of the National Board.

''(5) TERM OF OFFICE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A) shall be for a period of not more than 4 years.

''(B) STAGGERED TERMS.—The members of the National Board shall be appointed to serve staggered terms.

''(6) INITIAL APPOINTMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall appoint the initial members of the National Board.

''(7) VACANCIES.—A vacancy on the National Board shall be filled in the same manner as the original appointment.

''(8) COMPENSATION.—A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for related travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5, United States Code.

''(9) CHAIRPERSON.—The National Board shall select a chairperson from among the members of the National Board.

''(10) FEDERAL STATUS.—For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18, United States Code).

''(f) ADMINISTRATIVE SUPPORT.—The Secretary, on a reimbursable basis from funds made available under section 385H, may provide such administrative support to the National Board as the Secretary determines is necessary.

**"SEC. 385D. REGIONAL RURAL INVESTMENT BOARDS.**

''(a) IN GENERAL.—A Regional Rural Investment Board shall be a multijurisdictional and multisectoral group that—

''(1) represents the long-term economic, community, and cultural interests of a region;

''(2) is certified by the Secretary to establish a rural investment strategy and compete for regional innovation grants;

''(3) is composed of residents of a region that are broadly representative of diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

''(A) units of local, multijurisdictional, or State government, including not more than 1 representative from each State in the region;

''(B) nonprofit community-based development organizations, including community development financial institutions and community development corporations;

''(C) agricultural, natural resource, and other asset-based related industries;

''(D) in the case of regions with federally recognized Indian tribes, Indian tribes;

''(E) regional development organizations;

''(F) private business organizations, including chambers of commerce;

''(G)(i) institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

''(ii) tribally controlled colleges or universities (as defined in section 2(a) of Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a))); and

''(iii) tribal technical institutions;

''(H) workforce and job training organizations;

''(I) other entities and organizations, as determined by the Regional Board;

''(J) cooperatives; and

''(K) consortia of entities and organizations described in subparagraphs (A) through (J);

''(4) represents a region inhabited by—

''(A) more than 25,000 individuals, as determined in the latest available decennial census conducted under section 141(a) of title 13, United States Code; or

''(B) in the case of a region with a population density of less than 2 individuals per square mile, at least 10,000 individuals, as determined in that latest available decennial census;

''(5) has a membership of which not less than 25 percent, nor more than 40 percent, represents—

''(A) units of local government and Indian tribes described in subparagraphs (A) and (D) of paragraph (3);

''(B) nonprofit community and economic development organizations and institutions of higher education described in subparagraphs (B) and (G) of paragraph (3); or

''(C) private business (including chambers of commerce and cooperatives) and agricultural, natural resource, and other asset-based related industries described in subparagraphs (C) and (F) of paragraph (3);

''(6) has a membership that may include an officer or employee of a Federal agency, serving as an ex-officio, nonvoting member of the Regional Board to represent the agency; and

''(7) has organizational documents that demonstrate that the Regional Board will—

''(A) create a collaborative public-private strategy process;

''(B) develop, and submit to the Secretary for approval, a regional investment strategy that meets the requirements of section 385E, with benchmarks—

''(i) to promote investment in rural areas through the use of grants made available under this subtitle; and

''(ii) to provide financial and technical assistance to promote a broad-based regional development program aimed at increasing and diversifying economic growth, improved community facilities, and improved quality of life;

''(C) implement the approved regional investment strategy;

''(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional investment strategy, including an annual financial statement; and

''(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

''(b) URBAN AREAS.—A resident of an urban area may serve as an ex-officio member of a Regional Board.

''(c) DUTIES.—A Regional Board shall—

''(1) create a collaborative planning process for public-private investment within a region;

''(2) develop, and submit to the Secretary for approval, a regional investment strategy;

''(3) develop approaches that will create permanent resources for philanthropic giving in the region, to the maximum extent practicable;

''(4) implement an approved strategy; and

''(5) provide annual reports to the Secretary and the National Board on progress made in achieving the strategy, including an annual financial statement.

**"SEC. 385E. REGIONAL INVESTMENT STRATEGY GRANTS.**

''(a) IN GENERAL.—The Secretary shall make regional investment strategy grants available to Regional Boards for use in developing, implementing, and maintaining regional investment strategies.

''(b) REGIONAL INVESTMENT STRATEGY.—A regional investment strategy shall provide—

''(1) an assessment of the competitive advantage of a region, including—

''(A) an analysis of the economic conditions of the region;

''(B) an assessment of the current economic performance of the region;

''(C) an overview of the population, geography, workforce, transportation system, resources, environment, and infrastructure needs of the region; and

''(D) such other pertinent information as the Secretary may request;

''(2) an analysis of regional economic and community development challenges and opportunities, including—

''(A) incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State, regional, and local workforce investment strategies or comprehensive economic development plans; and

''(B) an identification of past, present, and projected Federal and State economic and community development investments in the region;

''(3) a section describing goals and objectives necessary to solve regional competitiveness challenges and meet the potential of the region;

''(4) an overview of resources available in the region for use in—

''(A) establishing regional goals and objectives;

''(B) developing and implementing a regional action strategy;

''(C) identifying investment priorities and funding sources; and

''(D) identifying lead organizations to execute portions of the strategy;

''(5) an analysis of the current state of collaborative public, private, and nonprofit participation and investment, and of the strategic roles of public, private, and nonprofit entities in the development and implementation of the regional investment strategy;

''(6) a section identifying and prioritizing vital projects, programs, and activities for consideration by the Secretary, including—

''(A) other potential funding sources; and

''(B) recommendations for leveraging past and potential investments;

''(7) a plan of action to implement the goals and objectives of the regional investment strategy;

''(8) a list of performance measures to be used to evaluate implementation of the regional investment strategy, including—

''(A) the number and quality of jobs, including self-employment, created during implementation of the regional rural investment strategy;

''(B) the number and types of investments made in the region;

''(C) the growth in public, private, and nonprofit investment in the human, community, and economic assets of the region;

''(D) changes in per capita income and the rate of unemployment; and

''(E) other changes in the economic environment of the region;

''(9) a section outlining the methodology for use in integrating the regional investment strategy with the economic priorities of the State; and

''(10) such other information as the Secretary determines to be appropriate.

''(c) MAXIMUM AMOUNT OF GRANT.—A regional investment strategy grant shall not exceed $150,000.

''(d) COST SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), of the share of the costs of developing, maintaining, evaluating, implementing, and reporting with respect to a regional investment strategy funded by a grant under this section—

''(A) not more than 40 percent may be paid using funds from the grant; and

''(B) the remaining share shall be provided by the applicable Regional Board or other eligible grantee.

''(2) FORM.—A Regional Board or other eligible grantee shall pay the share described in paragraph (1)(B) in the form of cash, services, materials, or other in-kind contributions, on the condition that not more than 50 percent of that share is provided in the form of services, materials, and other in-kind contributions.

**''SEC. 385F. REGIONAL INNOVATION GRANTS PROGRAM.**

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary shall provide, on a competitive basis, regional innovation grants to Regional Boards for use in implementing projects and initiatives that are identified in a regional rural investment strategy approved under section 385E.

''(2) TIMING.—After October 1, 2008, the Secretary shall provide awards under this section on a quarterly funding cycle.

''(b) ELIGIBILITY.—To be eligible to receive a regional innovation grant, a Regional Board shall demonstrate to the Secretary that—

''(1) the regional rural investment strategy of a Regional Board has been reviewed by the National Board prior to approval by the Secretary;

''(2) the management and organizational structure of the Regional Board is sufficient to oversee grant projects, including management of Federal funds; and

''(3) the Regional Board has a plan to achieve, to the maximum extent practicable, the performance-based benchmarks of the project in the regional rural investment strategy.

''(c) LIMITATIONS.—

''(1) AMOUNT RECEIVED.—A Regional Board may not receive more than $6,000,000 in regional innovation grants under this section during any 5-year period.

''(2) DETERMINATION OF AMOUNT.—The Secretary shall determine the amount of a regional innovation grant based on—

''(A) the needs of the region being addressed by the applicable regional rural investment strategy consistent with the purposes described in subsection (f)(2); and

''(B) the size of the geographical area of the region.

''(3) GEOGRAPHIC DIVERSITY.—The Secretary shall ensure that not more than 10 percent of funding made available under this section is provided to Regional Boards in any State.

''(d) COST-SHARING.—

''(1) LIMITATION.—Subject to paragraph (2), the amount of a grant made under this section shall not exceed 50 percent of the cost of the project.

''(2) WAIVER OF GRANTEE SHARE.—The Secretary may waive the limitation in paragraph (1) under special circumstances, as determined by the Secretary, including—

''(A) a sudden or severe economic dislocation;

''(B) significant chronic unemployment or poverty;

''(C) a natural disaster; or

''(D) other severe economic, social, or cultural duress.

''(3) OTHER FEDERAL ASSISTANCE.—For the purpose of determining cost-share limitations for any other Federal program, funds provided under this section shall be considered to be non-Federal funds.

''(e) PREFERENCES.—In providing regional innovation grants under this section, the Secretary shall give—

''(1) a high priority to strategies that demonstrate significant leverage of capital and quality job creation; and

''(2) a preference to an application proposing projects and initiatives that would—

''(A) advance the overall regional competitiveness of a region;

''(B) address the priorities of a regional rural investment strategy, including priorities that—

''(i) promote cross-sector collaboration, public-private partnerships, or the provision of interim financing or seed capital for program implementation;

''(ii) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership; and

''(iii) represent a broad coalition of interests described in section 385D(a);

''(C) include a strategy to leverage public non-Federal and private funds and existing assets, including agricultural, natural resource, and public infrastructure assets, with substantial emphasis placed on the existence of real financial commitments to leverage available funds;

''(D) create quality jobs;

''(E) enhance the role, relevance, and leveraging potential of community and regional foundations in support of regional investment strategies;

''(F) demonstrate a history, or involve organizations with a history, of successful leveraging of capital for economic development and public purposes;

''(G) address gaps in existing basic services, including technology, within a region;

''(H) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

''(I) improve the overall quality of life in the region;

''(J) enhance the potential to expand economic development successes across diverse stakeholder groups within the region;

''(K) include an effective working relationship with 1 or more institutions of higher education, tribally controlled colleges or universities, or tribal technical institutions;

''(L) help to meet the other regional competitiveness needs identified by a Regional Board; or

''(M) protect and promote rural heritage.

''(f) USES.—

''(1) LEVERAGE.—A Regional Board shall prioritize projects and initiatives carried out using funds from a regional innovation grant provided under this section, based in part on the degree to which members of the Regional Board are able to leverage additional funds for the implementation of the projects.

''(2) PURPOSES.—A Regional Board may use a regional innovation grant—

''(A) to support the development of critical infrastructure (including technology deployment and services) necessary to facilitate the competitiveness of a region;

''(B) to provide assistance to entities within the region that provide essential public and community services;

''(C) to enhance the value-added production, marketing, and use of agricultural and natural resources within the region, including activities relating to renewable and alternative energy production and usage;

''(D) to assist with entrepreneurship, job training, workforce development, housing, educational, or other quality of life services or needs, relating to the development and maintenance of strong local and regional economies;

''(E) to assist in the development of unique new collaborations that link public, private, and philanthropic resources, including community foundations;

''(F) to provide support for business and entrepreneurial investment, strategy, expansion, and development, including feasibility strategies, technical assistance, peer networks, business development funds, and other activities to strengthen the economic competitiveness of the region;

''(G) to provide matching funds to enable community foundations located within the region to build endowments which provide permanent philanthropic resources to implement a regional investment strategy; and

''(H) to preserve and promote rural heritage.

''(3) AVAILABILITY OF FUNDS.—The funds made available to a Regional Board or any other eligible grantee through a regional innovation grant shall remain available for the 7-year period beginning on the date on which the award is provided, on the condition that the Regional Board or other grantee continues to be certified by the Secretary as making adequate progress toward achieving established benchmarks.

''(g) COST SHARING.—

''(1) WAIVER OF GRANTEE SHARE.—The Secretary may waive the share of a grantee of the costs of a project funded by a regional innovation grant under this section if the Secretary determines that such a waiver is appropriate, including with respect to special circumstances within tribal regions, in the event an area experiences—

''(A) a sudden or severe economic dislocation;

''(B) significant chronic unemployment or poverty;

''(C) a natural disaster; or

''(D) other severe economic, social, or cultural duress.

''(2) OTHER FEDERAL PROGRAMS.—For the purpose of determining cost-sharing requirements for any other Federal program, funds provided as a regional innovation grant under this section shall be considered to be non-Federal funds.

''(h) NONCOMPLIANCE.—If a Regional Board or other eligible grantee fails to comply with any requirement relating to the use of funds provided under this section, the Secretary may—

''(1) take such actions as are necessary to obtain reimbursement of unused grant funds; and

''(2) reprogram the recaptured funds for purposes relating to implementation of this subtitle.

''(i) PRIORITY TO AREAS WITH AWARDS AND APPROVED STRATEGIES.—

''(1) IN GENERAL.—Subject to paragraph (3), in providing rural development assistance under other programs, the Secretary shall give a high priority to areas that receive innovation grants under this section.

''(2) CONSULTATION.—The Secretary shall consult with the heads of other Federal agencies to promote the development of priorities similar to those described in paragraph (1).

''(3) EXCLUSION OF CERTAIN PROGRAMS.—Paragraph (1) shall not apply to the provision of rural development assistance under any program relating to basic health, safety, or infrastructure, including broadband deployment or minimum environmental needs.

**''SEC. 385G. RURAL ENDOWMENT LOANS PROGRAM.**

''(a) IN GENERAL.—The Secretary may provide long-term loans to eligible community foundations to assist in the implementation of regional investment strategies.

''(b) ELIGIBLE COMMUNITY FOUNDATIONS.—To be eligible to receive a loan under this section, a community foundation shall—

''(1) be located in an area that is covered by a regional investment strategy;

''(2) match the amount of the loan with an amount that is at least 250 percent of the amount of the loan; and

''(3) use the loan and the matching amount to carry out the regional investment strategy in a

*manner that is targeted to community and economic development, including through the development of community foundation endowments.*

*''(c) TERMS.—A loan made under this section shall—*

*''(1) have a term of not less than 10, nor more than 20, years;*

*''(2) bear an interest rate of 1 percent per annum; and*

*''(3) be subject to such other terms and conditions as are determined appropriate by the Secretary.*

***''SEC. 385H. AUTHORIZATION OF APPROPRIATIONS.***

*''There are authorized to be appropriated to carry out this subtitle $135,000,000 for the period of fiscal years 2009 through 2012.''.*

***SEC. 6029. FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.***

*(a) DEFINITION OF APPLICATION.—In this section, the term ''application'' does not include an application for a loan or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary in effect on the date of enactment of this Act.*

*(b) USE OF FUNDS.—Subject to subsection (c), the Secretary shall use funds made available under subsection (d) to provide funds for applications that are pending on the date of enactment of this Act for—*

*(1) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)); and*

*(2) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a).*

*(c) LIMITATIONS.—*

*(1) APPROPRIATED AMOUNTS.—Funds made available under this section shall be available to the Secretary to provide funds for applications for loans and grants described in subsection (b) that are pending on the date of enactment of this Act only to the extent that funds for the loans and grants appropriated in the annual appropriations Act for fiscal year 2007 have been exhausted.*

*(2) PROGRAM REQUIREMENTS.—The Secretary may use funds made available under this section to provide funds for a pending application for a loan or grant described in subsection (b) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.*

*(3) PRIORITY.—In providing funding under this section for pending applications for loans or grants described in subsection (b), the Secretary shall provide funding in the following order of priority (until funds made available under this section are exhausted):*

*(A) Pending applications for water systems.*

*(B) Pending applications for waste disposal systems.*

*(d) FUNDING.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $120,000,000, to remain available until expended.*

***Subtitle B—Rural Electrification Act of 1936***

***SEC. 6101. ENERGY EFFICIENCY PROGRAMS.***

*Sections 2(a) and 4 of the Rural Electrification Act of 1936 (7 U.S.C. 902(a), 904) are amended by inserting ''efficiency and'' before ''conservation'' each place it appears.*

***SEC. 6102. REINSTATEMENT OF RURAL UTILITY SERVICES DIRECT LENDING.***

*(a) IN GENERAL.—Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—*

*(1) by designating the first, second, and third sentences as subsections (a), (b), and (d), respectively; and*

*(2) by inserting after subsection (b) (as so designated) the following:*

*''(c) DIRECT LOANS.—*

*''(1) DIRECT HARDSHIP LOANS.—Direct hardship loans under this section shall be for the same purposes and on the same terms and conditions as hardship loans made under section 305(c)(1).*

*''(2) OTHER DIRECT LOANS.—All other direct loans under this section shall bear interest at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, plus ⅛ of 1 percent.''.*

*(b) ELIMINATION OF FEDERAL FINANCING BANK GUARANTEED LOANS.—Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended—*

*(1) in the third sentence, by striking ''guarantee, accommodation, or subordination'' and inserting ''accommodation or subordination''; and*

*(2) by striking the fourth sentence.*

***SEC. 6103. DEFERMENT OF PAYMENTS TO ALLOWS LOANS FOR IMPROVED ENERGY EFFICIENCY AND DEMAND REDUCTION AND FOR ENERGY EFFICIENCY AND USE AUDITS.***

*Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended by adding at the end the following:*

*''(c) DEFERMENT OF PAYMENTS ON LOANS.—*

*''(1) IN GENERAL.—The Secretary shall allow borrowers to defer payment of principal and interest on any direct loan made under this Act to enable the borrower to make loans to residential, commercial, and industrial consumers—*

*''(A) to conduct energy efficiency and use audits; and*

*''(B) to install energy efficient measures or devices that reduce the demand on electric systems.*

*''(2) AMOUNT.—The total amount of a deferment under this subsection shall not exceed the sum of the principal and interest on the loans made to a customer of the borrower, as determined by the Secretary.*

*''(3) TERM.—The term of a deferment under this subsection shall not exceed 60 months.''.*

***SEC. 6104. RURAL ELECTRIFICATION ASSISTANCE.***

*Section 13 of the Rural Electrification Act of 1936 (7 U.S.C. 913) is amended to read as follows:*

***''SEC. 13. DEFINITIONS.***

*''In this Act:*

*''(1) FARM.—The term 'farm' means a farm, as defined by the Bureau of the Census.*

*''(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*''(3) RURAL AREA.—Except as provided otherwise in this Act, the term 'rural area' means the farm and nonfarm population of—*

*''(A) any area described in section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(C)); and*

*''(B) any area within a service area of a borrower for which a borrower has an outstanding loan made under titles I through V as of the date of enactment of this paragraph.*

*''(4) TERRITORY.—The term 'territory' includes any insular possession of the United States.*

*''(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.''.*

***SEC. 6105. SUBSTANTIALLY UNDERSERVED TRUST AREAS.***

*The Rural Electrification Act of 1936 is amended by inserting after section 306E (7 U.S.C. 936e) the following:*

***''SEC. 306F. SUBSTANTIALLY UNDERSERVED TRUST AREAS.***

*''(a) DEFINITIONS.—In this section:*

*''(1) ELIGIBLE PROGRAM.—The term 'eligible program' means a program administered by the Rural Utilities Service and authorized in—*

*''(A) this Act; or*

*''(B) paragraph (1), (2), (14), (22), or (24) of section 306(a) or section 306A, 306C, 306D, or 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a), 1926a, 1926c, 1926d, 1926e).*

*''(2) SUBSTANTIALLY UNDERSERVED TRUST AREA.—The term 'substantially underserved trust area' means a community in 'trust land' (as defined in section 3765 of title 38, United States Code) with respect to which the Secretary determines has a high need for the benefits of an eligible program.*

*''(b) INITIATIVE.—The Secretary, in consultation with local governments and Federal agencies, may implement an initiative to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.*

*''(c) AUTHORITY OF SECRETARY.—In carrying out subsection (b), the Secretary—*

*''(1) may make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;*

*''(2) may waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;*

*''(3) may give the highest funding priority to designated projects in substantially underserved trust areas; and*

*''(4) shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.*

*''(d) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Secretary shall submit to Congress a report that describes—*

*''(1) the progress of the initiative implemented under subsection (b); and*

*''(2) recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas.''.*

***SEC. 6106. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.***

*(a) IN GENERAL.—Section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (1), by striking ''for electrification'' and all that follows through the end and inserting ''for eligible electrification or telephone purposes consistent with this Act.''; and*

*(B) by striking paragraph (4) and inserting the following:*

*''(4) ANNUAL AMOUNT.—The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed $1,000,000,000, subject to the availability of funds under subsection (e).'';*

*(2) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:*

*''(2) AMOUNT.—*

*''(A) IN GENERAL.—The amount of the annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.*

*''(B) PROHIBITION.—Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.*

*''(3) PAYMENT.—*

*''(A) IN GENERAL.—A lender shall pay the fees required under this subsection on a semiannual basis.*

*''(B) STRUCTURED SCHEDULE.—The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).''; and*

*(3) in subsection (f), by striking ''2007'' and inserting ''2012''.*

*(b) ADMINISTRATION.—The Secretary shall continue to carry out section 313A of the Rural*

*Electrification Act of 1936 (7 U.S.C. 940c–1) in the same manner as on the day before the date of enactment of this Act, except without regard to the limitations prescribed in subsection (b)(1) of that section, until such time as any regulations necessary to carry out the amendments made by this section are fully implemented.*

**SEC. 6107. EXPANSION OF 911 ACCESS.**

*Section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e) is amended to read as follows:*

**"SEC. 315. EXPANSION OF 911 ACCESS.**

*''(a) IN GENERAL.—Subject to subsection (c) and such terms and conditions as the Secretary may prescribe, the Secretary may make loans under this title to entities eligible to borrow from the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve in rural areas—*

*''(1) 911 access;*

*''(2) integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;*

*''(3) homeland security communications;*

*''(4) transportation safety communications; or*

*''(5) location technologies used outside an urbanized area.*

*''(b) LOAN SECURITY.—Government-imposed fees related to emergency communications (including State or local 911 fees) may be considered to be security for a loan under this section.*

*''(c) EMERGENCY COMMUNICATIONS EQUIPMENT PROVIDERS.—The Secretary may make a loan under this section to an emergency communication equipment provider to expand or improve 911 access or other communications or technologies described in subsection (a) if the local government that has jurisdiction over the project is not allowed to acquire the debt resulting from the loan.*

*''(d) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall use to make loans under this section any funds otherwise made available for telephone loans for each of fiscal years 2008 through 2012.''.*

**SEC. 6108. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

*Title III of the Rural Electrification Act of 1936 is amended by inserting after section 316 (7 U.S.C. 940f) the following:*

**"SEC. 317. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

*''(a) DEFINITION OF RENEWABLE ENERGY SOURCE.—In this section, the term 'renewable energy source' means an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.*

*''(b) LOANS.—In addition to any other funds or authorities otherwise made available under this Act, the Secretary may make electric loans under this title for electric generation from renewable energy resources for resale to rural and nonrural residents.*

*''(c) RATE.—The rate of a loan under this section shall be equal to the average tax-exempt municipal bond rate of similar maturities.''.*

**SEC. 6109. BONDING REQUIREMENTS.**

*Title III of the Rural Electrification Act of 1936 is amended by inserting after section 317 (as added by section 6108) the following:*

**"SEC. 318. BONDING REQUIREMENTS.**

*''The Secretary shall review the bonding requirements for all programs administered by the Rural Utilities Service under this Act to ensure that bonds are not required if—*

*''(1) the interests of the Secretary are adequately protected by product warranties; or*

*''(2) the costs or conditions associated with a bond exceed the benefit of the bond.''.*

**SEC. 6110. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.**

*(a) IN GENERAL.—Section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) is amended to read as follows:*

**"SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.**

*''(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas.*

*''(b) DEFINITIONS.—In this section:*

*''(1) BROADBAND SERVICE.—The term 'broadband service' means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.*

*''(2) INCUMBENT SERVICE PROVIDER.—The term 'incumbent service provider', with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.*

*''(3) RURAL AREA.—*

*''(A) IN GENERAL.—The term 'rural area' means any area other than—*

*''(i) an area described in clause (i) or (ii) of section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)); and*

*''(ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.*

*''(B) URBAN AREA GROWTH.—The Secretary may, by regulation only, consider an area described in section 343(a)(13)(F)(i)(I) of that Act to not be a rural area for purposes of this section.*

*''(c) LOANS AND LOAN GUARANTEES.—*

*''(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.*

*''(2) PRIORITY.—In making or guaranteeing loans under paragraph (1), the Secretary shall give the highest priority to applicants that offer to provide broadband service to the greatest proportion of households that, prior to the provision of the broadband service, had no incumbent service provider.*

*''(d) ELIGIBILITY.—*

*''(1) ELIGIBLE ENTITIES.—*

*''(A) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—*

*''(i) demonstrate the ability to furnish, improve, or extend a broadband service to a rural area;*

*''(ii) submit to the Secretary a loan application at such time, in such manner, and containing such information as the Secretary may require; and*

*''(iii) agree to complete buildout of the broadband service described in the loan application by not later than 3 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available.*

*''(B) LIMITATION.—An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (k) for the fiscal year.*

*''(2) ELIGIBLE PROJECTS.—*

*''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—*

*''(i) not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and*

*''(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.*

*''(B) EXCEPTION TO 25 PERCENT REQUIREMENT.—Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.*

*''(C) EXCEPTION TO 3 OR MORE INCUMBENT SERVICE PROVIDER REQUIREMENT.—*

*''(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider that is upgrading broadband service to the existing territory of the incumbent service provider.*

*''(ii) EXCEPTION.—Clause (i) shall not apply if the applicant is eligible for funding under another title of this Act.*

*''(3) EQUITY AND MARKET SURVEY REQUIREMENTS.—*

*''(A) IN GENERAL.—The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.*

*''(B) MARKET SURVEY.—*

*''(i) IN GENERAL.—The Secretary may require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.*

*''(ii) LESS THAN 20 PERCENT.—The Secretary may not require an entity that proposes to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.*

*''(4) STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBES.—Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for a loan or loan guarantee under this section to provide broadband services to a rural area.*

*''(5) NOTICE REQUIREMENT.—The Secretary shall publish a notice of each application for a loan or loan guarantee under this section describing the application, including—*

*''(A) the identity of the applicant;*

*''(B) each area proposed to be served by the applicant; and*

*''(C) the estimated number of households without terrestrial-based broadband service in those areas.*

*''(6) PAPERWORK REDUCTION.—The Secretary shall take steps to reduce, to the maximum extent practicable, the cost and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants (particularly first-time applicants who are small and start-up broadband service providers), including by providing for a new application that maintains the ability of the Secretary to make an analysis of the risk associated with the loan involved.*

*''(7) PREAPPLICATION PROCESS.—The Secretary shall establish a process under which a prospective applicant may seek a determination of area eligibility prior to preparing a loan application under this section.*

*''(e) BROADBAND SERVICE.—*

*''(1) IN GENERAL.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).*

''(2) PROHIBITION.—The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

''(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

''(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—

''(A) bear interest at an annual rate of, as determined by the Secretary—

''(i) in the case of a direct loan, a rate equivalent to—

''(I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

''(II) 4 percent; and

''(ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

''(B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

''(2) TERM.—In determining the term of a loan or loan guarantee, the Secretary shall consider whether the recipient is or would be serving an area that is not receiving broadband services.

''(3) RECURRING REVENUE.—The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

''(h) ADEQUACY OF SECURITY.—

''(1) IN GENERAL.—The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

''(2) DETERMINATION OF AMOUNT AND METHOD OF SECURITY.—In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

''(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

''(j) REPORTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, and annually thereafter, the Administrator shall submit to Congress a report that describes the extent of participation in the loan and loan guarantee program under this section for the preceding fiscal year, including a description of —

''(1) the number of loans applied for and provided under this section;

''(2)(A) the communities proposed to be served in each loan application submitted for the fiscal year; and

''(B) the communities served by projects funded by loans and loan guarantees provided under this section;

''(3) the period of time required to approve each loan application under this section;

''(4) any outreach activities carried out by the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;

''(5) the method by which the Secretary determines that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video for purposes of subsection (b)(1); and

''(6) each broadband service, including the type and speed of broadband service, for which assistance was sought, and each broadband service for which assistance was provided, under this section.

''(k) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

''(2) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

''(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

''(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

''(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

''(i) the number of communities with a population of 2,500 inhabitants or less in the State; bears to

''(ii) the number of communities with a population of 2,500 inhabitants or less in all States.

''(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

''(l) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2012.''.

(b) REGULATIONS.—The Secretary may implement the amendment made by subsection (a) through the promulgation of an interim regulation.

(c) APPLICATION.—The amendment made by subsection (a) shall not apply to—

(1) an application submitted under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) (as it existed before the amendment made by subsection (a)) that—

(A) was pending on the date that is 45 days prior to the date of enactment of this Act; and

(B) is pending on the date of enactment of this Act; or

(2) a petition for reconsideration of a decision on an application described in paragraph (1).

**SEC. 6111. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.**

Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.) is amended by adding at the end the following:

**''SEC. 602. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.**

''(a) DESIGNATION OF CENTER.—The Secretary shall designate an entity to serve as the National Center for Rural Telecommunications Assessment (referred to in this section as the 'Center').

''(b) CRITERIA.—In designating the Center under subsection (a), the Secretary shall take into consideration the following criteria:

''(1) The Center shall be an entity that demonstrates to the Secretary—

''(A) a focus on rural policy research; and

''(B) a minimum of 5 years of experience relating to rural telecommunications research and assessment.

''(2) The Center shall be capable of assessing broadband services in rural areas.

''(3) The Center shall have significant experience involving other rural economic development centers and organizations with respect to the assessment of rural policies and the formulation of policy solutions at the Federal, State, and local levels.

''(c) BOARD OF DIRECTORS.—The Center shall be managed by a board of directors, which shall be responsible for the duties of the Center described in subsection (d).

''(d) DUTIES.—The Center shall—

''(1) assess the effectiveness of programs carried out under this title in increasing broadband penetration and purchase in rural areas, especially in rural communities identified by the Secretary as having no broadband service before the provision of a loan or loan guarantee under this title;

''(2) work with existing rural development centers selected by the Center to identify policies and initiatives at the Federal, State, and local levels that have increased broadband penetration and purchase in rural areas and provide recommendations to Federal, State, and local policymakers on effective strategies to bring affordable broadband services to residents of rural areas, particularly residents located outside of the municipal boundaries of a rural city or town; and

''(3) develop and publish reports describing the activities carried out by the Center under this section.

''(e) REPORTING REQUIREMENTS.—Not later than December 1 of each applicable fiscal year, the board of directors of the Center shall submit to Congress and the Secretary a report describing the activities carried out by the Center during the preceding fiscal year and the results of any research conducted by the Center during that fiscal year, including—

''(1) an assessment of each program carried out under this title; and

''(2) an assessment of the effects of the policy initiatives identified under subsection (d)(2).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 6112. COMPREHENSIVE RURAL BROADBAND STRATEGY.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Chairman of the Federal Communications Commission, in coordination with the Secretary, shall submit to Congress a report describing a comprehensive rural broadband strategy that includes—

(1) recommendations—

(A) to promote interagency coordination of Federal agencies in regards to policies, procedures, and targeted resources, and to streamline or otherwise improve and streamline the policies, programs, and services;

(B) to coordinate existing Federal rural broadband or rural initiatives;

(C) to address both short- and long-term needs assessments and solutions for a rapid build-out of rural broadband solutions and application of the recommendations for Federal, State, regional, and local government policymakers; and

(D) to identify how specific Federal agency programs and resources can best respond to rural broadband requirements and overcome obstacles that currently impede rural broadband deployment; and

(2) a description of goals and timeframes to achieve the purposes of the report.

(b) UPDATES.—The Chairman of the Federal Communications Commission, in coordination with the Secretary, shall update and evaluate the report described in subsection (a) during the third year after the date of enactment of this Act.

**SEC. 6113. STUDY ON RURAL ELECTRIC POWER GENERATION.**

(a) IN GENERAL.—The Secretary shall conduct a study on the electric power generation needs in rural areas of the United States.

(b) COMPONENTS.—The study shall include an examination of—

*(1) generation in various areas in rural areas of the United States, particularly by rural electric cooperatives;;*

*(2) financing available for capacity, including financing available through programs authorized under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);*

*(3) the impact of electricity costs on consumers and local economic development;*

*(4) the ability of fuel feedstock technology to meet regulatory requirements, such as carbon capture and sequestration; and*

*(5) any other factors that the Secretary considers appropriate.*

*(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the study under this section.*

***Subtitle C—Miscellaneous***

***SEC. 6201. DISTANCE LEARNING AND TELEMEDICINE.***

*(a) IN GENERAL.—Section 2333(c)(1) of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. Sec. 950aaa–2(a)(1)) is amended—*

*(1) in subparagraph (A), by striking ''and'' at the end;*

*(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*''(C) libraries.''.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking ''2007'' and inserting ''2012''.*

*(c) CONFORMING AMENDMENT.—Section 1(b) of Public Law 102–551 (7 U.S.C. 950aaa note; Public Law 102–551) is amended by striking ''2007'' and inserting ''2012''.*

***SEC. 6202. VALUE-ADDED AGRICULTURAL MARKET DEVELOPMENT PROGRAM GRANTS.***

*(a) DEFINITIONS.—Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended by striking subsection (a) and inserting the following:*

*''(a) DEFINITIONS.—In this section:*

*''(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).*

*''(2) FAMILY FARM.—The term 'family farm' has the meaning given the term in section 761.2 of title 7, Code of Federal Regulations (as in effect on December 30, 2007).*

*''(3) MID-TIER VALUE CHAIN.—The term 'mid-tier value chain' means local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products in a manner that—*

*''(A) targets and strengthens the profitability and competitiveness of small and medium-sized farms and ranches that are structured as a family farm; and*

*''(B) obtains agreement from an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture that is engaged in the value chain on a marketing strategy.*

*''(4) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).*

*''(5) VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means any agricultural commodity or product that—*

*''(A)(i) has undergone a change in physical state;*

*''(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary;*

*''(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product;*

*''(iv) is a source of farm- or ranch-based renewable energy, including E–85 fuel; or*

*''(v) is aggregated and marketed as a locally-produced agricultural food product; and*

*''(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced, marketed, or segregated—*

*''(i) the customer base for the agricultural commodity or product is expanded; and*

*''(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity or product is available to the producer of the commodity or product.''.*

*(b) GRANT PROGRAM.—Section 231(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—*

*(1) in paragraph (1), by striking ''paragraph (4)'' and inserting ''paragraph (7)''; and*

*(2) by striking paragraph (4) and inserting the following:*

*''(4) TERM.—A grant under this subsection shall have a term that does not exceed 3 years.*

*''(5) SIMPLIFIED APPLICATION.—The Secretary shall offer a simplified application form and process for project proposals requesting less than $50,000.*

*''(6) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to projects that contribute to increasing opportunities for—*

*''(A) beginning farmers or ranchers;*

*''(B) socially disadvantaged farmers or ranchers; and*

*''(C) operators of small- and medium-sized farms and ranches that are structured as a family farm.*

*''(7) FUNDING.—*

*''(A) MANDATORY FUNDING.—On October 1, 2008, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $15,000,000, to remain available until expended.*

*''(B) DISCRETIONARY FUNDING.—There is authorized to be appropriated to carry out this subsection $40,000,000 for each of fiscal years 2008 through 2012.*

*''(C) RESERVATION OF FUNDS FOR PROJECTS TO BENEFIT BEGINNING FARMERS OR RANCHERS, SOCIALLY DISADVANTAGED FARMERS OR RANCHERS, AND MID-TIER VALUE CHAINS.—*

*''(i) IN GENERAL.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers.*

*''(ii) MID-TIER VALUE CHAINS.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund applications of eligible entities described in paragraph (1) that propose to develop mid-tier value chains.*

*''(iii) UNOBLIGATED AMOUNTS.—Any amounts in the reserves for a fiscal year established under clauses (i) and (ii) that are not obligated by June 30 of the fiscal year shall be available to the Secretary to make grants under this subsection to eligible entities in any State, as determined by the Secretary.''.*

***SEC. 6203. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.***

*Section 6402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note; Public Law 107–171) is amended by striking subsection (i) and inserting the following:*

*''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.''.*

***SEC. 6204. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.***

*Section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended to read as follows:*

***''SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.***

*''(a) DEFINITION OF EMERGENCY MEDICAL SERVICES.—In this section:*

*''(1) IN GENERAL.—The term 'emergency medical services' means resources used by a public or nonprofit entity to deliver medical care outside of a medical facility under emergency conditions that occur as a result of—*

*''(A) the condition of a patient; or*

*''(B) a natural disaster or related condition.*

*''(2) INCLUSION.—The term 'emergency medical services' includes services (whether compensated or volunteer) delivered by an emergency medical services provider or other provider recognized by the State involved that is licensed or certified by the State as—*

*''(A) an emergency medical technician or the equivalent (as determined by the State);*

*''(B) a registered nurse;*

*''(C) a physician assistant; or*

*''(D) a physician that provides services similar to services provided by such an emergency medical services provider.*

*''(b) GRANTS.—The Secretary shall award grants to eligible entities—*

*''(1) to enable the entities to provide for improved emergency medical services in rural areas; and*

*''(2) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.*

*''(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—*

*''(1) be—*

*''(A) a State emergency medical services office;*

*''(B) a State emergency medical services association;*

*''(C) a State office of rural health or an equivalent agency;*

*''(D) a local government entity;*

*''(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));*

*''(F) a State or local ambulance provider; or*

*''(G) any other public or nonprofit entity determined appropriate by the Secretary; and*

*''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—*

*''(A) a description of the activities to be carried out under the grant; and*

*''(B) an assurance that the applicant will comply with the matching requirement of subsection (f).*

*''(d) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (b) only in a rural area—*

*''(1) to hire or recruit emergency medical service personnel;*

*''(2) to recruit or retain volunteer emergency medical service personnel;*

*''(3) to train emergency medical service personnel in emergency response, injury prevention, safety awareness, or other topics relevant to the delivery of emergency medical services;*

*''(4) to fund training to meet State or Federal certification requirements;*

*''(5) to provide training for firefighters or emergency medical personnel for improvements to the training facility, equipment, curricula, or personnel;*

*''(6) to develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);*

*''(7) to acquire emergency medical services vehicles, including ambulances;*

''(8) to acquire emergency medical services equipment, including cardiac defibrillators;

''(9) to acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; or

''(10) to educate the public concerning cardiopulmonary resuscitation (CPR), first aid, injury prevention, safety awareness, illness prevention, or other related emergency preparedness topics.

''(e) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to—

''(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (G) of subsection (c)(1); and

''(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (d).

''(f) MATCHING REQUIREMENT.—The Secretary may not make a grant under this section to an entity unless the entity makes available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to at least 5 percent of the amount received under the grant.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section not more than $30,000,000 for each of fiscal years 2008 through 2012.

''(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated under paragraph (1) for a fiscal year may be used for administrative expenses incurred in carrying out this section.''.

**SEC. 6205. INSURANCE OF LOANS FOR HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR.**

Section 514(f)(3) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)) is amended by striking ''or the handling of such commodities in the unprocessed stage'' and inserting '', the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities''.

**SEC. 6206. STUDY OF RURAL TRANSPORTATION ISSUES.**

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of transportation issues regarding the movement of agricultural products, domestically produced renewable fuels, and domestically produced resources for the production of electricity for rural areas of the United States, and economic development in those areas.

(b) INCLUSIONS.—The study shall include an examination of—

(1) the importance of freight transportation, including rail, truck, and barge, to—

(A) the delivery of equipment, seed, fertilizer, and other such products important to the development of agricultural commodities and products;

(B) the movement of agricultural commodities and products to market;

(C) the delivery of ethanol and other renewable fuels;

(D) the delivery of domestically produced resources for use in the generation of electricity for rural areas;

(E) the location of grain elevators, ethanol plants, and other facilities;

(F) the development of manufacturing facilities in rural areas; and

(G) the vitality and economic development of rural communities;

(2) the sufficiency in rural areas of transportation capacity, the sufficiency of competition in the transportation system, the reliability of transportation services, and the reasonableness of transportation rates;

(3) the sufficiency of facility investment in rural areas necessary for efficient and cost-effective transportation; and

(4) the accessibility to shippers in rural areas of Federal processes for the resolution of grievances arising within various transportation modes.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall submit to Congress a report that contains the results of the study required by subsection (a).

***Subtitle D—Housing Assistance Council***

**SEC. 6301. SHORT TITLE.**

This subtitle may be cited as the ''Housing Assistance Council Authorization Act of 2008''.

**SEC. 6302. ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.**

(a) USE.—The Secretary of Housing and Urban Development may provide financial assistance to the Housing Assistance Council for use by the Council to develop the ability and capacity of community-based housing development organizations to undertake community development and affordable housing projects and programs in rural areas. Assistance provided by the Secretary under this section may be used by the Housing Assistance Council for—

(1) technical assistance, training, support, research, and advice to develop the business and administrative capabilities of rural community-based housing development organizations;

(2) loans, grants, or other financial assistance to rural community-based housing development organizations to carry out community development and affordable housing activities for low- and moderate-income families; and

(3) such other activities as may be determined by the Secretary of Housing and Urban Development and the Housing Assistance Council.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for financial assistance under this section for the Housing Assistance Council $10,000,000 for each of fiscal years 2009 through 2011.

**SEC. 6303. AUDITS AND REPORTS.**

(a) AUDIT.—

(1) IN GENERAL.—The financial transactions and activities of the Housing Assistance Council shall be audited annually by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) REQUIREMENTS OF AUDITS.—The Comptroller General of the United States may rely on any audit completed under paragraph (1), if the audit complies with—

(A) the annual programmatic and financial examination requirements established in OMB Circular A-133; and

(B) generally accepted government auditing standards.

(3) REPORT TO CONGRESS.—The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative a report detailing each audit completed under paragraph (1).

(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative on the use of any funds appropriated to the Housing Assistance Council over the past 7 years.

**SEC. 6304. PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this subtitle, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this subtitle shall be construed to alter the restrictions or definitions in such section 214.

**SEC. 6305. LIMITATION ON USE OF AUTHORIZED AMOUNTS.**

None of the amounts authorized by this subtitle may be used to lobby or retain a lobbyist for the purpose of influencing a Federal, State, or local governmental entity or officer.

***TITLE VII—RESEARCH AND RELATED MATTERS***

***Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977***

**SEC. 7101. DEFINITIONS.**

(a) IN GENERAL.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(B) by striking ''(4) The terms'' and inserting the following:

''(4) COLLEGE AND UNIVERSITY.—

''(A) IN GENERAL.—The terms''; and

(C) by adding at the end the following:

''(B) INCLUSIONS.—The terms 'college' and 'university' include a research foundation maintained by a college or university described in subparagraph (A).'';

(2) by redesignating paragraphs (5) through (8), (9) through (11), (12) through (14), (15), (16), (17), and (18) as paragraphs (6) through (9), (11) through (13), (15) through (17), (20), (5), (18), and (19), respectively, and moving the paragraphs so as to appear in alphabetical and numerical order;

(3) in paragraph (9) (as redesignated by paragraph (2))—

(A) by striking ''renewable natural resources'' and inserting ''renewable energy and natural resources''; and

(B) by striking subparagraph (F) and inserting the following:

''(F) Soil, water, and related resource conservation and improvement.'';

(4) by inserting after paragraph (9) (as so redesignated) the following:

''(10) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

''(A) IN GENERAL.—The term 'Hispanic-serving agricultural colleges and universities' means colleges or universities that—

''(i) qualify as Hispanic-serving institutions; and

''(ii) offer associate, bachelors, or other accredited degree programs in agriculture-related fields.

''(B) EXCEPTION.—The term 'Hispanic-serving agricultural colleges and universities' does not include 1862 institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)).'';

(5) by striking paragraph (11) (as so redesignated) and inserting the following:

''(11) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).''; and

(6) by inserting after paragraph (13) (as so redesignated) the following:

''(14) NLGCA INSTITUTION; NON-LAND-GRANT COLLEGE OF AGRICULTURE.—

''(A) IN GENERAL.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' mean a public college or university offering a baccalaureate or higher degree in the study of agriculture or forestry.

''(B) EXCLUSIONS.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' do not include—

''(i) Hispanic-serving agricultural colleges and universities; or

''(ii) any institution designated under—

''(I) the Act of July 2, 1862 (commonly known as the 'First Morrill Act'; 7 U.S.C. 301 et seq.);

''(II) the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.);

''(III) the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note); or

''(IV) Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(3) of the Research Facilities Act (7 U.S.C. 390(3)) is amended by striking ''section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''.

(2) Section 2(k) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(k)) is amended in the second sentence by striking ''section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''.

(3) Section 18(a)(3)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(B)) is amended by striking ''section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))''.

(4) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking ''section 1404(16) of this title'' and inserting ''section 1404(18)''.

(5) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) in paragraph (1), by striking ''section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)'';

(B) in paragraph (5), by striking ''section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''; and

(C) in paragraph (8), by striking ''section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(13))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''.

(6) Section 125(c)(1)(C) of Public Law 100–238 (5 U.S.C. 8432 note) is amended by striking ''section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5))'' and inserting ''section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)''.

**SEC. 7102. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.**

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''31'' and inserting ''25''; and

(B) by striking paragraph (3) and inserting the following:

''(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

''(A) 1 member representing a national farm organization.

''(B) 1 member representing farm cooperatives.

''(C) 1 member actively engaged in the production of a food animal commodity, recommended by a coalition of national livestock organizations.

''(D) 1 member actively engaged in the production of a plant commodity, recommended by a coalition of national crop organizations.

''(E) 1 member actively engaged in aquaculture, recommended by a coalition of national aquacultural organizations.

''(F) 1 member representing a national food animal science society.

''(G) 1 member representing a national crop, soil, agronomy, horticulture, plant pathology, or weed science society.

''(H) 1 member representing a national food science organization.

''(I) 1 member representing a national human health association.

''(J) 1 member representing a national nutritional science society.

''(K) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

''(L) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

''(M) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)).

''(N) 1 member representing NLGCA Institutions.

''(O) 1 member representing Hispanic-serving institutions.

''(P) 1 member representing the American Colleges of Veterinary Medicine.

''(Q) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

''(R) 1 member representing food retailing and marketing interests.

''(S) 1 member representing food and fiber processors.

''(T) 1 member actively engaged in rural economic development.

''(U) 1 member representing a national consumer interest group.

''(V) 1 member representing a national forestry group.

''(W) 1 member representing a national conservation or natural resource group.

''(X) 1 member representing private sector organizations involved in international development.

''(Y) 1 member representing a national social science association.'';

(2) in subsection (g)(1), by striking ''$350,000'' and inserting ''$500,000''; and

(3) in subsection (h), by striking ''2007'' and inserting ''2012''.

(b) NO EFFECT ON TERMS.—Nothing in this section or any amendment made by this section affects the term of any member of the National Agricultural Research, Extension, Education, and Economics Advisory Board serving as of the date of enactment of this Act.

**SEC. 7103. SPECIALTY CROP COMMITTEE REPORT.**

Section 1408A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a(c)) is amended by adding at the end the following:

''(4) Analyses of changes in macroeconomic conditions, technologies, and policies on specialty crop production and consumption, with particular focus on the effect of those changes on the financial stability of producers.

''(5) Development of data that provide applied information useful to specialty crop growers, their associations, and other interested beneficiaries in evaluating that industry from a regional and national perspective.''.

**SEC. 7104. RENEWABLE ENERGY COMMITTEE.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1408A (7 U.S.C. 3123a) the following:

**''SEC. 1408B. RENEWABLE ENERGY COMMITTEE.**

''(a) INITIAL MEMBERS.—Not later than 90 days after the date of enactment of this section, the executive committee of the Advisory Board shall establish and appoint the initial members of a permanent renewable energy committee.

''(b) DUTIES.—The permanent renewable energy committee shall study the scope and effectiveness of research, extension, and economics programs affecting the renewable energy industry.

''(c) NONADVISORY BOARD MEMBERS.—

''(1) IN GENERAL.—An individual who is not a member of the Advisory Board may be appointed as a member of the renewable energy committee.

''(2) SERVICE.—A member of the renewable energy committee shall serve at the discretion of the executive committee.

''(d) REPORT BY RENEWABLE ENERGY COMMITTEE.—Not later than 180 days after the date of establishment of the renewable energy committee, and annually thereafter, the renewable energy committee shall submit to the Advisory Board a report that contains the findings and any recommendations of the renewable energy committee with respect to the study conducted under subsection (b).

''(e) CONSULTATION.—In carrying out the duties described in subsection (b), the renewable energy committee shall consult with the Biomass Research and Development Technical Advisory Committee established under section 9008(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8605).

''(f) MATTERS TO BE CONSIDERED IN BUDGET RECOMMENDATION.—In preparing the annual budget recommendations for the Department, the Secretary shall take into consideration those findings and recommendations contained in the most recent report of the renewable energy committee under subsection (d) that are developed by the Advisory Committee.

''(g) REPORT BY THE SECRETARY.—In the budget material submitted to Congress by the Secretary in connection with the budget submitted pursuant to section 1105 of title 31, United States Code, for a fiscal year, the Secretary shall include a report that describes the ways in which the Secretary addressed each recommendation of the renewable energy committee described in subsection (f).''.

**SEC. 7105. VETERINARY MEDICINE LOAN REPAYMENT.**

(a) IN GENERAL.—Section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) is amended—

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

''(b) DETERMINATION OF VETERINARIAN SHORTAGE SITUATIONS.—In determining 'veterinarian shortage situations', the Secretary may consider—

''(1) geographical areas that the Secretary determines have a shortage of veterinarians; and

''(2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety.'';

(2) in subsection (c), by adding at the end the following:

''(8) PRIORITY.—In administering the program, the Secretary shall give priority to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.'';

(3) by redesignating subsection (d) as subsection (f); and

(4) by inserting after subsection (c) the following:

''(d) USE OF FUNDS.—None of the funds appropriated to the Secretary under subsection (f) may be used to carry out section 5379 of title 5, United States Code.

''(e) REGULATIONS.—Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 270 days after the date of enactment of this subsection, the Secretary shall promulgate regulations to carry out this section.''.

(b) DISAPPROVAL OF TRANSFER OF FUNDS.—Congress disapproves the transfer of funds from the Cooperative State Research, Education, and Extension Service to the Food Safety and Inspection Service described in the notice of use of funds for implementation of the veterinary medicine loan repayment program authorized by the

*National Veterinary Medical Service Act (72 Fed. Reg. 48609 (August 24, 2007)), and such funds shall be rescinded on the date of enactment of this Act and made available to the Secretary, without further appropriation or fiscal year limitation, for use only in accordance with section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) (as amended by subsection (a)).*

**SEC. 7106. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

*Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—*

*(1) in the matter preceding paragraph (1) of subsection (b), by inserting ''(including the University of the District of Columbia)'' after ''land-grant colleges and universities''; and*

*(2) in subsection (d)(2), by inserting ''(including the University of the District of Columbia)'' after ''universities''.*

**SEC. 7107. GRANTS TO 1890 SCHOOLS TO EXPAND EXTENSION CAPACITY.**

*Section 1417(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)(4)) is amended by striking ''teaching and research'' and inserting ''teaching, research, and extension''.*

**SEC. 7108. EXPANSION OF FOOD AND AGRICULTURAL SCIENCES AWARDS.**

*Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended—*

*(1) in the subsection heading, by striking ''Teaching Awards'' and inserting ''Teaching, Extension, and Research Awards''; and*

*(2) by striking paragraph (1) and inserting the following:*

*''(1) ESTABLISHMENT.—*

*''(A) IN GENERAL.—The Secretary shall establish a National Food and Agricultural Sciences Teaching, Extension, and Research Awards program to recognize and promote excellence in teaching, extension, and research in the food and agricultural sciences at a college or university.*

*''(B) MINIMUM REQUIREMENT.—The Secretary shall make at least 1 cash award in each fiscal year to a nominee selected by the Secretary for excellence in each of the areas of teaching, extension, and research of food and agricultural science at a college or university.''.*

**SEC. 7109. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

*(a) EDUCATION TEACHING PROGRAMS.—Section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)) is amended—*

*(1) in the subsection heading, by striking ''SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS'' and inserting ''SECONDARY EDUCATION, 2-YEAR POSTSECONDARY EDUCATION, AND AGRICULTURE IN THE K–12 CLASSROOM''; and*

*(2) in paragraph (3)—*

*(A) by striking ''secondary schools, and institutions of higher education that award an associate's degree'' and inserting ''secondary schools, institutions of higher education that award an associate's degree, other institutions of higher education, and nonprofit organizations'';*

*(B) in subparagraph (E), by striking ''and'' at the end;*

*(C) in subparagraph (F), by striking the period at the end and inserting ''; and''; and*

*(D) by adding at the end the following:*

*''(G) to support current agriculture in the classroom programs for grades K–12.''.*

*(b) REPORT.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—*

*(1) by redesignating subsection (l) as subsection (m); and*

*(2) by inserting after subsection (k) the following:*

*''(l) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a biennial report detailing the distribution of funds used to implement the teaching programs under subsection (j).''.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1417(m) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (as redesignated by subsection (b)(1)) is amended by striking ''2007'' and inserting ''2012''.*

*(d) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2008.*

**SEC. 7110. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.**

*(a) IN GENERAL.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is repealed.*

*(b) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking ''1419,''.*

**SEC. 7111. POLICY RESEARCH CENTERS.**

*Section 1419A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155) is amended—*

*(1) in subsection (a)(1), by inserting ''(including commodities, livestock, dairy, and specialty crops)'' after ''agricultural sectors'';*

*(2) in subsection (b), by inserting ''(including the Food Agricultural Policy Research Institute, the Agricultural and Food Policy Center, the Rural Policy Research Institute, and the National Drought Mitigation Center)'' after ''research institutions and organizations''; and*

*(3) in subsection (d), by striking ''2007'' and inserting ''2012''.*

**SEC. 7112. EDUCATION GRANTS TO ALASKA NATIVE-SERVING INSTITUTIONS AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.**

*Section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 3242)—*

*(1) is amended—*

*(A) in subsection (a)(3), by striking ''2006'' and inserting ''2012''; and*

*(B) in subsection (b)—*

*(i) in paragraph (2)(A), by inserting before the semicolon at the end the following: '', including permitting consortia to designate fiscal agents for the members of the consortia and to allocate among the members funds made available under this section''; and*

*(ii) in paragraph (3), by striking ''2006'' and inserting ''2012'';*

*(2) is redesignated as section 1419B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; and*

*(3) is moved so as to appear after section 1419A of that Act (7 U.S.C. 3155).*

**SEC. 7113. EMPHASIS OF HUMAN NUTRITION INITIATIVE.**

*Section 1424(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(b)) is amended—*

*(1) in paragraph (1), by striking ''and,'';*

*(2) in paragraph (2), by striking the comma at the end and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(3) proposals that examine the efficacy of current agriculture policies in promoting the health and welfare of economically disadvantaged populations;''.*

**SEC. 7114. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.**

*Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking ''2007'' and inserting ''2012''.*

**SEC. 7115. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.**

*Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking ''2007'' and inserting ''2012''.*

**SEC. 7116. NUTRITION EDUCATION PROGRAM.**

*(a) IN GENERAL.—Section 1425 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175) is amended—*

*(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;*

*(2) by striking the section heading and designation and inserting the following:*

**"SEC. 1425. NUTRITION EDUCATION PROGRAM.**

*''(a) DEFINITION OF 1862 INSTITUTION AND 1890 INSTITUTION.—In this section, the terms '1862 Institution' and '1890 Institution' have the meaning given those terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).'';*

*(3) in subsection (b) (as redesignated by paragraph (1)), by striking ''(b) The Secretary'' and inserting the following:*

*''(b) ESTABLISHMENT.—The Secretary'';*

*(4) in subsection (c) (as so redesignated), by striking ''(c) In order to enable'' and inserting the following:*

*''(c) EMPLOYMENT AND TRAINING.—To enable'';*

*(5) in subsection (d) (as redesignated by paragraph (1))—*

*(A) by striking ''(d) Beginning'' and inserting the following:*

*''(d) ALLOCATION OF FUNDING.—Beginning'';*

*(B) in paragraph (2), by striking subparagraph (B) and inserting the following:*

*''(B) Notwithstanding section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), the remainder shall be allocated among the States as follows:*

*''(i) $100,000 shall be distributed to each 1862 Institution and 1890 Institution.*

*''(ii) Subject to clause (iii), the remainder shall be allocated to each State in an amount that bears the same ratio to the total amount to be allocated under this clause as—*

*''(I) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State; bears to*

*''(II) the total population living at or below 125 percent of those income poverty guidelines in all States;*

*as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.*

*''(iii)(I) Before any allocation of funds under clause (ii), for any fiscal year for which the amount of funds appropriated for the conduct of the expanded food and nutrition education program exceeds the amount of funds appropriated for the program for fiscal year 2007, the following percentage of such excess funds for the fiscal year shall be allocated to the 1890 Institutions in accordance with subclause (II):*

*''(aa) 10 percent for fiscal year 2009.*

*''(bb) 11 percent for fiscal year 2010.*

*''(cc) 12 percent for fiscal year 2011.*

*''(dd) 13 percent for fiscal year 2012.*

*''(ee) 14 percent for fiscal year 2013.*

*''(ff) 15 percent for fiscal year 2014 and for each fiscal year thereafter.*

*''(II) Funds made available under subclause (I) shall be allocated to each 1890 Institution in an amount that bears the same ratio to the total amount to be allocated under this clause as—*

*''(aa) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State in which the 1890 Institution is located; bears to*

''(bb) the total population living at or below 125 percent of those income poverty guidelines in all States in which 1890 Institutions are located;

as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

''(iv) Nothing in this subparagraph precludes the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subparagraph.''; and

(C) by striking paragraph (3); and

(6) by adding at the end the following:

''(e) COMPLEMENTARY ADMINISTRATION.—The Secretary shall ensure the complementary administration of the expanded food and nutrition education program by 1862 Institutions and 1890 Institutions in a State.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and this section $90,000,000 for each of fiscal years 2009 through 2012.''.

(b) CONFORMING AMENDMENT.—Section 1588(b) of the Food Security Act of 1985 (7 U.S.C. 3175e(b)) is amended by striking ''section 1425(c)(2)'' and inserting ''section 1425(d)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2008.

**SEC. 7117. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.**

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended in the first sentence by striking ''2007'' and inserting ''2012''.

**SEC. 7118. COOPERATION AMONG ELIGIBLE INSTITUTIONS.**

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended by adding at the end the following:

''(g) COOPERATION AMONG ELIGIBLE INSTITUTIONS.—The Secretary, to the maximum extent practicable, shall encourage eligible institutions to cooperate in setting research priorities under this section through the conduct of regular regional and national meetings.''.

**SEC. 7119. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.**

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7120. ANIMAL HEALTH AND DISEASE RESEARCH PROGRAM.**

Section 1434(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(b)) is amended by inserting after ''universities'' the following: ''(including 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)))''.

**SEC. 7121. AUTHORIZATION LEVEL FOR EXTENSION AT 1890 LAND-GRANT COLLEGES.**

Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking ''15 percent'' and inserting ''20 percent''.

**SEC. 7122. AUTHORIZATION LEVEL FOR AGRICULTURAL RESEARCH AT 1890 LAND-GRANT COLLEGES.**

Section 1445(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)(2)) is amended by striking ''25 percent'' and inserting ''30 percent''.

**SEC. 7123. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.**

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7124. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1447 (7 U.S.C. 3222b) the following:

**''SEC. 1447A. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.**

''(a) PURPOSE.—It is the intent of Congress to assist the land-grant university in the District of Columbia established under section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000 for each of fiscal years 2008 through 2012.''.

**SEC. 7125. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.**

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1447A (as added by section 7124) the following:

**''SEC. 1447B. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.**

''(a) PURPOSE.—It is the intent of Congress to assist the land-grant institutions in the insular areas in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

''(b) METHOD OF AWARDING GRANTS.—Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary determines necessary to carry out the purposes of this section.

''(c) REGULATIONS.—The Secretary may promulgate such rules and regulations as the Secretary considers to be necessary to carry out this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 7126. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.**

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking ''2007'' each place it appears in subsections (a)(1) and (f) and inserting ''2012''.

**SEC. 7127. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.**

Section 1449(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d(c)) is amended—

(1) in the first sentence—

(A) by striking ''for each of fiscal years 2003 through 2007,''; and

(B) by inserting ''equal'' before ''matching''; and

(2) by striking the second sentence and all that follows through paragraph (5).

**SEC. 7128. HISPANIC-SERVING INSTITUTIONS.**

Section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241) is amended—

(1) in subsection (a) by striking ''(or grants without regard to any requirement for competition)'';

(2) in subsection (b)(1), by striking ''of consortia''; and

(3) in subsection (c)—

(A) by striking ''$20,000,000'' and inserting ''$40,000,000''; and

(B) by striking ''2007'' and inserting ''2012''.

**SEC. 7129. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.**

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1455 (7 U.S.C. 3241) the following:

**''SEC. 1456. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.**

''(a) DEFINITION OF ENDOWMENT FUND.—In this section, the term 'endowment fund' means the Hispanic-Serving Agricultural Colleges and Universities Fund established under subsection (b).

''(b) ENDOWMENT.—

''(1) IN GENERAL.—The Secretary of the Treasury shall establish in accordance with this subsection a Hispanic-Serving Agricultural Colleges and Universities Fund.

''(2) AGREEMENTS.—The Secretary of the Treasury may enter into such agreements as are necessary to carry out this subsection.

''(3) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary of the Treasury shall deposit in the endowment fund any—

''(A) amounts made available through Acts of appropriations, which shall be the endowment fund corpus; and

''(B) interest earned on the endowment fund corpus.

''(4) INVESTMENTS.—The Secretary of the Treasury shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

''(5) WITHDRAWALS AND EXPENDITURES.—

''(A) CORPUS.—The Secretary of the Treasury may not make a withdrawal or expenditure from the endowment fund corpus.

''(B) WITHDRAWALS.—On September 30, 2008, and each September 30 thereafter, the Secretary of the Treasury shall withdraw the amount of the income from the endowment fund for the fiscal year and warrant the funds to the Secretary of Agriculture who, after making adjustments for the cost of administering the endowment fund, shall distribute the adjusted income as follows:

''(i) 60 percent shall be distributed among the Hispanic-serving agricultural colleges and universities on a pro rata basis based on the Hispanic enrollment count of each institution.

''(ii) 40 percent shall be distributed in equal shares to the Hispanic-serving agricultural colleges and universities.

''(6) ENDOWMENTS.—Amounts made available under this subsection shall be held and considered to be granted to Hispanic-serving agricultural colleges and universities to establish an endowment in accordance with this subsection.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

''(c) AUTHORIZATION FOR ANNUAL PAYMENTS.—

''(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, there are authorized to be appropriated to the Department of Agriculture to carry out this subsection an amount equal to the product obtained by multiplying—

''(A) $80,000; by

''(B) the number of Hispanic-serving agricultural colleges and universities.

''(2) PAYMENTS.—For fiscal year 2008 and each fiscal year thereafter, the Secretary of the Treasury shall pay to the treasurer of each Hispanic-serving agricultural college and university an amount equal to—

''(A) the total amount made available by appropriations under paragraph (1); divided by

''(B) the number of Hispanic-serving agricultural colleges and universities.

''(3) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.).

''(B) RELATIONSHIP TO OTHER LAW.—Except as otherwise provided in this subsection, the requirements of that Act shall apply to Hispanic-serving agricultural colleges and universities under this section.

''(d) INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

''(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, the Secretary shall make grants to assist Hispanic-serving agricultural colleges and universities in institutional capacity building (not including alteration, repair, renovation, or construction of buildings).

''(2) CRITERIA FOR INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

''(A) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this subsection on the basis of a competitive application process under which Hispanic-serving agricultural colleges and universities may submit applications to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) DEMONSTRATION OF NEED.—

''(i) IN GENERAL.—As part of an application for a grant under this subsection, the Secretary shall require the applicant to demonstrate need for the grant, as determined by the Secretary.

''(ii) OTHER SOURCES OF FUNDING.—The Secretary may award a grant under this subsection only to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

''(C) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount that is specified by the Secretary and based on assessed institutional needs.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

''(e) COMPETITIVE GRANTS PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a competitive grants program to fund fundamental and applied research at Hispanic-serving agricultural colleges and universities in agriculture, human nutrition, food science, bioenergy, and environmental science.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.''.

(b) EXTENSION.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following:

''(4) ANNUAL APPROPRIATION FOR HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for payments to Hispanic-serving agricultural colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) such sums as are necessary to carry out this paragraph for fiscal year 2008 and each fiscal year thereafter, to remain available until expended.

''(B) ADDITIONAL AMOUNT.—Amounts made available under this paragraph shall be in addition to any other amounts made available under this section to States, the Commonwealth of Puerto Rico, Guam, or the United States Virgin Islands.

''(C) ADMINISTRATION.—Amounts made available under this paragraph shall be—

''(i) distributed on the basis of a competitive application process to be developed and implemented by the Secretary;

''(ii) paid by the Secretary to the State institutions established in accordance with the Act of July 2, 1862 (commonly known as the 'First Morrill Act') (7 U.S.C. 301 et seq.); and

''(iii) administered by State institutions through cooperative agreements with the Hispanic-serving agricultural colleges and universities in the State in accordance with regulations promulgated by the Secretary.''; and

(2) in subsection (f)—

(A) in the subsection heading, by inserting ''AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES'' after ''1994 INSTITUTIONS''; and

(B) by striking ''pursuant to subsection (b)(3)'' and inserting ''or Hispanic-serving agricultural colleges and universities in accordance with paragraphs (3) and (4) of subsection (b)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

''(6) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term 'Hispanic-serving agricultural colleges and universities' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).''.

(2) Section 102(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(c)) is amended—

(A) in the subsection heading, by inserting ''AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES'' after ''INSTITUTIONS''; and

(B) in paragraph (1), by striking '' and 1994 Institution'' and inserting ''1994 Institution, and Hispanic-serving agricultural college and university''.

(3) Section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(e)) is amended by adding at the end the following:

''(3) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—To be eligible to obtain agricultural extension funds from the Secretary for an activity, each Hispanic-serving agricultural college and university shall—

''(A) establish a process for merit review of the activity; and

''(B) review the activity in accordance with such process.''.

(4) Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by striking ''and 1994 Institutions'' and inserting '', 1994 Institutions, and Hispanic-serving agricultural colleges and universities''.

**SEC. 7130. INTERNATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.**

Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''and'' after the semicolon;

(B) in subparagraph (B), by adding ''and'' at the end; and

(C) by adding at the end the following:

''(C) giving priority to those institutions with existing memoranda of understanding, agreements, or other formal ties to United States institutions, or Federal or State agencies;'';

(2) by striking paragraph (3) and inserting the following:

''(3) enter into agreements with land-grant colleges and universities, Hispanic-serving agricultural colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, the World Bank, regional development banks, international agricultural research centers), or other organizations, institutions, or individuals with comparable goals, to promote and support—

''(A) the development of a viable and sustainable global agricultural system;

''(B) antihunger and improved international nutrition efforts; and

''(C) increased quantity, quality, and availability of food;'';

(3) in paragraph (7)(A), by striking ''and land-grant colleges and universities'' and inserting '', land-grant colleges and universities, and Hispanic-serving agricultural colleges and universities'';

(4) in paragraph (9)—

(A) in subparagraph (A), by striking ''or other colleges and universities'' and inserting '', Hispanic-serving agricultural colleges and universities, or other colleges and universities''; and

(B) in subparagraph (D), by striking ''and'' at the end;

(5) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(11) establish a program for the purpose of providing fellowships to United States or foreign students to study at foreign agricultural colleges and universities working under agreements provided for under paragraph (3).''.

**SEC. 7131. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.**

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7132. ADMINISTRATION.**

(a) LIMITATION ON INDIRECT COSTS FOR AGRICULTURAL RESEARCH, EDUCATION, AND EXTENSION PROGRAMS.—Section 1462(a) of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310(a)) is amended—

(1) by striking ''a competitive'' and inserting ''any''; and

(2) by striking ''19 percent'' and inserting ''22 percent''.

(b) AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS.—Section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)) is amended by striking ''appropriated'' and inserting ''made available''.

**SEC. 7133. RESEARCH EQUIPMENT GRANTS.**

Section 1462A(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310a(e)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7134. UNIVERSITY RESEARCH.**

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking ''2007'' each place it appears in subsections (a) and (b) and inserting ''2012''.

**SEC. 7135. EXTENSION SERVICE.**

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7136. SUPPLEMENTAL AND ALTERNATIVE CROPS.**

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7137. NEW ERA RURAL TECHNOLOGY PROGRAM.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) is amended by adding at the end the following:

**''SEC. 1473E. NEW ERA RURAL TECHNOLOGY PROGRAM.**

''(a) DEFINITION OF COMMUNITY COLLEGE.—In this section, the term 'community college' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001))—

''(1) that admits as regular students individuals who—

''(A) are beyond the age of compulsory school attendance in the State in which the institution is located; and

''(B) have the ability to benefit from the training offered by the institution;

''(2) that does not provide an educational program for which the institution awards a bachelor's degree or an equivalent degree; and

''(3) that—

''(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

''(B) offers a 2-year program in engineering, technology, mathematics, or the physical, chemical, or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

''(b) FUNCTIONS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary shall establish a program to be known as the 'New Era Rural Technology Program', to make grants available for technology development, applied research, and training to aid in the development of an agriculture-based renewable energy workforce.

''(B) SUPPORT.—The initiative under this section shall support the fields of—

''(i) bioenergy;

''(ii) pulp and paper manufacturing; and

''(iii) agriculture-based renewable energy resources.

''(2) REQUIREMENTS FOR FUNDING.—To receive funding under this section, an entity shall—

''(A) be a community college or advanced technological center, located in a rural area and in existence on the date of the enactment of this section, that participates in agricultural or bioenergy research and applied research;

''(B) have a proven record of development and implementation of programs to meet the needs of students, educators, and business and industry to supply the agriculture-based, renewable energy or pulp and paper manufacturing fields with certified technicians, as determined by the Secretary; and

''(C) have the ability to leverage existing partnerships and occupational outreach and training programs for secondary schools, 4-year institutions, and relevant nonprofit organizations.

''(c) GRANT PRIORITY.—In providing grants under this section, the Secretary shall give preference to eligible entities working in partnership—

''(1) to improve information-sharing capacity; and

''(2) to maximize the ability to meet the requirements of this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.''.

**SEC. 7138. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7137) is amended by adding at the end the following:

**''SEC. 1473F. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.**

''(a) GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall make competitive grants to NLGCA Institutions to assist the NLGCA Institutions in maintaining and expanding the capacity of the NLGCA Institutions to conduct education, research, and outreach activities relating to—

''(A) agriculture;

''(B) renewable resources; and

''(C) other similar disciplines.

''(2) USE OF FUNDS.—An NLGCA Institution that receives a grant under paragraph (1) may use the funds made available through the grant to maintain and expand the capacity of the NLGCA Institution—

''(A) to successfully compete for funds from Federal grants and other sources to carry out educational, research, and outreach activities that address priority concerns of national, regional, State, and local interest;

''(B) to disseminate information relating to priority concerns to—

''(i) interested members of the agriculture, renewable resources, and other relevant communities;

''(ii) the public; and

''(iii) any other interested entity;

''(C) to encourage members of the agriculture, renewable resources, and other relevant communities to participate in priority education, research, and outreach activities by providing matching funding to leverage grant funds; and

''(D) through—

''(i) the purchase or other acquisition of equipment and other infrastructure (not including alteration, repair, renovation, or construction of buildings);

''(ii) the professional growth and development of the faculty of the NLGCA Institution; and

''(iii) the development of graduate assistantships.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.''.

**SEC. 7139. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.**

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7138) is amended by adding at the end the following:

**''SEC. 1473G. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.**

''(a) FELLOWSHIP PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a fellowship program, to be known as the 'Borlaug International Agricultural Science and Technology Fellowship Program,' to provide fellowships for scientific training and study in the United States to individuals from eligible countries (as described in subsection (b)) who specialize in agricultural education, research, and extension.

''(2) PROGRAMS.—The Secretary shall carry out the fellowship program by implementing 3 programs designed to assist individual fellowship recipients, including—

''(A) a graduate studies program in agriculture to assist individuals who participate in graduate agricultural degree training at a United States institution;

''(B) an individual career improvement program to assist agricultural scientists from developing countries in upgrading skills and understanding in agricultural science and technology; and

''(C) a Borlaug agricultural policy executive leadership course to assist senior agricultural policy makers from eligible countries, with an initial focus on individuals from sub-Saharan Africa and the independent states of the former Soviet Union.

''(b) ELIGIBLE COUNTRIES.—An eligible country is a developing country, as determined by the Secretary using a gross national income per capita test selected by the Secretary.

''(c) PURPOSE OF FELLOWSHIPS.—A fellowship provided under this section shall—

''(1) promote food security and economic growth in eligible countries by—

''(A) educating a new generation of agricultural scientists;

''(B) increasing scientific knowledge and collaborative research to improve agricultural productivity; and

''(C) extending that knowledge to users and intermediaries in the marketplace; and

''(2) shall support—

''(A) training and collaborative research opportunities through exchanges for entry level international agricultural research scientists, faculty, and policymakers from eligible countries;

''(B) collaborative research to improve agricultural productivity;

''(C) the transfer of new science and agricultural technologies to strengthen agricultural practice; and

''(D) the reduction of barriers to technology adoption.

''(d) FELLOWSHIP RECIPIENTS.—

''(1) ELIGIBLE CANDIDATES.—The Secretary may provide fellowships under this section to individuals from eligible countries who specialize or have experience in agricultural education, research, extension, or related fields, including—

''(A) individuals from the public and private sectors; and

''(B) private agricultural producers.

''(2) CANDIDATE IDENTIFICATION.—The Secretary shall use the expertise of United States land-grant colleges and universities and similar universities, international organizations working in agricultural research and outreach, and national agricultural research organizations to help identify program candidates for fellowships under this section from the public and private sectors of eligible countries.

''(e) USE OF FELLOWSHIPS.—A fellowship provided under this section shall be used—

''(1) to promote collaborative programs among agricultural professionals of eligible countries, agricultural professionals of the United States, the international agricultural research system, and, as appropriate, United States entities conducting research; and

''(2) to support fellowship recipients through programs described in subsection (a)(2).

''(f) PROGRAM IMPLEMENTATION.—The Secretary shall provide for the management, coordination, evaluation, and monitoring of the Borlaug International Agricultural Science and Technology Fellowship Program and for the individual programs described in subsection (a)(2), except that the Secretary may contract out to 1 or more collaborating universities the management of 1 or more of the fellowship programs.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.''.

**SEC. 7140. AQUACULTURE ASSISTANCE PROGRAMS.**

Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7141. RANGELAND RESEARCH GRANTS.**

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7142. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.**

Section 1484(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3351(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7143. RESIDENT INSTRUCTION AND DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA INSTITUTIONS OF HIGHER EDUCATION.**

(a) DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.—Section 1490(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362(f)) is amended by striking ''2007'' and inserting ''2012''.

(b) RESIDENT INSTRUCTION GRANTS FOR INSULAR AREAS.—Section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363) is amended—

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

(2) in subsection (c) (as so redesignated), by striking ''2007'' and inserting ''2012''.

***Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990***

***SEC. 7201. NATIONAL GENETICS RESOURCES PROGRAM.***

*Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking ''2007'' and inserting ''2012''.*

***SEC. 7202. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.***

*Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking ''1991 through 1997'' and inserting ''2008 through 2012''.*

***SEC. 7203. PARTNERSHIPS.***

*Section 1672(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(d)) is amended by striking ''may'' and inserting ''shall''.*

***SEC. 7204. HIGH-PRIORITY RESEARCH AND EXTENSION AREAS.***

*(a) IN GENERAL.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—*

*(1) in subsection (e)—*

*(A) in paragraph (3), by striking ''and controlling aflatoxin in the food and feed chains.'' and inserting '', improving, and eventually commercializing, alfatoxin controls in corn and other affected agricultural products and crops.'';*

*(B) by striking paragraphs (1), (4), (7), (8), (15), (17), (21), (23), (26), (27), (32), (34), (41), (42), (43), and (45);*

*(C) by redesignating paragraphs (2), (3), (5), (6), (9) through (14), (16), (18) through (20), (22), (24), (25), (28) through (31), (33), (35) through (40), and (44) as paragraphs (1) through (29), respectively; and*

*(D) by adding at the end the following:*

*''(30) AIR EMISSIONS FROM LIVESTOCK OPERATIONS.—Research and extension grants may be made under this section for the purpose of conducting field verification tests and developing mitigation options for air emissions from animal feeding operations.*

*''(31) SWINE GENOME PROJECT.—Research grants may be made under this section to conduct swine genome research, including the mapping of the swine genome.*

*''(32) CATTLE FEVER TICK PROGRAM.—Research and extension grants may be made under this section to study cattle fever ticks to facilitate understanding of the role of wildlife in the persistence and spread of cattle fever ticks, to develop advanced methods for eradication of cattle fever ticks, and to improve management of diseases relating to cattle fever ticks that are associated with wildlife, livestock, and human health.*

*''(33) SYNTHETIC GYPSUM.—Research and extension grants may be made under this section to study the uses of synthetic gypsum from electric power plants to remediate soil and nutrient losses.*

*''(34) CRANBERRY RESEARCH PROGRAM.—Research and extension grants may be made under this section to study new technologies to assist cranberry growers in complying with Federal and State environmental regulations, increase production, develop new growing techniques, establish more efficient growing methodologies, and educate cranberry producers about sustainable growth practices.*

*''(35) SORGHUM RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the use of sorghum as a bioenergy feedstock, promote diversification in, and the environmental benefits of sorghum production, and promote water conservation through the use of sorghum.*

*''(36) MARINE SHRIMP FARMING PROGRAM.—Research and extension grants may be made under this section to establish a research program to advance and maintain a domestic shrimp farming industry in the United States.*

*''(37) TURFGRASS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the production of turfgrass (including the use of water, fertilizer, pesticides, fossil fuels, and machinery for turf establishment and maintenance) and environmental protection and enhancement relating to turfgrass production.*

*''(38) AGRICULTURAL WORKER SAFETY RESEARCH INITIATIVE.—Research and extension grants may be made under this section—*

*''(A) to study and demonstrate methods to minimize exposure of farm and ranch owners and operators, pesticide handlers, and agricultural workers to pesticides, including research addressing the unique concerns of farm workers resulting from long-term exposure to pesticides; and*

*''(B) to develop rapid tests for on-farm use to better inform and educate farmers, ranchers, and farm and ranch workers regarding safe field re-entry intervals.*

*''(39) HIGH PLAINS AQUIFER REGION.—Research and extension grants may be made under this section to carry out interdisciplinary research relating to diminishing water levels and increased demand for water in the High Plains aquifer region.*

*''(40) DEER INITIATIVE.—Research and extension grants may be made under this section to support collaborative research focusing on the development of viable strategies for the prevention, diagnosis, and treatment of infectious, parasitic, and toxic diseases of farmed deer and the mapping of the deer genome.*

*''(41) PASTURE-BASED BEEF SYSTEMS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the development of forage sequences and combinations for cow-calf, heifer development, stocker, and finishing systems, to deliver optimal nutritive value for efficient production of cattle for pasture finishing, to optimize forage systems to improve marketability of pasture-finished beef, and to assess the effect of forage quality on reproductive fitness.*

*''(42) AGRICULTURAL PRACTICES RELATING TO CLIMATE CHANGE.—Research and extension grants may be made under this section for field and laboratory studies that examine the ecosystem from gross to minute scales and for projects that explore the relationship of agricultural practices to climate change.*

*''(43) BRUCELLOSIS CONTROL AND ERADICATION.—Research and extension grants may be made under this section to conduct research relating to the development of vaccines and vaccine delivery systems to effectively control and eliminate brucellosis in wildlife, and to assist with the controlling of the spread of brucellosis from wildlife to domestic animals.*

*''(44) BIGHORN AND DOMESTIC SHEEP DISEASE MECHANISMS.—Research and extension grants may be made under this section to conduct research relating to the health status of (including the presence of infectious diseases in) bighorn and domestic sheep under range conditions.*

*''(45) AGRICULTURAL DEVELOPMENT IN THE AMERICAN-PACIFIC REGION.—Research and extension grants may be made under this section to support food and agricultural science at a consortium of land-grant institutions in the American-Pacific region.*

*''(46) TROPICAL AND SUBTROPICAL AGRICULTURAL RESEARCH.—Research grants may be made under this section, in equal dollar amounts to the Caribbean and Pacific Basins, to support tropical and subtropical agricultural research, including pest and disease research, at the land-grant institutions in the Caribbean and Pacific regions.*

*''(47) VIRAL HEMORRHAGIC SEPTICEMIA.—Research and extension grants may be made under this section to study—*

*''(A) the effects of viral hemorrhagic septicemia (referred to in this paragraph as 'VHS') on freshwater fish throughout the natural and expanding range of VHS; and*

*''(B) methods for transmission and human-mediated transport of VHS among waterbodies.*

*''(48) FARM AND RANCH SAFETY.—Research and extension grants may be made under this section to carry out projects to decrease the incidence of injury and death on farms and ranches, including—*

*''(A) on-site farm or ranch safety reviews;*

*''(B) outreach and dissemination of farm safety research and interventions to agricultural employers, employees, youth, farm and ranch families, seasonal workers, or other individuals; and*

*''(C) agricultural safety education and training.*

*''(49) WOMEN AND MINORITIES IN STEM FIELDS.—Research and extension grants may be made under this section to increase participation by women and underrepresented minorities from rural areas in the fields of science, technology, engineering, and mathematics, with priority given to eligible institutions that carry out continuing programs funded by the Secretary.*

*''(50) ALFALFA AND FORAGE RESEARCH PROGRAM.—Research and extension grants may be made under this section for the purpose of studying improvements in alfalfa and forage yields, biomass and persistence, pest pressures, the bioenergy potential of alfalfa and other forages, and systems to reduce losses during harvest and storage.*

*''(51) FOOD SYSTEMS VETERINARY MEDICINE.—Research grants may be made under this section to address health issues that affect food-producing animals, food safety, and the environment, and to improve information resources, curriculum, and clinical education of students with respect to food animal veterinary medicine and food safety.*

*''(52) BIOCHAR RESEARCH.—Grants may be made under this section for research, extension, and integrated activities relating to the study of biochar production and use, including considerations of agronomic and economic impacts, synergies of coproduction with bioenergy, and the value of soil enhancements and soil carbon sequestration.'';*

*(2) by redesignating subsection (h) as subsection (j);*

*(3) by inserting after subsection (g) the following:*

*''(h) POLLINATOR PROTECTION.—*

*''(1) RESEARCH AND EXTENSION.—*

*''(A) GRANTS.—Research and extension grants may be made under this section—*

*''(i) to survey and collect data on bee colony production and health;*

*''(ii) to investigate pollinator biology, immunology, ecology, genomics, and bioinformatics;*

*''(iii) to conduct research on various factors that may be contributing to or associated with colony collapse disorder, and other serious threats to the health of honey bees and other pollinators, including—*

*''(I) parasites and pathogens of pollinators; and*

*''(II) the sublethal effects of insecticides, herbicides, and fungicides on honey bees and native and managed pollinators;*

*''(iv) to develop mitigative and preventative measures to improve native and managed pollinator health; and*

*''(v) to promote the health of honey bees and native pollinators through habitat conservation and best management practices.*

*''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2008 through 2012.*

*''(2) DEPARTMENT OF AGRICULTURE CAPACITY AND INFRASTRUCTURE.—*

*''(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, increase the capacity and infrastructure of the Department—*

*''(i) to address colony collapse disorder and other long-term threats to pollinator health, including the hiring of additional personnel; and*

*''(ii) to conduct research on colony collapse disorder and other pollinator issues at the facilities of the Department.*

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $7,250,000 for each of fiscal years 2008 through 2012.

''(3) HONEY BEE PEST AND PATHOGEN SURVEILLANCE.—There is authorized to be appropriated to conduct a nationwide honey bee pest and pathogen surveillance program $2,750,000 for each of fiscal years 2008 through 2012.

''(4) ANNUAL REPORT ON RESPONSE TO HONEY BEE COLONY COLLAPSE DISORDER.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the progress made by the Department of Agriculture in—

''(A) investigating the cause or causes of honey bee colony collapse; and

''(B) finding appropriate strategies to reduce colony loss.

''(i) REGIONAL CENTERS OF EXCELLENCE.—

''(1) ESTABLISHMENT.—The Secretary shall prioritize regional centers of excellence established for specific agricultural commodities for the receipt of funding under this section.

''(2) COMPOSITION.—A regional center of excellence shall be composed of 1 or more colleges and universities (including land-grant institutions, schools of forestry, schools of veterinary medicine, or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))) that provide financial support to the regional center of excellence.

''(3) CRITERIA FOR REGIONAL CENTERS OF EXCELLENCE.—The criteria for consideration to be a regional center of excellence shall include efforts—

''(A) to ensure coordination and cost-effectiveness by reducing unnecessarily duplicative efforts regarding research, teaching, and extension;

''(B) to leverage available resources by using public/private partnerships among agricultural industry groups, institutions of higher education, and the Federal Government;

''(C) to implement teaching initiatives to increase awareness and effectively disseminate solutions to target audiences through extension activities;

''(D) to increase the economic returns to rural communities by identifying, attracting, and directing funds to high-priority agricultural issues; and

''(E) to improve teaching capacity and infrastructure at colleges and universities (including land-grant institutions, schools of forestry, and schools of veterinary medicine).''; and

(4) in subsection (j) (as redesignated by paragraph (2)), by striking ''2007'' and inserting ''2012''.

(b) CONFORMING AMENDMENTS.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in the first sentence of subsection (a), by striking ''(e), (f), and (g)'' and inserting ''(e) through (i)''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''paragraphs (1), (6), (7), and (11)'' and inserting ''paragraphs (4), (7), (8), and (11)(B)''; and

(B) in paragraph (2), by striking ''subsection (e)'' and inserting ''subsections (e) through (i)''.

**SEC. 7205. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.**

Section 1672A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a) is amended—

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

''(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.'';

(2) by striking subsection (d) and inserting the following:

''(d) PRIORITY.—Following the completion of a peer review process for grant proposals received under this section, the Secretary shall give priority to those grant proposals that involve—

''(1) the cooperation of multiple entities; and

''(2) States or regions with a high concentration of livestock, dairy, or poultry operations.'';

(3) in subsection (e)—

(A) in paragraph (1)(B), by inserting ''and dairy and beef cattle waste'' after ''swine waste''; and

(B) by striking paragraph (5) and inserting the following:

''(5) ALTERNATIVE USES AND RENEWABLE ENERGY.—Research and extension grants may be made under this section for the purpose of finding innovative methods and technologies to allow agricultural operators to make use of animal waste, such as use as fertilizer, methane digestion, composting, and other useful byproducts.'';

(4) by redesignating subsection (g) as subsection (f); and

(5) in subsection (f) (as so redesignated), by striking ''2007'' and inserting ''2012''.

**SEC. 7206. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.**

(a) IN GENERAL.—Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) (commonly known as the ''Organic Agriculture Research and Extension Initiative'') is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(7) examining optimal conservation and environmental outcomes relating to organically produced agricultural products; and

''(8) developing new and improved seed varieties that are particularly suited for organic agriculture.''; and

(2) by adding at the end the following:

''(f) FUNDING.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

''(A) $18,000,000 for fiscal year 2009; and

''(B) $20,000,000 for each of fiscal years 2010 through 2012.

''(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.''.

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized.

**SEC. 7207. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.**

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801 et seq.) is amended by inserting after section 1672B (7 U.S.C. 5925b) the following:

**''SEC. 1672C. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.**

''(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Agriculture an agricultural bioenergy feedstock and energy efficiency research and extension initiative (referred to in this section as the 'Initiative') for the purpose of enhancing the production of biomass energy crops and the energy efficiency of agricultural operations.

''(b) COMPETITIVE RESEARCH AND EXTENSION GRANTS AUTHORIZED.—In carrying out this section, the Secretary shall make competitive grants to support research and extension activities specified in subsections (c) and (d).

''(c) AGRICULTURAL BIOENERGY FEEDSTOCK RESEARCH AND EXTENSION AREAS.—

''(1) IN GENERAL.—Agricultural bioenergy feedstock research and extension activities funded under the Initiative shall focus on improving agricultural biomass production, biomass conversion in biorefineries, and biomass use by—

''(A) supporting on-farm research on crop species, nutrient requirements, management practices, environmental impacts, and economics;

''(B) supporting the development and operation of on-farm, integrated biomass feedstock production systems;

''(C) leveraging the broad scientific capabilities of the Department of Agriculture and other entities in—

''(i) plant genetics and breeding;

''(ii) crop production;

''(iii) soil and water science;

''(iv) use of agricultural waste; and

''(v) carbohydrate, lipid, protein, and lignin chemistry, enzyme development, and biochemistry; and

''(D) supporting the dissemination of any of the research conducted under this subsection that will assist in achieving the goals of this section.

''(2) SELECTION CRITERIA.—In selecting grant recipients for projects under paragraph (1), the Secretary shall consider—

''(A) the capabilities and experiences of the applicant, including—

''(i) research in actual field conditions; and

''(ii) engineering and research knowledge relating to biofuels or the production of inputs for biofuel production;

''(B) the range of species types and cropping practices proposed for study (including species types and practices studied using side-by-side comparisons of those types and practices);

''(C) the need for regional diversity among feedstocks;

''(D) the importance of developing multiyear data relevant to the production of biomass feedstock crops;

''(E) the extent to which the project involves direct participation of agricultural producers;

''(F) the extent to which the project proposal includes a plan or commitment to use the biomass produced as part of the project in commercial channels; and

''(G) such other factors as the Secretary may determine.

''(d) ENERGY-EFFICIENCY RESEARCH AND EXTENSION AREAS.—On-farm energy-efficiency research and extension activities funded under the Initiative shall focus on developing and demonstrating technologies and production practices relating to—

''(1) improving on-farm renewable energy production;

''(2) encouraging efficient on-farm energy use;

''(3) promoting on-farm energy conservation;

''(4) making a farm or ranch energy-neutral; and

''(5) enhancing on-farm usage of advanced technologies to promote energy efficiency.

''(e) BEST PRACTICES DATABASE.—The Secretary shall develop a best-practices database that includes information, to be available to the public, on—

''(1) the production potential of a variety of biomass crops; and

''(2) best practices for production, collection, harvesting, storage, and transportation of biomass crops to be used as a source of bioenergy.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to making grants under this section.

''(2) CONSULTATION AND COORDINATION.—The Secretary shall—

''(A) make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

''(B) coordinate projects and activities carried out under the Initiative with projects and activities under section 9008 of the Farm Security and Rural Investment Act of 2002 to ensure, to the maximum extent practicable, that—

''(i) unnecessary duplication of effort is eliminated or minimized; and

''(ii) the respective strengths of the Department of Agriculture and the Department of Energy are appropriately used.

''(3) GRANT PRIORITY.—The Secretary shall give priority to grant applications that integrate research and extension activities established under subsections (c) and (d), respectively.

''(4) MATCHING FUNDS REQUIRED.—As a condition of receiving a grant under this section, the Secretary shall require the recipient of the grant to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

''(5) PARTNERSHIPS ENCOURAGED.—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals found as a result of the peer review process—

''(A) to be scientifically meritorious; and

''(B) that involve cooperation—

''(i) among multiple entities; and

''(ii) with agricultural producers.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 7208. FARM BUSINESS MANAGEMENT AND BENCHMARKING.**

The Food, Agriculture, Conservation and Trade Act of 1990 is amended by inserting after section 1672C (as added by section 7207) the following:

**''SEC. 1672D. FARM BUSINESS MANAGEMENT.**

''(a) IN GENERAL.—The Secretary may make competitive research and extension grants for the purpose of—

''(1) improving the farm management knowledge and skills of agricultural producers; and

''(2) establishing and maintaining a national, publicly available farm financial management database to support improved farm management.

''(b) SELECTION CRITERIA.—In allocating funds made available to carry out this section, the Secretary may give priority to grants that—

''(1) demonstrate an ability to work directly with agricultural producers;

''(2) collaborate with farm management and producer associations;

''(3) address the farm management needs of a variety of crops and regions of the United States; and

''(4) use and support the national farm financial management database.

''(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to the making of grants under this section.

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

**SEC. 7209. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.**

Section 1673 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926) is repealed.

**SEC. 7210. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.**

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7211. RESEARCH ON HONEY BEE DISEASES.**

Section 1681 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5934) is repealed.

**SEC. 7212. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.**

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking ''2007'' and inserting ''2012''.

**Subtitle C—Agricultural Research, Extension, and Education Reform Act of 1998**

**SEC. 7301. PEER AND MERIT REVIEW.**

Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended by adding at the end the following:

''(3) CONSIDERATION.—Peer and merit review procedures established under paragraphs (1) and (2) shall not take the offer or availability of matching funds into consideration.''.

**SEC. 7302. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.**

Section 402 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622) is repealed.

**SEC. 7303. PRECISION AGRICULTURE.**

Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is repealed.

**SEC. 7304. BIOBASED PRODUCTS.**

(a) PILOT PROJECT.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking ''2007'' and inserting ''2012''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 404(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(h)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7305. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.**

Section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625) is repealed.

**SEC. 7306. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.**

Section 406(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(f)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7307. FUSARIUM GRAMINEARUM GRANTS.**

Section 408 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628) is amended—

(1) in subsection (a), in the subsection heading, by striking ''GRANT'' and inserting ''GRANTS''; and

(2) in subsection (e), by striking ''2007'' and inserting ''2012''.

**SEC. 7308. BOVINE JOHNE'S DISEASE CONTROL PROGRAM.**

Section 409(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7629(b)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7309. GRANTS FOR YOUTH ORGANIZATIONS.**

Section 410 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630) is amended by striking subsections (b) and (c) and inserting the following:

''(b) FLEXIBILITY.—The Secretary shall provide maximum flexibility in content delivery to each organization receiving funds under this section so as to ensure that the unique goals of each organization, as well as the local community needs, are fully met.

''(c) REDISTRIBUTION OF FUNDING WITHIN ORGANIZATIONS AUTHORIZED.—Recipients of funds under this section may redistribute all or part of the funds received to individual councils or local chapters within the councils without further need of approval from the Secretary.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.''.

**SEC. 7310. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.**

Section 411(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7631(c)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7311. SPECIALTY CROP RESEARCH INITIATIVE.**

(a) IN GENERAL.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

**''SEC. 412. SPECIALTY CROP RESEARCH INITIATIVE.**

''(a) DEFINITIONS.—In this section:

''(1) INITIATIVE.—The term 'Initiative' means the specialty crop research and extension initiative established by subsection (b).

''(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given that term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

''(b) ESTABLISHMENT.—There is established within the Department a specialty crop research and extension initiative to address the critical needs of the specialty crop industry by developing and disseminating science-based tools to address needs of specific crops and their regions, including—

''(1) research in plant breeding, genetics, and genomics to improve crop characteristics, such as—

''(A) product, taste, quality, and appearance;

''(B) environmental responses and tolerances;

''(C) nutrient management, including plant nutrient uptake efficiency;

''(D) pest and disease management, including resistance to pests and diseases resulting in reduced application management strategies; and

''(E) enhanced phytonutrient content;

''(2) efforts to identify and address threats from pests and diseases, including threats to specialty crop pollinators;

''(3) efforts to improve production efficiency, productivity, and profitability over the long term (including specialty crop policy and marketing);

''(4) new innovations and technology, including improved mechanization and technologies that delay or inhibit ripening; and

''(5) methods to prevent, detect, monitor, control, and respond to potential food safety hazards in the production and processing of specialty crops, including fresh produce.

''(c) ELIGIBLE ENTITIES.—The Secretary may carry out the Initiative through—

''(1) Federal agencies;

''(2) national laboratories;

''(3) colleges and universities;

''(4) research institutions and organizations;

''(5) private organizations or corporations;

''(6) State agricultural experiment stations;

''(7) individuals; or

''(8) groups consisting of 2 or more entities described in paragraphs (1) through (7).

''(d) RESEARCH PROJECTS.—In carrying out this section, the Secretary shall award grants on a competitive basis.

''(e) ADMINISTRATION.—

''(1) IN GENERAL.—With respect to grants awarded under subsection (d), the Secretary shall—

''(A) seek and accept proposals for grants;

''(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103; and

''(C) award grants on the basis of merit, quality, and relevance.

''(2) TERM.—The term of a grant under this section may not exceed 10 years.

''(3) MATCHING FUNDS REQUIRED.—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

''(4) OTHER CONDITIONS.—The Secretary may set such other conditions on the award of a grant under this section as the Secretary determines to be appropriate.

''(f) PRIORITIES.—In making grants under this section, the Secretary shall provide a higher priority to projects that—

''(1) are multistate, multi-institutional, or multidisciplinary; and

''(2) include explicit mechanisms to communicate results to producers and the public.

''(g) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

''(h) FUNDING.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section $30,000,000 for fiscal year 2008 and $50,000,000 for each of fiscal years 2009 through 2012, from which activities under each of paragraphs (1) through (5) of subsection (b) shall be allocated not less than 10 percent.

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2008 through 2012.

''(3) TRANSFER.—Of the funds made available to the Secretary under paragraph (1) for fiscal year 2008 and authorized for use for payment of administrative expenses under section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)), the Secretary shall transfer, upon the date of enactment of this section, $200,000 to the Office of Prevention, Pesticides, and Toxic Substances of the Environmental Protection Agency for use in conducting a meta-analysis relating to methyl bromide.

''(4) AVAILABILITY.—Funds made available pursuant to this subsection for a fiscal year shall remain available until expended to pay for obligations incurred in that fiscal year.''.

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized.

**SEC. 7312. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.**

Section 604 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds available to carry out subsection (c), there is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2008 through 2012.''.

**SEC. 7313. OFFICE OF PEST MANAGEMENT POLICY.**

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking ''2007'' and inserting ''2012''.

## Subtitle D—Other Laws

**SEC. 7401. CRITICAL AGRICULTURAL MATERIALS ACT.**

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7402. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.**

(a) DEFINITION OF 1994 INSTITUTIONS.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by adding at the end the following:

''(34) Ilisagvik College.''.

(b) ENDOWMENT FOR 1994 INSTITUTIONS.—Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (a)(3), in the matter preceding subparagraph (A), by inserting ''this section and'' before ''sections 534,''; and

(2) in the first sentence of subsection (b), by striking ''2007'' and inserting ''2012''.

(c) REDISTRIBUTION.—Section 534(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by striking ''The amounts'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amounts''; and

(2) by adding at the end the following:

''(B) REDISTRIBUTION.—Funds that would be paid to a 1994 Institution under paragraph (2) shall be withheld from that 1994 Institution and redistributed among the other 1994 Institutions if that 1994 Institution—

''(i) declines to accept funds under paragraph (2); or

''(ii) fails to meet the accreditation requirements under section 533(a)(3).''.

(d) INSTITUTIONAL CAPACITY BUILDING GRANTS.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking ''2007'' each place it appears and inserting ''2012''.

(e) RESEARCH GRANTS.—Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended in the first sentence by striking ''2007'' and inserting ''2012''.

(f) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

**SEC. 7403. SMITH-LEVER ACT.**

(a) PROGRAM.—Section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) is amended in the second sentence by striking ''apply for and receive'' and all that follows through paragraph (2) and inserting ''compete for and receive funds directly from the Secretary of Agriculture.''.

(b) ELIMINATION OF THE GOVERNOR'S REPORT REQUIREMENT FOR EXTENSION ACTIVITIES.—Section 5 of the Smith-Lever Act (7 U.S.C. 345) is amended by striking the third sentence.

(c) CONFORMING AMENDMENT.—Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking ''after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d))'' and all that follows through the end of the sentence and inserting ''under section 3(d) of that Act (7 U.S.C. 343(d)).''.

**SEC. 7404. HATCH ACT OF 1887.**

(a) DISTRICT OF COLUMBIA.—Section 3(d)(4) of the Hatch Act of 1887 (7 U.S.C. 361c(d)(4)) is amended—

(1) in the paragraph heading, by inserting ''AND THE DISTRICT OF COLUMBIA'' after ''AREAS'';

(2) in subparagraph (A)—

(A) by inserting ''and the District of Columbia'' after ''United States''; and

(B) by inserting ''and the District of Columbia'' after ''respectively,''; and

(3) in subparagraph (B), by inserting ''or the District of Columbia'' after ''area''.

(b) ELIMINATION OF PENALTY MAIL AUTHORITIES.—

(1) IN GENERAL.—Section 6 of the Hatch Act of 1887 (7 U.S.C. 361f) is amended in the first sentence by striking ''under penalty indicia:'' and all that follows through the end of the sentence and inserting a period.

(2) CONFORMING AMENDMENTS IN OTHER LAWS.—

(A) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—

(i) Section 1444(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(f)) is amended by striking ''under penalty indicia:'' and all that follows through the end of the sentence and inserting a period.

(ii) Section 1445(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(e)) is amended by striking ''under penalty indicia:'' and all that follows through the end of the sentence and inserting a period.

(B) OTHER PROVISIONS.—Section 3202(a) of title 39, United States Code, is amended—

(i) in paragraph (1)—

(I) in subparagraph (D), by adding ''and'' at the end;

(II) in subparagraph (E), by striking ''sections; and'' and inserting ''sections.''; and

(III) by striking subparagraph (F);

(ii) in paragraph (2), by adding ''and'' at the end;

(iii) in paragraph (3) by striking ''thereof; and'' and inserting ''thereof.''; and

(iv) by striking paragraph (4).

**SEC. 7405. AGRICULTURAL EXPERIMENT STATION RESEARCH FACILITIES ACT.**

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7406. AGRICULTURE AND FOOD RESEARCH INITIATIVE.**

(a) IN GENERAL.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended to read as follows:

''(b) AGRICULTURE AND FOOD RESEARCH INITIATIVE.—

''(1) ESTABLISHMENT.—There is established in the Department of Agriculture an Agriculture and Food Research Initiative under which the Secretary of Agriculture (referred to in this subsection as 'the Secretary') may make competitive grants for fundamental and applied research, extension, and education to address food and agricultural sciences (as defined under section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

''(2) PRIORITY AREAS.—The competitive grants program established under this subsection shall address the following areas:

''(A) PLANT HEALTH AND PRODUCTION AND PLANT PRODUCTS.—Plant systems, including—

''(i) plant genome structure and function;

''(ii) molecular and cellular genetics and plant biotechnology;

''(iii) conventional breeding, including cultivar and breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

''(iv) plant-pest interactions and biocontrol systems;

''(v) crop plant response to environmental stresses;

''(vi) unproved nutrient qualities of plant products; and

''(vii) new food and industrial uses of plant products.

''(B) ANIMAL HEALTH AND PRODUCTION AND ANIMAL PRODUCTS.—Animal systems, including—

''(i) aquaculture;

''(ii) cellular and molecular basis of animal reproduction, growth, disease, and health;

''(iii) animal biotechnology;

''(iv) conventional breeding, including breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

''(v) identification of genes responsible for improved production traits and resistance to disease;

''(vi) improved nutritional performance of animals;

''(vii) improved nutrient qualities of animal products and uses; and

''(viii) the development of new and improved animal husbandry and production systems that take into account production efficiency, animal well-being, and animal systems applicable to aquaculture.

''(C) FOOD SAFETY, NUTRITION, AND HEALTH.—Nutrition, food safety and quality, and health, including—

''(i) microbial contaminants and pesticides residue relating to human health;

''(ii) links between diet and health;

''(iii) bioavailability of nutrients;

''(iv) postharvest physiology and practices; and

''(v) improved processing technologies.

''(D) RENEWABLE ENERGY, NATURAL RESOURCES, AND ENVIRONMENT.—Natural resources and the environment, including—

''(i) fundamental structures and functions of ecosystems;

''(ii) biological and physical bases of sustainable production systems;

''(iii) minimizing soil and water losses and sustaining surface water and ground water quality;

''(iv) global climate effects on agriculture;

''(v) forestry; and

''(vi) biological diversity.

''(E) AGRICULTURE SYSTEMS AND TECHNOLOGY.—Engineering, products, and processes, including—

''(i) new uses and new products from traditional and nontraditional crops, animals, byproducts, and natural resources;

''(ii) robotics, energy efficiency, computing, and expert systems;

''(iii) new hazard and risk assessment and mitigation measures; and

''(iv) water quality and management.

''(F) AGRICULTURE ECONOMICS AND RURAL COMMUNITIES.—Markets, trade, and policy, including—

''(i) strategies for entering into and being competitive in domestic and overseas markets;

''(ii) farm efficiency and profitability, including the viability and competitiveness of small and medium-sized dairy, livestock, crop and other commodity operations;

''(iii) new decision tools for farm and market systems;

''(iv) choices and applications of technology;

''(v) technology assessment; and

''(vi) new approaches to rural development, including rural entrepreneurship.

''(3) TERM.—The term of a competitive grant made under this subsection may not exceed 10 years.

''(4) GENERAL ADMINISTRATION.—In making grants under this subsection, the Secretary shall—

''(A) seek and accept proposals for grants;

''(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613);

''(C) award grants on the basis of merit, quality, and relevance;

''(D) solicit and consider input from persons who conduct or use agricultural research, extension, or education in accordance with section 102(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(b)); and

''(E) in seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, seek the widest participation of qualified individuals in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

''(5) ALLOCATION OF FUNDS.—In making grants under this subsection, the Secretary shall allocate funds to the Agriculture and Food Research Initiative to ensure that, of funds allocated for research activities—

''(A) not less than 60 percent is made available to make grants for fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)), of which—

''(i) not less than 30 percent is made available to make grants for research to be conducted by multidisciplinary teams; and

''(ii) not more than 2 percent is used for equipment grants under paragraph (6)(A); and

''(B) not less than 40 percent is made available to make grants for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)).

''(6) SPECIAL CONSIDERATIONS.—In making grants under this subsection, the Secretary may assist in the development of capabilities in the agricultural, food, and environmental sciences by providing grants—

''(A) to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching, except that the Secretary shall use not less than 25 percent of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences;

''(B) to a single investigator or coinvestigators who are beginning research careers and do not have an extensive research publication record, except that, to be eligible for a grant under this subparagraph, an individual shall be within 5 years of the beginning of the initial career track position of the individual;

''(C) to ensure that the faculty of small, midsized, and minority-serving institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants; and

''(D) to improve research, extension, and education capabilities in States (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) in which institutions have been less successful in receiving funding under this subsection, based on a 3-year rolling average of funding levels.

''(7) ELIGIBLE ENTITIES.—The Secretary may make grants to carry out research, extension, and education under this subsection to—

''(A) State agricultural experiment stations;

''(B) colleges and universities;

''(C) university research foundations;

''(D) other research institutions and organizations;

''(E) Federal agencies;

''(F) national laboratories;

''(G) private organizations or corporations;

''(H) individuals; or

''(I) any group consisting of 2 or more of the entities described in subparagraphs (A) through (H).

''(8) CONSTRUCTION PROHIBITED.—Funds made available for grants under this subsection shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

''(9) MATCHING FUNDS.—

''(A) EQUIPMENT GRANTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of a grant made under paragraph (6)(A), the amount provided under this subsection may not exceed 50 percent of the cost of the special research equipment or other equipment acquired using funds from the grant.

''(ii) WAIVER.—The Secretary may waive all or part of the matching requirement under clause (i) in the case of a college, university, or research foundation maintained by a college or university that ranks in the lowest ⅓ of such colleges, universities, and research foundations on the basis of Federal research funds received, if the equipment to be acquired using funds from the grant costs not more than $25,000 and has multiple uses within a single research project or is usable in more than 1 research project.

''(B) APPLIED RESEARCH.—As a condition of making a grant under paragraph (5)(B), the Secretary shall require the funding of the grant to be matched with equal matching funds from a non-Federal source if the grant is for applied research that is—

''(i) commodity-specific; and

''(ii) not of national scope.

''(10) PROGRAM ADMINISTRATION.—To the maximum extent practicable, the Director of the National Institute of Food and Agriculture, in coordination with the Under Secretary for Research, Education, and Economics, shall allocate grants under this subsection to high-priority research, taking into consideration, when available, the determinations made by the National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123)).

''(11) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $700,000,000 for each of fiscal years 2008 through 2012, of which—

''(i) not less than 30 percent shall be made available for integrated research pursuant to section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626); and

''(ii) not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.

''(B) AVAILABILITY.—Funds made available under this paragraph shall—

''(i) be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are first made available; and

''(ii) remain available until expended to pay for obligations incurred during that 2-year period.''.

(b) REPEALS.—

(1) Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is repealed.

(2) Subsection (d) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(d)) is repealed.

(c) EFFECT ON CURRENT SOLICITATIONS.—The amendments made by this section shall not apply to any solicitation for grant applications issued by the Cooperative State Research, Education, and Extension Service before the date of enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking ''and subsection (d)''.

(2) Section 1671(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(d) is amended by striking ''Paragraphs (1), (6), (7), and (11)'' and inserting ''Paragraphs (4), (7), (8), and (11)(B)''.

(3) Section 1672B(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b(b)) is amended by striking ''Paragraphs (1), (6), (7), and (11)'' and inserting ''Paragraphs (4), (7), (8), and (11)(B)''.

**SEC. 7407. AGRICULTURAL RISK PROTECTION ACT OF 2000.**

Section 221 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 6711(g)) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007 through 2012.''.

**SEC. 7408. EXCHANGE OR SALE AUTHORITY.**

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) is amended by adding at the end the following:

**''SEC. 307. EXCHANGE OR SALE AUTHORITY.**

''(a) DEFINITION OF QUALIFIED ITEM OF PERSONAL PROPERTY.—In this section, the term 'qualified item of personal property' means—

''(1) an animal;

''(2) an animal product;

''(3) a plant; or

''(4) a plant product.

''(b) GENERAL AUTHORITY.—Except as provided in subsection (c), notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary, acting through the Under Secretary for Research, Education, and Economics, in managing personal property for the purpose of carrying out the research functions of the Department, may exchange, sell, or otherwise dispose of any qualified item of personal property, including by way of public auction, and may retain and apply the sale or other proceeds, without further appropriation and without fiscal year limitation, in whole or in partial payment—

''(1) to acquire any qualified item of personal property; or

''(2) to offset costs related to the maintenance, care, or feeding of any qualified item of personal property.

''(c) EXCEPTION.—Subsection (b) does not apply to the free dissemination of new varieties of seeds and germplasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act') (7 U.S.C. 2201).''.

**SEC. 7409. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.**

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) (as amended by section 7408) is amended by adding at the end the following:

**''SEC. 308. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.**

''(a) ESTABLISHMENT.—To enhance the use of real property administered by agencies of the Department, the Secretary may establish a pilot program, in accordance with this section, at the Beltsville Agricultural Research Center of the Agricultural Research Service and the National Agricultural Library to lease nonexcess property of the Center or the Library to any individual or entity, including agencies or instrumentalities of State or local governments.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—Notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary may lease real property at the Beltsville Agricultural Research Center or the National Agricultural Library in accordance with such terms and conditions as the Secretary may prescribe, if the Secretary determines that the lease—

''(A) is consistent with, and will not adversely affect, the mission of the Department agency administering the property;

''(B) will enhance the use of the property;

''(C) will not permit any portion of Department agency property or any facility of the Department to be used for the public retail or wholesale sale of merchandise or residential development;

''(D) will not permit the construction or modification of facilities financed by non-Federal sources to be used by an agency, except for incidental use; and

''(E) will not include any property or facility required for any Department agency purpose without prior consideration of the needs of the agency.

''(2) TERM.—The term of a lease under this section shall not exceed 30 years.

''(3) CONSIDERATION.—

''(A) IN GENERAL.—Consideration provided for a lease under this section shall be—

''(i) in an amount equal to fair market value, as determined by the Secretary; and

''(ii) in the form of cash.

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—Consideration provided for a lease under this section shall be—

''(I) deposited in a capital asset account to be established by the Secretary; and

''(II) available until expended, without further appropriation, for maintenance, capital revitalization, and improvements of the Department properties and facilities at the Beltsville Agricultural Research Center and National Agricultural Library.

''(ii) BUDGETARY TREATMENT.—For purposes of the budget, the amounts described in clause (i) shall not be treated as a receipt of any Department agency or any other agency leasing property under this section.

''(4) COSTS.—The lessee shall cover all costs associated with a lease under this section, including the cost of—

''(A) the project to be carried out on property or at a facility covered by the lease;

''(B) provision and administration of the lease;

''(C) construction of any needed facilities;

''(D) provision of applicable utilities; and

''(E) any other facility cost normally associated with the operation of a leased facility.

''(5) PROHIBITION OF USE OF APPROPRIATIONS.—The Secretary shall not use any funds made available to the Secretary in an appropriations Act for the construction or operating costs of any space covered by a lease under this section.

''(6) TERMINATION OF AUTHORITY.—This section and the authority provided by this section terminate—

''(A) on the date that is 5 years after the date of enactment of this section; or

''(B) with respect to any particular leased property, on the date of termination of the lease.

''(c) EFFECT OF OTHER LAWS.—

''(1) UTILIZATION.—Property that is leased pursuant to this section shall not be considered to be unutilized or underutilized for purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

''(2) DISPOSAL.—Property at the Beltsville Agricultural Research Center or the National Agricultural Library that is leased pursuant to this section shall not be considered to be disposed of by sale, lease, rental, excessing, or surplusing for purposes of section 523 of Public Law 100–202 (101 Stat. 1329-417).

''(d) ADMINISTRATION.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes detailed management objectives and performance measurements by which the Secretary intends to evaluate the success of the program under this section.

''(2) REPORTS.—Not later than 1, 3, and 5 years after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the implementation of the program under this section, including—

''(A) a copy of each lease entered into pursuant to this section; and

''(B) an assessment by the Secretary of the success of the program using the management objectives and performance measurements developed by the Secretary.''.

**SEC. 7410. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.**

(a) GRANTS.—Section 7405(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) MAXIMUM TERM AND SIZE OF GRANT.—

''(A) IN GENERAL.—A grant under this subsection shall—

''(i) have a term that is not more than 3 years; and

''(ii) be in an amount that is not more than $250,000 for each year.

''(B) CONSECUTIVE GRANTS.—An eligible recipient may receive consecutive grants under this subsection.'';

(2) by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively;

(3) by inserting after paragraph (4) the following:

''(5) EVALUATION CRITERIA.—In making grants under this subsection, the Secretary shall evaluate—

''(A) relevancy;

''(B) technical merit;

''(C) achievability;

''(D) the expertise and track record of 1 or more applicants;

''(E) the adequacy of plans for the participatory evaluation process, outcome-based reporting, and the communication of findings and results beyond the immediate target audience; and

''(F) other appropriate factors, as determined by the Secretary.

''(6) REGIONAL BALANCE.—In making grants under this subsection, the Secretary shall, to the maximum extent practicable, ensure geographical diversity.

''(7) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to partnerships and collaborations that are led by or include nongovernmental and community-based organizations with expertise in new agricultural producer training and outreach.''.

(b) FUNDING.—Section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f) is amended by striking subsection (h) and inserting the following:

''(h) FUNDING.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

''(A) $18,000,000 for fiscal year 2009; and

''(B) $19,000,000 for each of fiscal years 2010 through 2012.

''(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds provided under paragraph (1), there is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 through 2012.''.

**SEC. 7411. PUBLIC EDUCATION REGARDING USE OF BIOTECHNOLOGY IN PRODUCING FOOD FOR HUMAN CONSUMPTION.**

Section 10802 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5921a) is repealed.

**SEC. 7412. MCINTIRE-STENNIS COOPERATIVE FORESTRY ACT.**

(a) IN GENERAL.—Section 2 of Public Law 87–788 (commonly known as the ''McIntire-Stennis Cooperative Forestry Act'') (16 U.S.C. 582a–1) is amended by inserting ''and 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)),'' before ''and (b)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

**SEC. 7413. RENEWABLE RESOURCES EXTENSION ACT OF 1978.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended in the first sentence by striking ''2007'' and inserting ''2012''.

(b) TERMINATION DATE.—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7414. NATIONAL AQUACULTURE ACT OF 1980.**

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking ''2007'' each place it appears and inserting ''2012''.

**SEC. 7415. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.**

The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

**''SEC. 7. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.**

''A Chinese Garden may be constructed at the National Arboretum established under this Act with—

''(1) funds accepted under section 5;

''(2) authorities provided to the Secretary of Agriculture under section 6; and

''(3) appropriations provided for this purpose.''.

**SEC. 7416. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1985.**

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking ''2007'' and inserting ''2012''.

**SEC. 7417. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR CERTAIN LAND-GRANT UNIVERSITY ASSISTANCE.**

(a) IN GENERAL.—Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) is amended—

(1) in subsection (b)(2), by striking '', except'' and all that follows through the period and inserting a period; and

(2) in subsection (c)—

(A) by striking ''section 3'' each place it appears and inserting ''section 3(c)''; and

(B) by striking ''Such sums may be used to pay'' and all that follows through ''work.''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2008.

## Subtitle E—Miscellaneous

## PART I—GENERAL PROVISIONS

**SEC. 7501. DEFINITIONS.**

Except as otherwise provided in this subtitle, in this subtitle:

(1) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term ''capacity and infrastructure program'' has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(2) CAPACITY AND INFRASTRUCTURE PROGRAM CRITICAL BASE FUNDING.—The term ''capacity and infrastructure program critical base funding'' means the aggregate amount of Federal funds made available for capacity and infrastructure programs for fiscal year 2006, as appropriate.

(3) COMPETITIVE PROGRAM.—The term ''competitive program'' has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(4) COMPETITIVE PROGRAM CRITICAL BASE FUNDING.—The term ''competitive program critical base funding'' means the aggregate amount of Federal funds made available for competitive programs for fiscal year 2006, as appropriate.

(5) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term ''Hispanic-serving agricultural colleges and universities'' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(6) NLGCA INSTITUTION.—The term ''NLGCA Institution'' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(7) 1862 INSTITUTION; 1890 INSTITUTION; 1994 INSTITUTION.—The terms ''1862 Institution'', ''1890 Institution'', and ''1994 Institution'' have the meanings given the terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

**SEC. 7502. GRAZINGLANDS RESEARCH LABORATORY.**

Except as otherwise specifically authorized by law and notwithstanding any other provision of law, the Federal land and facilities at El Reno, Oklahoma, administered by the Secretary (as of the date of enactment of this Act) as the Grazinglands Research Laboratory, shall not at any time, in whole or in part, be declared to be excess or surplus Federal property under chapter 5 of subtitle I of title 40, United States Code, or otherwise be conveyed or transferred in whole or in part, for the 5-year period beginning on the date of enactment of this Act.

**SEC. 7503. FORT RENO SCIENCE PARK RESEARCH FACILITY.**

The Secretary may lease land to the University of Oklahoma at the Grazinglands Research Laboratory at El Reno, Oklahoma, on such terms and conditions as the University and the Secretary may agree in furtherance of cooperative research and existing easement arrangements.

**SEC. 7504. ROADMAP.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Under Secretary of Research, Education, and Economics (referred to in this section as the ''Under Secretary''), shall commence preparation of a roadmap for agricultural research, education, and extension that—

(1) identifies current trends and constraints;

(2) identifies major opportunities and gaps that no single entity within the Department of Agriculture would be able to address individually;

(3) involves—

(A) interested parties from the Federal Government and nongovernmental entities; and

(B) the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(4) incorporates roadmaps for agricultural research, education, and extension made publicly available by other Federal entities, agencies, or offices; and

(5) describes recommended funding levels for areas of agricultural research, education, and extension, including—

(A) competitive programs;

(B) capacity and infrastructure programs, with attention to the future growth needs of—

(i) small 1862 Institutions, 1890 Institutions, and 1994 Institutions;

(ii) Hispanic-serving agricultural colleges and universities;

(iii) NLGCA Institutions; and

(iv) colleges of veterinary medicine; and

(C) intramural programs at agencies within the research, education, and economics mission area; and

(6) describes how organizational changes enacted by this Act have impacted agricultural research, extension, and education across the Department of Agriculture, including minimization of unnecessary programmatic and administrative duplication.

(b) REVIEWABILITY.—The roadmap described in this section shall not be subject to review by any officer or employee of the Federal Government other than the Secretary (or a designee of the Secretary).

(c) ROADMAP IMPLEMENTATION AND REPORT.—Not later than 1 year after the date on which the Secretary commences preparation of the roadmap under this section, the Secretary shall—

(1) implement and use the roadmap to set the research, education, and extension agenda of the Department of Agriculture; and

(2) make the roadmap available to the public.

**SEC. 7505. REVIEW OF PLAN OF WORK REQUIREMENTS.**

(a) REVIEW.—The Secretary shall work with university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements, including those requirements under—

(1) sections 1444(d) and 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(d) and 3222(c), respectively);

(2) section 7 of the Hatch Act of 1887 (7 U.S.C. 361g); and

(3) section 4 of the Smith-Lever Act (7 U.S.C. 344).

(b) CONSULTATION.—In carrying out the review and formulating and compiling the recommendations, the Secretary shall consult with the land-grant institutions.

**SEC. 7506. BUDGET SUBMISSION AND FUNDING.**

(a) DEFINITION OF COMPETITIVE PROGRAMS.—In this section, the term ''competitive programs'' includes only competitive programs for which annual appropriations are requested in the annual budget submission of the President.

(b) BUDGET REQUEST.—The President shall submit to Congress, together with the annual budget submission of the President, a single budget line item reflecting the total amount requested by the President for funding for research, education, and extension activities of the Research, Education, and Economics mission area of the Department for that fiscal year and for the preceding 5 fiscal years.

(c) CAPACITY AND INFRASTRUCTURE PROGRAM REQUEST.—Of the funds requested for capacity and infrastructure programs in excess of the capacity and infrastructure program critical base funding level, budgetary emphasis should be placed on enhancing funding for—

(1) 1890 Institutions;

(2) 1994 Institutions;

(3) NLGCA Institutions;

(4) Hispanic-serving agricultural colleges and universities; and

(5) small 1862 Institutions.

(d) COMPETITIVE PROGRAM REQUEST.—Of the funds requested for competitive programs in excess of the competitive program critical base funding level, budgetary emphasis should be placed on—

(1) enhancing funding for emerging problems; and

(2) finding solutions for those problems.

## PART II—RESEARCH, EDUCATION, AND ECONOMICS

**SEC. 7511. RESEARCH, EDUCATION, AND ECONOMICS.**

(a) IN GENERAL.—Section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) is amended—

(1) in subsection (a), by inserting ''(referred to in this section as the 'Under Secretary')'' before the period at the end;

(2) by striking subsections (b) through (d);

(3) by redesignating subsection (e) as subsection (g); and

(4) by inserting after subsection (a) the following:

''(b) CONFIRMATION REQUIRED.—The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished scientists with specialized training or significant experience in agricultural research, education, and economics.

''(c) CHIEF SCIENTIST.—The Under Secretary shall—

''(1) hold the title of Chief Scientist of the Department; and

''(2) be responsible for the coordination of the research, education, and extension activities of the Department.

''(d) FUNCTIONS OF UNDER SECRETARY.—

''(1) PRINCIPAL FUNCTION.—The Secretary shall delegate to the Under Secretary those functions and duties under the jurisdiction of the Department that relate to research, education, and economics.

''(2) SPECIFIC FUNCTIONS AND DUTIES.—The Under Secretary shall—

''(A) identify, address, and prioritize current and emerging agricultural research, education, and extension needs (including funding);

''(B) ensure that agricultural research, education, and extension programs are effectively coordinated and integrated—

''(i) across disciplines, agencies, and institutions; and

''(ii) among applicable participants, grantees, and beneficiaries;

''(C) promote the collaborative use of all agricultural research, education, and extension resources from the local, State, tribal, regional, national, and international levels to address priority needs; and

''(D) foster communication among agricultural research, education, and extension beneficiaries, including the public, to ensure the delivery of agricultural research, education, and extension knowledge.

''(3) ADDITIONAL FUNCTIONS.—The Under Secretary shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

''(e) RESEARCH, EDUCATION, AND EXTENSION OFFICE.—

''(1) ESTABLISHMENT.—The Under Secretary shall organize within the office of the Under Secretary 6 Divisions, to be known collectively as the 'Research, Education, and Extension Office', which shall coordinate the research programs and activities of the Department.

''(2) DIVISION DESIGNATIONS.—The Divisions within the Research, Education, and Extension Office shall be as follows:

''(A) Renewable energy, natural resources, and environment.

''(B) Food safety, nutrition, and health.

''(C) Plant health and production and plant products.

''(D) Animal health and production and animal products.

''(E) Agricultural systems and technology.

''(F) Agricultural economics and rural communities.

''(3) DIVISION CHIEFS.—

''(A) SELECTION.—The Under Secretary shall select a Division Chief for each Division using available personnel authority under title 5, United States Code, including—

''(i) by term, temporary, or other appointment, without regard to—

''(I) the provisions of title 5, United States Code, governing appointments in the competitive service;

''(II) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference; and

''(III) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates;

''(ii) by detail, notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, requiring reimbursement for those details unless the appropriation Act specifically refers to this subsection and specifically includes these details;

''(iii) by reassignment or transfer from any other civil service position; and

''(iv) by an assignment under subchapter VI of chapter 33 of title 5, United States Code.

''(B) SELECTION GUIDELINES.—To the maximum extent practicable, the Under Secretary shall select Division Chiefs under subparagraph (A) in a manner that—

''(i) promotes leadership and professional development;

''(ii) enables personnel to interact with other agencies of the Department; and

''(iii) maximizes the ability of the Under Secretary to allow for rotations of Department personnel into the position of Division Chief.

''(C) TERM OF SERVICE.—Notwithstanding title 5, United States Code, the maximum length of service for an individual selected as a Division Chief under subparagraph (A) shall not exceed 4 years.

''(D) QUALIFICATIONS.—To be eligible for selection as a Division Chief, an individual shall have—

''(i) conducted exemplary research, education, or extension in the field of agriculture or forestry; and

''(ii) earned an advanced degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

''(E) DUTIES OF DIVISION CHIEFS.—Except as otherwise provided in this Act, each Division Chief shall—

''(i) assist the Under Secretary in identifying and addressing emerging agricultural research, education, and extension needs;

''(ii) assist the Under Secretary in identifying and prioritizing Department-wide agricultural research, education, and extension needs, including funding;

''(iii) assess the strategic workforce needs of the research, education, and extension functions of the Department, and develop strategic workforce plans to ensure that existing and future workforce needs are met;

''(iv) communicate with research, education, and extension beneficiaries, including the public, and representatives of the research, education, and extension system, including the National Agricultural Research, Extension, Education, and Economics Advisory Board, to promote the benefits of agricultural research, education, and extension;

''(v) assist the Under Secretary in preparing and implementing the roadmap for agricultural research, education, and extension, as described in section 7504 of the Food, Conservation, and Energy Act of 2008; and

''(vi) perform such other duties as the Under Secretary may determine.

''(4) GENERAL ADMINISTRATION.—

''(A) FUNDING.—Notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph unless the appropriation Act specifically refers to this subsection and specifically includes the administration of funds under this section, the Secretary may transfer funds made available to an agency in the research, education, and economics mission area to fund the costs of Division personnel.

''(B) LIMITATION.—To the maximum extent practicable—

''(i) the Under Secretary shall minimize the number of full-time equivalent positions in the Divisions; and

''(ii) at no time shall the aggregate number of staff for all Divisions exceed 30 full-time equivalent positions.

''(C) ROTATION OF PERSONNEL.—To the maximum extent practicable, and using the authority described in paragraph (3)(A), the Under Secretary shall rotate personnel among the Divisions, and between the Divisions and agencies of the Department, in a manner that—

''(i) promotes leadership and professional development; and

''(ii) enables personnel to interact with other agencies of the Department.

''(5) ORGANIZATION.—The Under Secretary shall integrate leadership functions of the national program staff of the research agencies into the Research, Education and Extension Office in such form as is required to ensure that administrative duplication does not occur.

''(f) NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADVISORY BOARD.—The term 'Advisory Board' means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

''(B) APPLIED RESEARCH.—The term 'applied research' means research that includes expansion of the findings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

''(C) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term 'capacity and infrastructure program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

''(i) Each program providing funding to any of the 1994 Institutions under sections 533, 534(a), and 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382).

''(ii) The program established under section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) providing research grants for 1994 Institutions.

''(iii) Each program established under subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343).

''(iv) Each program established under the Hatch Act of 1887 (7 U.S.C. 361a et seq.).

''(v) Each program established under section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)).

''(vi) The animal health and disease research program established under subtitle E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191 et seq.).

''(vii) Each extension program available to 1890 Institutions established under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221).

''(viii) The program established under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222).

''(ix) The program providing grants to upgrade agricultural and food sciences facilities at 1890 Institutions established under section 1447 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b).

''(x) The program providing distance education grants for insular areas established under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362).

''(xi) The program providing resident instruction grants for insular areas established under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363).

''(xii) Each research and development and related program established under Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).

''(xiii) Each program established under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.).

''(xiv) Each program providing funding to Hispanic-serving agricultural colleges and universities under section 1456 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

''(xv) The program providing capacity grants to NLGCA Institutions under section 1473F of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

''(xvi) Other programs that are capacity and infrastructure programs, as determined by the Secretary.

''(D) COMPETITIVE PROGRAM.—The term 'competitive program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

''(i) The Agriculture and Food Research Initiative established under section 2(b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)).

''(ii) The program providing competitive grants for risk management education established under section 524(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(3)).

''(iii) The program providing community food project competitive grants established under section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034).

''(iv) The program providing grants for beginning farmer and rancher development established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

''(v) The program providing grants under section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)).

''(vi) The program providing grants for Hispanic-serving institutions established under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241).

''(vii) The program providing competitive grants for international agricultural science and education programs under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b).

''(viii) The research and extension projects carried out under section 1621 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811).

''(ix) The organic agriculture research and extension initiative established under section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b).

''(x) The specialty crop research initiative under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998.

''(xi) The administration and management of the Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative carried out under section 1672C of the Food, Agriculture, Conservation, and Trade Act of 1990.

''(xii) The research, extension, and education programs authorized by section 407 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627) relating to the competitiveness, viability and sustainability of small- and medium-sized dairy, livestock, and poultry operations.

''(xiii) Other programs that are competitive programs, as determined by the Secretary.

''(E) DIRECTOR.—The term 'Director' means the Director of the Institute.

''(F) FUNDAMENTAL RESEARCH.—The term 'fundamental research' means research that—

''(i) increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application; and

''(ii) has an effect on agriculture, food, nutrition, or the environment.

''(G) INSTITUTE.—The term 'Institute' means the National Institute of Food and Agriculture established by paragraph (2)(A).

''(2) ESTABLISHMENT OF NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

''(A) ESTABLISHMENT.—The Secretary shall establish within the Department an agency to be known as the 'National Institute of Food and Agriculture'.

''(B) TRANSFER OF AUTHORITIES.—The Secretary shall transfer to the Institute, effective not later than October 1, 2009, the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions prescribed by law or otherwise granted to the Secretary, the Department, or any other agency or official of the Department under—

''(i) the capacity and infrastructure programs;

''(ii) the competitive programs;

''(iii) the research, education, economic, cooperative State research programs, cooperative extension and education programs, international programs, and other functions and authorities delegated by the Under Secretary to the Administrator of the Cooperative State Research, Education, and Extension Service pursuant to section 2.66 of title 7, Code of Federal Regulations (or successor regulations); and

''(iv) any and all other authorities administered by the Administrator of the Cooperative State Research, Education, and Extension Service.

''(3) DIRECTOR.—

''(A) IN GENERAL.—The Institute shall be headed by a Director, who shall be an individual who is—

''(i) a distinguished scientist; and

''(ii) appointed by the President.

''(B) SUPERVISION.—The Director shall report directly to the Secretary, or the designee of the Secretary.

''(C) FUNCTIONS OF THE DIRECTOR.—The Director shall—

''(i) serve for a 6-year term, subject to reappointment for an additional 6-year term;

''(ii) periodically report to the Secretary, or the designee of the Secretary, with respect to activities carried out by the Institute; and

''(iii) consult regularly with the Secretary, or the designee of the Secretary, to ensure, to the maximum extent practicable, that—

''(I) research of the Institute is relevant to agriculture in the United States and otherwise serves the national interest; and

''(II) the research of the Institute supplements and enhances, and does not supplant, research conducted or funded by other Federal agencies.

''(D) COMPENSATION.—The Director shall receive basic pay at a rate not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, United States Code, except that the certification requirement in that subsection shall not apply to the compensation of the Director.

''(E) AUTHORITY AND RESPONSIBILITIES OF DIRECTOR.—Except as otherwise specifically provided in this subsection, the Director shall—

''(i) exercise all of the authority provided to the Institute by this subsection;

''(ii) formulate and administer programs in accordance with policies adopted by the Institute, in coordination with the Under Secretary;

''(iii) establish offices within the Institute;

''(iv) establish procedures for the provision and administration of grants by the Institute; and

''(v) consult regularly with the Advisory Board.

''(4) REGULATIONS.—The Institute shall have such authority as is necessary to carry out this subsection, including the authority to promulgate such regulations as the Institute considers to be necessary for governance of operations, organization, and personnel.

''(5) ADMINISTRATION.—

''(A) IN GENERAL.—The Director shall organize offices and functions within the Institute to administer fundamental and applied research and extension and education programs.

''(B) RESEARCH PRIORITIES.—The Director shall ensure the research priorities established by the Under Secretary through the Research, Education and Extension Office are carried out by the offices and functions of the Institute, where applicable.

''(C) FUNDAMENTAL AND APPLIED RESEARCH.—The Director shall—

''(i) determine an appropriate balance between fundamental and applied research programs and functions to ensure future research needs are met; and

''(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

''(D) COMPETITIVELY FUNDED AWARDS.—The Director shall—

''(i) promote the use and growth of grants awarded through a competitive process; and

''(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

''(E) COORDINATION.—The Director shall ensure that the offices and functions established under subparagraph (A) are effectively coordinated for maximum efficiency.

''(6) FUNDING.—

''(A) IN GENERAL.—In addition to funds otherwise appropriated to carry out each program administered by the Institute, there are authorized to be appropriated such sums as are necessary to carry out this subsection for each fiscal year.

''(B) ALLOCATION.—Funding made available under subparagraph (A) shall be allocated according to recommendations contained in the roadmap described in section 7504 of the Food, Conservation, and Energy Act of 2008.''.

(b) FUNCTIONS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(6) the authority of the Secretary to establish in the Department, under section 251—

''(A) the position of Under Secretary of Agriculture for Research, Education, and Economics;

''(B) the Research, Education, and Extension Office; and

''(C) the National Institute of Food and Agriculture.''.

(c) CONFORMING AMENDMENTS.—The following conforming amendments shall take effect on October 1, 2009:

(1) Section 522(d)(2) of the Federal Crop Insurance Act (7 U.S.C. 1522(d)(2)) is amended by striking ''the Cooperative State Research, Education, and Extension Service'' and inserting ''the National Institute of Food and Agriculture''.

(2) Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended in each of paragraphs (1)(B) and (3)(A) by striking ''the Cooperative State Research, Education, and Extension Service'' each place it appears and inserting ''the National Institute of Food and Agriculture''.

(3) Section 306(a)(11)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(C)) is amended by striking ''the Cooperative State Research, Education, and Extension Service'' and inserting ''the National Institute of Food and Agriculture''.

(4) Section 5(b)(2)(E) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102–554) is amended by striking ''Cooperative Extension Service'' and inserting ''National Institute of Food and Agriculture''.

(5) Section 11(f)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(f)(1)) is amended by striking ''Cooperative Extension Service'' and inserting ''National Institute of Food and Agriculture''.

(6) Section 502(h) of the Rural Development Act of 1972 (7 U.S.C. 2662(h)) is amended—

(A) in paragraph (1), by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''; and

(B) in paragraph (4), by striking ''Extension Service staff'' and inserting ''National Institute of Food and Agriculture staff''.

(7) Section 7404(b)(1)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3101 note; Public Law 107–171) is amended by striking clause (vi) and inserting the following:

''(vi) the National Institute of Food and Agriculture.''.

(8) Section 1408(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(b)(4)) is amended by striking ''the Administrator of the Cooperative State Research, Education, and Extension Service'' and inserting ''the Director of the National Institute of Food and Agriculture''.

(9) Section 2381(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(a)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.

(10) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(A) in section 1424A(b) (7 U.S.C. 3174a(b)), by striking ''the Cooperative State Research, Education, and Extension Service'' and inserting ''the National Institute of Food and Agriculture''; and

(B) in section 1458(a)(10) (7 U.S.C. 3291(a)(10)), by striking ''the Cooperative State

*Research, Education, and Extension Service'' and inserting ''the National Institute of Food and Agriculture''.*

*(11) Section 1587(a) of the Food Security Act of 1985 (7 U.S.C. 3175d(a)) is amended by striking ''Extension Service'' each place it appears and inserting ''National Institute of Food and Agriculture''.*

*(12) Section 1444(b)(2)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(b)(2)(A)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(13) Section 1473D(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(d)) is amended by striking ''the Cooperative State Research Service, the Extension Service'' and inserting ''the National Institute of Food and Agriculture''.*

*(14) Section 1499(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(c)) is amended by striking ''the Cooperative State Research Service'' and all that follows through ''extension services;'' and inserting ''the National Institute of Food and Agriculture, in conjunction with the system of State agricultural experiment stations and State and county cooperative extension services; the Economic Research Service;''.*

*(15) Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—*

*(A) in subsection (a)(1), by striking ''the Cooperative State Research Service in close cooperation with the Extension Service'' and inserting ''the National Institute of Food and Agriculture'';*

*(B) in subsection (b)(1)—*

*(i) by striking subparagraphs (B) and (C) and inserting the following:*

*''(B) the National Institute of Food and Agriculture;''; and*

*(ii) by redesignating subparagraphs (D) through (L) as subparagraphs (C) through (K), respectively.*

*(16) Section 1627(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(d)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(17) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended—*

*(A) in subsection (b), in the first sentence, by striking ''the Extension Service'' and inserting ''the National Institute of Food and Agriculture''; and*

*(B) in subsection (h), by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(18) Section 1638(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5852(b)) is amended—*

*(A) in paragraph (3), by striking ''Cooperative State Research Service'' and inserting ''National Institute of Food and Agriculture''; and*

*(B) in paragraph (5), by striking ''Cooperative State Research Service'' and inserting ''National Institute of Food and Agriculture''.*

*(19) Section 1640(a)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(a)(2)) is amended by striking ''the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service'' and inserting ''the Director of the National Institute of Food and Agriculture''.*

*(20) Section 1641(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(a)) is amended—*

*(A) in paragraph (2), by striking ''Cooperative State Research Service'' and inserting ''National Institute of Food and Agriculture''; and*

*(B) in paragraph (4,) by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(21) Section 1668(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921(b)) is amended by striking ''Cooperative State Research, Education, and Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(22) Section 1670(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(a)(4)) is amended by striking ''the Administrator of the Cooperative State Research, Education, and Extension Service'' and inserting ''the Director of the National Institute of Food and Agriculture''.*

*(23) Section 1677(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930(a)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(24) Section 2122(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6521(b)(1)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(25) Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended—*

*(A) in subsection (a), by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''; and*

*(B) in subsection (c)(3), by striking ''Service'' and inserting ''System''.*

*(26) Section 2377(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6615(a)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(27) Section 212(a)(2)(A) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(a)(2)(A)) is amended by striking ''251(d),'' and inserting ''251(f),''.*

*(28) Section 537 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7446) is amended in each of subsections (a)(2) and (b)(3)(B)(i) by striking ''Cooperative State Research, Education, and Extension Service'' and inserting ''cooperative extension''.*

*(29) Section 101(b)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7611(b)(2)) is amended by striking ''Cooperative State Research, Education, and Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(30) Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended—*

*(A) in the subsection heading, by striking ''Cooperative State Research, Education, and Extension Service'' and inserting ''National Institute of Food and Agriculture''; and*

*(B) in each of paragraphs (1) and (2)(A), by striking ''the Cooperative State Research, Education, and Extension Service'' and inserting ''the National Institute of Food and Agriculture''.*

*(31) Section 407(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(c)) is amended by striking ''the Cooperative State Research, Education, and Extension Service'' and inserting ''the National Institute of Food and Agriculture''.*

*(32) Section 410(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630(a)) is amended by striking ''the Administrator of the Cooperative State Research, Education, and Extension Service'' and inserting ''the Director of the National Institute of Food and Agriculture''.*

*(33) Section 307(g)(5) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 8606(g)(5)) is amended by striking ''Administrator of the Cooperative State Research, Education, and Extension Service'' and inserting ''Director of the National Institute of Food and Agriculture''.*

*(34) Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674a(a)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(35) Section 6(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b(b)) is amended by striking ''the Cooperative State Research, Education, and Extension Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or Cooperative Extension officials'' and inserting ''the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials''.*

*(36) Section 9(g)(2)(A)(viii) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105(g)(2)(A)(viii)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(37) Section 19(b)(1)(B)(i) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)(1)(B)(i)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(38) Section 1261(c)(4) of the Food Security Act of 1985 (16 U.S.C. 3861(c)(4)) is amended by striking ''Extension Service'' and inserting ''National Institute of Food and Agriculture''.*

*(39) Section 105(a) of the Africa: Seeds of Hope Act of 1998 (22 U.S.C. 2293 note; Public Law 105–385) is amended by striking ''the Cooperative State, Research, Education, and Extension Service (CSREES)'' and inserting ''the National Institute of Food and Agriculture''.*

*(40) Section 307(a)(4) of the National Aeronautic and Space Administration Authorization Act of 2005 (42 U.S.C. 16657(a)(4)) is amended by striking subparagraph (B) and inserting the following:*

*''(B) the program and structure of, peer review process of, management of conflicts of interest by, compensation of reviewers of, and the effects of compensation on reviewer efficiency and quality within, the National Institute of Food and Agriculture of the Department of Agriculture;''.*

***PART III—NEW GRANT AND RESEARCH PROGRAMS***

***SEC. 7521. RESEARCH AND EDUCATION GRANTS FOR THE STUDY OF ANTIBIOTIC-RESISTANT BACTERIA.***

*(a) IN GENERAL.—The Secretary shall provide research and education grants, on a competitive basis—*

*(1) to study the development of antibiotic-resistant bacteria, including—*

*(A) movement of antibiotic-resistant bacteria into groundwater and surface water; and*

*(B) the effect on antibiotic resistance from various drug use regimens; and*

*(2) to study and ensure the judicious use of antibiotics in veterinary and human medicine, including—*

*(A) methods and practices of animal husbandry;*

*(B) safe and effective alternatives to antibiotics;*

*(C) the development of better veterinary diagnostics to improve decisionmaking; and*

*(D) the identification of conditions or factors that affect antibiotic use on farms.*

*(b) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.*

***SEC. 7522. FARM AND RANCH STRESS ASSISTANCE NETWORK.***

*(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Health and Human Services, shall make competitive grants to support cooperative programs between State cooperative extension services and nonprofit organizations to establish a Farm and Ranch Stress Assistance Network that provides stress assistance programs to individuals who are engaged in farming, ranching, and other agriculture-related occupations.*

*(b) ELIGIBLE PROGRAMS.—Grants awarded under subsection (a) may be used to initiate, expand, or sustain programs that provide professional agricultural behavioral health counseling and referral for other forms of assistance as necessary through—*

*(1) farm telephone helplines and websites;*

*(2) community education;*

*(3) support groups;*

*(4) outreach services and activities; and*

*(5) home delivery of assistance, in a case in which a farm resident is homebound.*

*(c) EXTENSION SERVICES.—Grants shall be awarded under this subsection directly to State cooperative extension services to enable the State cooperative extension services to enter into contracts, on a multiyear basis, with nonprofit, community-based, direct-service organizations to initiate, expand, or sustain cooperative programs described in subsections (a) and (b).*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.*

***SEC. 7523. SEED DISTRIBUTION.***

*(a) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to carry out a seed distribution program to administer and maintain the distribution of vegetable seeds donated by commercial seed companies.*

*(b) PURPOSES.—The purposes of this program include—*

*(1) the distribution of seeds donated by commercial seed companies free-of-charge to appropriate—*

*(A) individuals;*

*(B) groups;*

*(C) institutions;*

*(D) governmental and nongovernmental organizations; and*

*(E) such other entities as the Secretary may designate;*

*(2) distribution of seeds to underserved communities, such as communities that experience—*

*(A) limited access to affordable fresh vegetables;*

*(B) a high rate of hunger or food insecurity; or*

*(C) severe or persistent poverty.*

*(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.*

*(d) SELECTION.—An eligible entity selected to receive a grant under subsection (a) shall have—*

*(1) expertise regarding the distribution of vegetable seeds donated by commercial seed companies; and*

*(2) the ability to achieve the purpose of the seed distribution program.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.*

***SEC. 7524. LIVE VIRUS FOOT AND MOUTH DISEASE RESEARCH.***

*(a) IN GENERAL.—The Secretary shall issue a permit required under section 12 of the Act of May 29, 1884 (21 U.S.C. 113a) to the Secretary of Homeland Security for work on the live virus of foot and mouth disease at any facility that is a successor to the Plum Island Animal Disease Center and charged with researching high-consequence biological threats involving zoonotic and foreign animal diseases (referred to in this section as the ''successor facility'').*

*(b) LIMITATION TO SINGLE FACILITY.—Not more than 1 facility shall be issued a permit under subsection (a).*

*(c) LIMITATION ON VALIDITY.—The permit issued under this section shall be valid unless the Secretary determines that the study of live foot and mouth disease virus at the successor facility is not being carried out in accordance with the regulations promulgated by the Secretary pursuant to the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).*

*(d) AUTHORITY.—The suspension, revocation, or other impairment of the permit issued under this section—*

*(1) shall be made by the Secretary; and*

*(2) is a nondelegable function.*

***SEC. 7525. NATURAL PRODUCTS RESEARCH PROGRAM.***

*(a) IN GENERAL.—The Secretary shall establish within the Department a natural products research program.*

*(b) DUTIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate research relating to natural products, including—*

*(1) research to improve human health and agricultural productivity through the discovery, development, and commercialization of products and agrichemicals from bioactive natural products, including products from plant, marine, and microbial sources;*

*(2) research to characterize the botanical sources, production, chemistry, and biological properties of plant-derived natural products; and*

*(3) other research priorities identified by the Secretary.*

*(c) PEER AND MERIT REVIEW.—The Secretary shall—*

*(1) determine the relevance and merit of research under this section through a system of peer review established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and*

*(2) approve funding for research on the basis of merit, quality, and relevance to advancing the purposes of this section.*

*(d) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.*

***SEC. 7526. SUN GRANT PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program to provide grants to the sun grant centers and subcenter specified in subsection (b)—*

*(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;*

*(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;*

*(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and*

*(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among—*

*(A) the Department of Agriculture;*

*(B) the Department of Energy; and*

*(C) land-grant colleges and universities.*

*(b) GRANTS.—*

*(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g) to provide grants to each of the following:*

*(A) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.*

*(B) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—*

*(i) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;*

*(ii) the Commonwealth of Puerto Rico; and*

*(iii) the United States Virgin Islands.*

*(C) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.*

*(D) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—*

*(i) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and*

*(ii) insular areas (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103 (other than the insular areas referred to in clauses (ii) and (iii) of subparagraph (B))).*

*(E) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.*

*(F) WESTERN INSULAR PACIFIC SUBCENTER.—A western insular Pacific sun grant subcenter at the University of Hawaii for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.*

*(2) MANNER OF DISTRIBUTION.—*

*(A) CENTERS.—In providing any funds made available under subsection (g), the Secretary shall distribute the grants in equal amounts to the sun grant centers described in subparagraphs (A) through (E) of paragraph (1).*

*(B) SUBCENTER.—The sun grant center described in paragraph (1)(D) shall allocate a portion of the funds received under paragraph (1) to the subcenter described in paragraph (1)(F) pursuant to guidance issued by the Secretary.*

*(3) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (f) or on the basis of an audit of a sun grant center or subcenter conducted by the Secretary that the center or subcenter has not complied with the requirements of this section, the sun grant center or subcenter shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.*

*(c) USE OF FUNDS.—*

*(1) COMPETITIVE GRANTS.—*

*(A) IN GENERAL.—A sun grant center or subcenter shall use 75 percent of the funds described in subsection (b) to provide competitive grants to entities that are—*

*(i) eligible to receive grants under subsection (b)(7) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(7)); and*

*(ii) located in the region covered by the sun grant center or subcenter.*

*(B) ACTIVITIES.—Grants described in subparagraph (A) shall be used by the grant recipient to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—*

*(i) research, extension, and education programs on technology development; and*

*(ii) integrated research, extension, and education programs on technology implementation.*

*(C) FUNDING ALLOCATION.—Of the amount of funds that is used to provide grants under subparagraph (A), the sun grant center or subcenter shall use—*

*(i) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(i); and*

*(ii) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(ii).*

*(D) ADMINISTRATION.—*

*(i) PEER AND MERIT REVIEW.—In making grants under this paragraph, a sun grant center or subcenter shall—*

*(I) seek and accept proposals for grants;*

*(II) determine the relevance and merit of proposals through a system of peer review similar to that established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and*

*(III) award grants on the basis of merit, quality, and relevance to advancing the purposes of this section.*

*(ii) PRIORITY.—A sun grant center or subcenter shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (d).*

*(iii) TERM.—A grant awarded by a sun grant center or subcenter shall have a term that does not exceed 5 years.*

*(iv) MATCHING FUNDS REQUIRED.—*

*(I) IN GENERAL.—Except as provided in subclauses (II) and (III), as a condition of receiving a grant under this paragraph, the sun grant center or subcenter shall require that not less than 20 percent of the cost of an activity described in subparagraph (B) be matched with funds, including in-kind contributions, from a non-Federal source.*

*(II) EXCLUSION.—Subclause (I) shall not apply to fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).*

*(III) REDUCTION.—The sun grant center or subcenter may reduce or eliminate the requirement for non-Federal funds under subclause (I) for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)) if the sun grant center or subcenter determines that the reduction is necessary and appropriate pursuant to guidance issued by the Secretary.*

*(v) BUILDINGS AND FACILITIES.—Funds made available for grants shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).*

*(vi) LIMITATION ON INDIRECT COSTS.—A sun grant center or subcenter may not recover the indirect costs of making grants under subparagraph (A).*

*(2) ADMINISTRATIVE EXPENSES.—A sun grant center or subcenter may use up to 4 percent of the funds described in subsection (b) to pay administrative expenses incurred in carrying out paragraph (1).*

*(3) RESEARCH, EXTENSION AND EDUCATIONAL ACTIVITIES.—The sun grant centers and subcenter shall use the remainder of the funds described in subsection (b) to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—*

*(A) research, extension, and educational programs on technology development; and*

*(B) integrated research, extension, and educational programs on technology implementation.*

*(d) PLAN FOR RESEARCH ACTIVITIES TO BE FUNDED.—*

*(1) IN GENERAL.—Subject to the availability of funds under subsection (g), and in cooperation with land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers and subcenter shall jointly develop and submit to the Secretary for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy at the State and regional levels.*

*(2) GASIFICATION COORDINATION.—With respect to gasification research activity, the sun grant centers and subcenter shall coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area.*

*(3) FUNDING.—Funds described in subsection (c)(2) shall be available to carry out planning coordination under paragraph (1).*

*(4) USE OF PLAN.—The sun grant centers and subcenter shall use the plan described in paragraph (1) in making grants under subsection (c)(1).*

*(e) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers and subcenter shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (b)(1)(A) to provide the sun grant centers and subcenter with analysis and data management support.*

*(f) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, a sun grant center or subcenter receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center or subcenter during the fiscal year, including—*

*(1) the results of all peer and merit review procedures conducted pursuant to subsection (c)(1)(D)(i); and*

*(2) a description of progress made in facilitating the priorities described in subsection (d)(1).*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2008 through 2012, of which not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (e).*

***SEC. 7527. STUDY AND REPORT ON FOOD DESERTS.***

*(a) DEFINITION OF FOOD DESERT.—In this section, the term ''food desert'' means an area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower-income neighborhoods and communities.*

*(b) STUDY AND REPORT.—The Secretary shall carry out a study of, and prepare a report on, food deserts.*

*(c) CONTENTS.—The study and report shall—*

*(1) assess the incidence and prevalence of food deserts;*

*(2) identify—*

*(A) characteristics and factors causing and influencing food deserts; and*

*(B) the effect on local populations of limited access to affordable and nutritious food; and*

*(3) provide recommendations for addressing the causes and effects of food deserts through measures that include—*

*(A) community and economic development initiatives;*

*(B) incentives for retail food market development, including supermarkets, small grocery stores, and farmers' markets; and*

*(C) improvements to Federal food assistance and nutrition education programs.*

*(d) COORDINATION WITH OTHER AGENCIES AND ORGANIZATIONS.—The Secretary shall conduct the study under this section in coordination and consultation with—*

*(1) the Secretary of Health and Human Services;*

*(2) the Administrator of the Small Business Administration;*

*(3) the Institute of Medicine; and*

*(4) representatives of appropriate businesses, academic institutions, and nonprofit and faith-based organizations.*

*(e) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the report prepared under this section, including the findings and recommendations described in subsection (c).*

*(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.*

***SEC. 7528. DEMONSTRATION PROJECT AUTHORITY FOR TEMPORARY POSITIONS.***

*Notwithstanding section 4703(d)(1) of title 5, United States Code, the amendment to the personnel management demonstration project established in the Department of Agriculture (67 Fed. Reg. 70776 (2002)), shall become effective upon the date of enactment of this Act and shall remain in effect unless modified by law.*

***SEC. 7529. AGRICULTURAL AND RURAL TRANSPORTATION RESEARCH AND EDUCATION.***

*(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall make competitive grants to institutions of higher education to carry out agricultural and rural transportation research and education activities.*

*(b) ACTIVITIES.—Research and education grants made under this section shall be used to address rural transportation and logistics needs of agricultural producers and related rural businesses, including—*

*(1) the transportation of biofuels; and*

*(2) the export of agricultural products.*

*(c) SELECTION CRITERIA.—*

*(1) IN GENERAL.—The Secretary shall award grants under this section on the basis of the transportation research, education, and outreach expertise of the applicant, as determined by the Secretary.*

*(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to institutions of higher education for use in coordinating research and education activities with other institutions of higher education with similar agricultural and rural transportation research and education programs.*

*(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall award grants under this section in areas that are regionally diverse and broadly representative of the diversity of agricultural production and related transportation needs in the rural areas of the United States.*

*(e) MATCHING FUNDS REQUIREMENT.—The Secretary shall require each recipient of a grant under this section to provide, from non-Federal sources, in cash or in kind, 50 percent of the cost of carrying out activities under the grant.*

*(f) GRANT REVIEW.—A grant shall be awarded under this section on a competitive, peer- and merit-reviewed basis in accordance with section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)).*

*(g) NO DUPLICATION.—In awarding grants under this section, the Secretary shall ensure that activities funded under this section do not duplicate the efforts of the University Transportation Centers described in sections 5505 and 5506 of title 49, United States Code.*

*(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.*

## *TITLE VIII—FORESTRY*

### *Subtitle A—Amendments to Cooperative Forestry Assistance Act of 1978*

***SEC. 8001. NATIONAL PRIORITIES FOR PRIVATE FOREST CONSERVATION.***

*Section 2 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101) is amended—*

*(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and*

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

*''(c) PRIORITIES.—In allocating funds appropriated or otherwise made available under this Act, the Secretary shall focus on the following national private forest conservation priorities, notwithstanding other priorities specified elsewhere in this Act:*

*''(1) Conserving and managing working forest landscapes for multiple values and uses.*

*''(2) Protecting forests from threats, including catastrophic wildfires, hurricanes, tornados, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats.*

*''(3) Enhancing public benefits from private forests, including air and water quality, soil*

*conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.*

*''(d) REPORTING REQUIREMENT.—Not later than September 30, 2011, the Secretary shall submit to Congress a report describing how funds were used under this Act, and through other programs administered by the Secretary, to address the national priorities specified in subsection (c) and the outcomes achieved in meeting the national priorities.''.*

***SEC. 8002. LONG-TERM STATE-WIDE ASSESSMENTS AND STRATEGIES FOR FOREST RESOURCES.***

*The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 2 (16 U.S.C. 2101) the following new section:*

***''SEC. 2A. STATE-WIDE ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.***

*''(a) ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.—For a State to be eligible to receive funds under the authorities of this Act, the State forester of that State or equivalent State official shall develop and submit to the Secretary, not later than two years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the following:*

*''(1) A State-wide assessment of forest resource conditions, including—*

*''(A) the conditions and trends of forest resources in that State;*

*''(B) the threats to forest lands and resources in that State consistent with the national priorities specified in section 2(c);*

*''(C) any areas or regions of that State that are a priority; and*

*''(D) any multi-State areas that are a regional priority.*

*''(2) A long-term State-wide forest resource strategy, including—*

*''(A) strategies for addressing threats to forest resources in the State outlined in the assessment required by paragraph (1); and*

*''(B) a description of the resources necessary for the State forester or equivalent State official from all sources to address the State-wide strategy.*

*''(b) UPDATING.—At such times as the Secretary determines to be necessary, the State forester or equivalent State official shall update and resubmit to the Secretary the State-wide assessment and State-wide strategy required by subsection (a).*

*''(c) COORDINATION.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State Forester or equivalent State official shall coordinate with—*

*''(1) the State Forest Stewardship Coordinating Committee established for the State under section 19(b);*

*''(2) the State wildlife agency, with respect to strategies contained in the State wildlife action plans;*

*''(3) the State Technical Committee;*

*''(4) applicable Federal land management agencies; and*

*''(5) for purposes of the Forest Legacy Program under section 7, the State lead agency designated by the Governor.*

*''(d) INCORPORATION OF OTHER PLANS.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State forester or equivalent State official shall incorporate any forest management plan of the State, including community wildfire protection plans and State wildlife action plans.*

*''(e) SUFFICIENCY.—Once approved by the Secretary, a State-wide assessment and State-wide strategy developed under subsection (a) shall be deemed to be sufficient to satisfy all relevant State planning and assessment requirements under this Act.*

*''(f) FUNDING.—*

*''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section up to $10,000,000 for each of fiscal years 2008 through 2012.*

*''(2) ADDITIONAL FUNDING SOURCES.—In addition to the funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1) to carry out this section, the Secretary may use any other funds made available for planning under this Act to carry out this section, except that the total amount of combined funding used to carry out this section may not exceed $10,000,000 in any fiscal year.*

*''(g) ANNUAL REPORT ON USE OF FUNDS.—The State forester or equivalent State official shall submit to the Secretary an annual report detailing how funds made available to the State under this Act are being used.''.*

***SEC. 8003. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.***

*(a) FINDINGS.—Congress finds that—*

*(1) the Forest Service projects that, by calendar year 2030, approximately 44,000,000 acres of privately-owned forest land will be developed throughout the United States;*

*(2) public access to parcels of privately-owned forest land for outdoor recreational activities, including hunting, fishing, and trapping, has declined and, as a result, participation in those activities has also declined in cases in which public access is not secured;*

*(3) rising rates of obesity and other public health problems relating to the inactivity of the citizens of the United States have been shown to be ameliorated by improving public access to safe and attractive areas for outdoor recreation;*

*(4) in rapidly-growing communities of all sizes throughout the United States, remaining parcels of forest land play an essential role in protecting public water supplies;*

*(5) forest parcels owned by local governmental entities and nonprofit organizations are providing important demonstration sites for private landowners to learn forest management techniques;*

*(6) throughout the United States, communities of diverse types and sizes are deriving significant financial and community benefits from managing forest land owned by local governmental entities for timber and other forest products; and*

*(7) there is an urgent need for local governmental entities to be able to leverage financial resources in order to purchase important parcels of privately-owned forest land as the parcels are offered for sale.*

*(b) COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 7 (16 U.S.C. 2103c) the following new section:*

***''SEC. 7A. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.***

*''(a) DEFINITIONS.—In this section:*

*''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a local governmental entity, Indian tribe, or nonprofit organization that owns or acquires a parcel under the program.*

*''(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*''(3) LOCAL GOVERNMENTAL ENTITY.—The term 'local governmental entity' includes any municipal government, county government, or other local government body with jurisdiction over local land use decisions.*

*''(4) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that—*

*''(A) is described in section 170(h)(3) of the Internal Revenue Code of 1986; and*

*''(B) operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of that Code.*

*''(5) PROGRAM.—The term 'Program' means the community forest and open space conservation program established under subsection (b).*

*''(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.*

*''(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the 'community forest and open space conservation program'.*

*''(c) GRANT PROGRAM.—*

*''(1) IN GENERAL.—The Secretary may award grants to eligible entities to acquire private forest land, to be owned in fee simple, that—*

*''(A) are threatened by conversion to nonforest uses; and*

*''(B) provide public benefits to communities, including—*

*''(i) economic benefits through sustainable forest management;*

*''(ii) environmental benefits, including clean water and wildlife habitat;*

*''(iii) benefits from forest-based educational programs, including vocational education programs in forestry;*

*''(iv) benefits from serving as models of effective forest stewardship for private landowners; and*

*''(v) recreational benefits, including hunting and fishing.*

*''(2) FEDERAL COST SHARE.—An eligible entity may receive a grant under the Program in an amount equal to not more than 50 percent of the cost of acquiring 1 or more parcels, as determined by the Secretary.*

*''(3) NON-FEDERAL SHARE.—As a condition of receipt of the grant, an eligible entity that receives a grant under the Program shall provide, in cash, donation, or in kind, a non-Federal matching share in an amount that is at least equal to the amount of the grant received.*

*''(4) APPRAISAL OF PARCELS.—To determine the non-Federal share of the cost of a parcel of privately-owned forest land under paragraph (2), an eligible entity shall require appraisals of the land that comply with the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.*

*''(5) APPLICATION.—An eligible entity that seeks to receive a grant under the Program shall submit to the State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) an application that includes—*

*''(A) a description of the land to be acquired;*

*''(B) a forest plan that provides—*

*''(i) a description of community benefits to be achieved from the acquisition of the private forest land; and*

*''(ii) an explanation of the manner in which any private forest land to be acquired using funds from the grant will be managed; and*

*''(C) such other relevant information as the Secretary may require.*

*''(6) EFFECT ON TRUST LAND.—*

*''(A) INELIGIBILITY.—The Secretary shall not provide a grant under the Program for any project on land held in trust by the United States (including Indian reservations and allotment land).*

*''(B) ACQUIRED LAND.—No land acquired using a grant provided under the Program shall be converted to land held in trust by the United States on behalf of any Indian tribe.*

*''(7) APPLICATIONS TO SECRETARY.—The State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) shall submit to the Secretary a list that includes a description of each project submitted by an eligible entity at such times and in such form as the Secretary shall prescribe.*

*''(d) DUTIES OF ELIGIBLE ENTITY.—An eligible entity shall provide public access to, and manage, forest land acquired with a grant under this section in a manner that is consistent with the purposes for which the land was acquired under the Program.*

*''(e) PROHIBITED USES.—*

*''(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible entity that acquires a parcel under the Program shall not sell the parcel or convert the parcel to nonforest use.*

*''(2) REIMBURSEMENT OF FUNDS.—An eligible entity that sells or converts to nonforest use a*

*parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.*

*''(3) LOSS OF ELIGIBILITY.—An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.*

*''(f) STATE ADMINISTRATION AND TECHNICAL ASSISTANCE.—The Secretary may allocate not more than 10 percent of all funds made available to carry out the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.*

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

***SEC. 8004. ASSISTANCE TO THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU.***

*Section 13(d)(1) of the Cooperative Forestry Act of 1978 (16 U.S.C. 2109(d)(1)) is amended by striking ''the Trust Territory of the Pacific Islands,'' and inserting ''the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau,''.*

***SEC. 8005. CHANGES TO FOREST RESOURCE COORDINATING COMMITTEE.***

*Section 19 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113) is amended by striking subsection (a) and inserting the following new subsection:*

*''(a) FOREST RESOURCE COORDINATING COMMITTEE.—*

*''(1) ESTABLISHMENT.—The Secretary shall establish a committee, to be known as the 'Forest Resource Coordinating Committee' (in this section referred to as the 'Coordinating Committee'), to coordinate nonindustrial private forestry activities within the Department of Agriculture and with the private sector.*

*''(2) COMPOSITION.—The Coordinating Committee shall be composed of the following:*

*''(A) The Chief of the Forest Service.*

*''(B) The Chief of the Natural Resources Conservation Service.*

*''(C) The Director of the Farm Service Agency.*

*''(D) The Director of the National Institute of Food and Agriculture.*

*''(E) Non-Federal representatives appointed by the Secretary to 3 year terms, although initial appointees shall have staggered terms, including the following persons:*

*''(i) At least three State foresters or equivalent State officials from geographically diverse regions of the United States.*

*''(ii) A representative of a State fish and wildlife agency.*

*''(iii) An owner of nonindustrial private forest land.*

*''(iv) A forest industry representative.*

*''(v) A conservation organization representative.*

*''(vi) A land-grant university or college representative.*

*''(vii) A private forestry consultant.*

*''(viii) A representative from a State Technical Committee established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).*

*''(F) Such other persons as determined by the Secretary to be appropriate.*

*''(3) CHAIRPERSON.—The Chief of the Forest Service shall serve as chairperson of the Coordinating Committee.*

*''(4) DUTIES.—The Coordinating Committee shall—*

*''(A) provide direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities specified in section 2(c), with specific focus owners of nonindustrial private forest land;*

*''(B) clarify individual agency responsibilities of each agency represented on the Coordinating Committee concerning the national priorities specified in section 2(c), with specific focus on nonindustrial private forest land;*

*''(C) provide advice on the allocation of funds, including the competitive funds set-aside by sections 13A and 13B; and*

*''(D) assist the Secretary in developing and reviewing the report required by section 2(d).*

*''(5) MEETING.—The Coordinating Committee shall meet annually to discuss progress in addressing the national priorities specified in section 2(c) and issues regarding nonindustrial private forest land.*

*''(6) COMPENSATION.—*

*''(A) FEDERAL MEMBERS.—Members of the Coordinating Committee who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Coordinating Committee.*

*''(B) NON-FEDERAL MEMBERS.—Non-federal members of the Coordinating Committee shall serve without pay, but may be reimbursed for reasonable costs incurred while performing their duties on behalf of the Coordinating Committee.''.*

***SEC. 8006. CHANGES TO STATE FOREST STEWARDSHIP COORDINATING COMMITTEES.***

*Section 19(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)) is amended—*

*(1) in paragraph (1)(B)(ii)—*

*(A) by striking ''and'' at the end of subclause (VII); and*

*(B) by adding at the end the following new subclause:*

*''(IX) the State Technical Committee.''.*

*(2) in paragraph (2)(C), by striking ''a Forest Stewardship Plan under paragraph (3)'' and inserting ''the State-wide assessment and strategy regarding forest resource conditions under section 2A'';*

*(3) by striking paragraphs (3) and (4); and*

*(4) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.*

***SEC. 8007. COMPETITION IN PROGRAMS UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978.***

*The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13 (16 U.S.C. 2109) the following new section:*

***''SEC. 13A. COMPETITIVE ALLOCATION OF FUNDS TO STATE FORESTERS OR EQUIVALENT STATE OFFICIALS.***

*''(a) COMPETITION.—Beginning not later than 3 years after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall competitively allocate a portion, to be determined by the Secretary, of the funds available under this Act to State foresters or equivalent State officials.*

*''(b) DETERMINATION.—In determining the competitive allocation of funds under subsection (a), the Secretary shall consult with the Forest Resource Coordinating Committee established by section 19(a).*

*''(c) PRIORITY.—The Secretary shall give priority for funding to States for which the long-term State-wide forest resource strategies submitted under section 2A(a)(2) will best promote the national priorities specified in section 2(c).''.*

***SEC. 8008. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.***

*The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13A, as added by section 8006, the following new section:*

***''SEC. 13B. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.***

*''(a) COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.—The Secretary may competitively allocate not more than 5 percent of the funds made available under this Act to support innovative national, regional, or local education, outreach, or technology transfer projects that the Secretary determines would substantially increase the ability of the Department of Agriculture to address the national priorities specified in section 2(c).*

*''(b) ELIGIBILITY.—Notwithstanding the eligibility limitations contained in this Act, any State or local government, Indian tribe, land-grant college or university, or private entity shall be eligible to compete for funds to be competitively allocated under subsection (a).*

*''(c) COST-SHARE REQUIREMENT.—In carrying out subsection (a), the Secretary shall not cover more than 50 percent of the total cost of a project under such subsection. In calculating the total cost of a project and contributions made with regard to the project, the Secretary shall include in-kind contributions.''.*

***Subtitle B—Cultural and Heritage Cooperation Authority***

***SEC. 8101. PURPOSES.***

*The purposes of this subtitle are—*

*(1) to authorize the reburial of human remains and cultural items on National Forest System land, including human remains and cultural items repatriated under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);*

*(2) to prevent the unauthorized disclosure of information regarding reburial sites, including the quantity and identity of human remains and cultural items on sites and the location of sites;*

*(3) to authorize the Secretary of Agriculture to ensure access to National Forest System land, to the maximum extent practicable, by Indians and Indian tribes for traditional and cultural purposes;*

*(4) to authorize the Secretary to provide forest products, without consideration, to Indian tribes for traditional and cultural purposes;*

*(5) to authorize the Secretary to protect the confidentiality of certain information, including information that is culturally sensitive to Indian tribes;*

*(6) to increase the availability of Forest Service programs and resources to Indian tribes in support of the policy of the United States to promote tribal sovereignty and self-determination; and*

*(7) to strengthen support for the policy of the United States of protecting and preserving the traditional, cultural, and ceremonial rites and practices of Indian tribes, in accordance with Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).*

***SEC. 8102. DEFINITIONS.***

*In this subtitle:*

*(1) ADJACENT SITE.—The term ''adjacent site'' means a site that borders a boundary line of National Forest System land.*

*(2) CULTURAL ITEMS.—The term ''cultural items'' has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), except that the term does not include human remains.*

*(3) HUMAN REMAINS.—The term ''human remains'' means the physical remains of the body of a person of Indian ancestry.*

*(4) INDIAN.—The term ''Indian'' means an individual who is a member of an Indian tribe.*

*(5) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).*

*(6) LINEAL DESCENDANT.—The term ''lineal descendant'' means an individual that can trace, directly and without interruption, the ancestry of the individual through the traditional kinship system of an Indian tribe, or through the common law system of descent, to a known Indian, the human remains, funerary objects, or other sacred objects of whom are claimed by the individual.*

*(7) NATIONAL FOREST SYSTEM.—The term ''National Forest System'' has the meaning given*

*the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).*

*(8) REBURIAL SITE.—The term ''reburial site'' means a specific physical location at which cultural items or human remains are reburied.*

*(9) TRADITIONAL AND CULTURAL PURPOSE.—The term ''traditional and cultural purpose'', with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.*

***SEC. 8103. REBURIAL OF HUMAN REMAINS AND CULTURAL ITEMS.***

*(a) REBURIAL SITES.—In consultation with an affected Indian tribe or lineal descendant, the Secretary may authorize the use of National Forest System land by the Indian tribe or lineal descendant for the reburial of human remains or cultural items in the possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or an adjacent site.*

*(b) REBURIAL.—With the consent of the affected Indian tribe or lineal descendent, the Secretary may recover and rebury, at Federal expense or using other available funds, human remains and cultural items described in subsection (a) at the National Forest System land identified under that subsection.*

*(c) AUTHORIZATION OF USE.—*

*(1) IN GENERAL.—Subject to paragraph (2), the Secretary may authorize such uses of reburial sites on National Forest System land, or on the National Forest System land immediately surrounding a reburial site, as the Secretary determines to be necessary for management of the National Forest System.*

*(2) AVOIDANCE OF ADVERSE IMPACTS.—In carrying out paragraph (1), the Secretary shall avoid adverse impacts to cultural items and human remains, to the maximum extent practicable.*

***SEC. 8104. TEMPORARY CLOSURE FOR TRADITIONAL AND CULTURAL PURPOSES.***

*(a) RECOGNITION OF HISTORIC USE.—To the maximum extent practicable, the Secretary shall ensure access to National Forest System land by Indians for traditional and cultural purposes, in accordance with subsection (b), in recognition of the historic use by Indians of National Forest System land.*

*(b) CLOSING LAND FROM PUBLIC ACCESS.—*

*(1) AUTHORITY TO CLOSE.—Upon the approval by the Secretary of a request from an Indian tribe, the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes.*

*(2) LIMITATION.—A closure of National Forest System land under paragraph (1) shall affect the smallest practicable area for the minimum period necessary for activities of the applicable Indian tribe.*

*(3) CONSISTENCY.—Access by Indian tribes to National Forest System land under this subsection shall be consistent with the purposes of Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).*

***SEC. 8105. FOREST PRODUCTS FOR TRADITIONAL AND CULTURAL PURPOSES.***

*(a) IN GENERAL.—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.*

*(b) PROHIBITION.—Trees, portions of trees, or forest products provided under subsection (a) may not be used for commercial purposes.*

***SEC. 8106. PROHIBITION ON DISCLOSURE.***

*(a) NONDISCLOSURE OF INFORMATION.—*

*(1) IN GENERAL.—The Secretary shall not disclose under section 552 of title 5, United States Code (commonly known as the ''Freedom of Information Act''), information relating to—*

*(A) subject to subsection (b)(l), human remains or cultural items reburied on National Forest System land under section 8103; or*

*(B) subject to subsection (b)(2), resources, cultural items, uses, or activities that—*

*(i) have a traditional and cultural purpose; and*

*(ii) are provided to the Secretary by an Indian or Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out under the authority of the Forest Service.*

*(2) LIMITATIONS ON DISCLOSURE.—Subject to subsection (b)(2), the Secretary shall not be required to disclose information under section 552 of title 5, United States Code (commonly known as the ''Freedom of Information Act''), concerning the identity, use, or specific location in the National Forest System of—*

*(A) a site or resource used for traditional and cultural purposes by an Indian tribe; or*

*(B) any cultural items not covered under section 8103.*

*(b) LIMITED RELEASE OF INFORMATION.—*

*(1) REBURIAL.—The Secretary may disclose information described in subsection (a)(l)(A) if, before the disclosure, the Secretary—*

*(A) consults with an affected Indian tribe or lineal descendent;*

*(B) determines that disclosure of the information—*

*(i) would advance the purposes of this subtitle; and*

*(ii) is necessary to protect the human remains or cultural items from harm, theft, or destruction; and*

*(C) attempts to mitigate any adverse impacts identified by an Indian tribe or lineal descendant that reasonably could be expected to result from disclosure of the information.*

*(2) OTHER INFORMATION.—The Secretary, in consultation with appropriate Indian tribes, may disclose information described under paragraph (1)(B) or (2) of subsection (a) if the Secretary determines that disclosure of the information to the public—*

*(A) would advance the purposes of this subtitle;*

*(B) would not create an unreasonable risk of harm, theft, or destruction of the resource, site, or object, including individual organic or inorganic specimens; and*

*(C) would be consistent with other applicable laws.*

***SEC. 8107. SEVERABILITY AND SAVINGS PROVISIONS.***

*(a) SEVERABILITY.—If any provision of this subtitle, or the application of any provision of this subtitle to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this subtitle shall not be affected thereby.*

*(b) SAVINGS.—Nothing in this subtitle—*

*(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;*

*(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;*

*(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or*

*(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.*

***Subtitle C—Amendments to Other Forestry-Related Laws***

***SEC. 8201. RURAL REVITALIZATION TECHNOLOGIES.***

*Section 2371(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601(d)(2)) is amended by striking ''2004 through 2008'' and inserting ''2008 through 2012''.*

***SEC. 8202. OFFICE OF INTERNATIONAL FORESTRY.***

*Section 2405(d) of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6704(d)) is amended by striking ''2007'' and inserting ''2012''.*

***SEC. 8203. EMERGENCY FOREST RESTORATION PROGRAM.***

*(a) ESTABLISHMENT.—Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:*

***''SEC. 407. EMERGENCY FOREST RESTORATION PROGRAM.***

*''(a) DEFINITIONS.—In this section:*

*''(1) EMERGENCY MEASURES.—The term 'emergency measures' means those measures that—*

*''(A) are necessary to address damage caused by a natural disaster to natural resources on nonindustrial private forest land, and the damage, if not treated—*

*''(i) would impair or endanger the natural resources on the land; and*

*''(ii) would materially affect future use of the land; and*

*''(B) would restore forest health and forest-related resources on the land.*

*''(2) NATURAL DISASTER.—The term 'natural disaster' includes wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by the Secretary.*

*''(3) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—*

*''(A) has existing tree cover (or had tree cover immediately before the natural disaster and is suitable for growing trees); and*

*''(B) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decision-making authority over the land.*

*''(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.*

*''(b) AVAILABILITY OF ASSISTANCE.—The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.*

*''(c) ELIGIBILITY.—To be eligible to receive a payment under subsection (b), an owner must demonstrate to the satisfaction of the Secretary that the nonindustrial private forest land on which the emergency measures are carried out had tree cover immediately before the natural disaster.*

*''(d) COST SHARE REQUIREMENT.—Payments made under subsection (b) shall not exceed 75 percent of the total cost of the emergency measures carried out by an owner of nonindustrial private forest land.*

*''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such funds as may be necessary to carry out this section. Amounts so appropriated shall remain available until expended.''.*

*(b) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out section 407 of the Agricultural Credit Act of 1978, as added by subsection (a).*

***SEC. 8204. PREVENTION OF ILLEGAL LOGGING PRACTICES.***

*(a) DEFINITIONS.—*

*(1) PLANT.—Subsection (f) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:*

*''(f) PLANT.—*

*''(1) IN GENERAL.—The terms 'plant' and 'plants' mean any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands.*

*''(2) EXCLUSIONS.—The terms 'plant' and 'plants' exclude—*

''(A) common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);

''(B) a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and

''(C) any plant that is to remain planted or to be planted or replanted.

''(3) EXCEPTIONS TO APPLICATION OF EXCLUSIONS.—The exclusions made by subparagraphs (B) and (C) of paragraph (2) do not apply if the plant is listed—

''(A) in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

''(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

''(C) pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.''.

(2) INCLUSION OF SECRETARY OF AGRICULTURE.—Section 2(h) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(h)) is amended by striking ''plants the term means'' and inserting ''plants, the term also means''.

(3) TAKEN AND TAKING.—Subsection (j) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

''(j) TAKEN AND TAKING.—

''(1) TAKEN.—The term 'taken' means captured, killed, or collected and, with respect to a plant, also means harvested, cut, logged, or removed.

''(2) TAKING.—The term 'taking' means the act by which fish, wildlife, or plants are taken.''.

(b) PROHIBITED ACTS.—

(1) OFFENSES OTHER THAN MARKING.—Section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)) is amended—

(A) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

''(B) any plant—

''(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

''(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or''; and

(B) in paragraph (3), by striking subparagraph (B) and inserting the following subparagraph:

''(B) to possess any plant—

''(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

''(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or''.

(2) PLANT DECLARATIONS.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended by adding at the end the following new subsection:

''(f) PLANT DECLARATIONS.—

''(1) IMPORT DECLARATION.—Effective 180 days from the date of enactment of this subsection, and except as provided in paragraph (3), it shall be unlawful for any person to import any plant unless the person files upon importation a declaration that contains—

''(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

''(B) a description of—

''(i) the value of the importation; and

''(ii) the quantity, including the unit of measure, of the plant; and

''(C) the name of the country from which the plant was taken.

''(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (6), a declaration relating to a plant product shall—

''(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product;

''(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than one country, and the country from which the plant was taken and used to produce the plant product is unknown, contain the name of each country from which the plant may have been taken; and

''(C) in the case in which a paper or paperboard plant product includes recycled plant product, contain the average percent recycled content without regard for the species or country of origin of the recycled plant product, in addition to the information for the non-recycled plant content otherwise required by this subsection.

''(3) EXCLUSIONS.—Paragraphs (1) and (2) shall not apply to plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

''(4) REVIEW.—Not later than two years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement imposed by paragraphs (1) and (2) and the effect of the exclusion provided by paragraph (3). In conducting the review, the Secretary shall provide public notice and an opportunity for comment.

''(5) REPORT.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary shall submit to the appropriate committees of Congress a report containing—

''(A) an evaluation of—

''(i) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of this section; and

''(ii) the potential to harmonize each requirement imposed by paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

''(B) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of this section; and

''(C) an analysis of the effect of subsection (a) and this subsection on—

''(i) the cost of legal plant imports; and

''(ii) the extent and methodology of illegal logging practices and trafficking.

''(6) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary may promulgate regulations—

''(A) to limit the applicability of any requirement imposed by paragraph (2) to specific plant products;

''(B) to make any other necessary modification to any requirement imposed by paragraph (2), as determined by the Secretary based on the review; and

''(C) to limit the scope of the exclusion provided by paragraph (3), if the limitations in scope are warranted as a result of the review.''.

(c) CROSS-REFERENCES TO NEW REQUIREMENT.—Section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373) is amended—

(1) by striking ''subsections (b) and (d)'' each place it appears and inserting ''subsections (b), (d), and (f)'';

(2) by striking ''section 3(d)'' each place it appears and inserting ''subsection (d) or (f) of section 3''; and

(3) in subsection (a)(2), by striking ''subsection 3(b)'' and inserting ''subsection (b) or (f) of section 3, except as provided in paragraph (1),''.

(d) CIVIL FORFEITURES.—Section 5 of the Lacey Act Amendments of 1981 (16 U.S.C. 3374) is amended by adding at the end the following new subsection:

''(d) CIVIL FORFEITURES.—Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code.''.

(e) ADMINISTRATION.—Section 7 of the Lacey Act Amendments of 1981 (16 U.S.C. 3376) is amended—

(1) in subsection (a)(1), by striking ''section 4 and section'' and inserting ''sections 3(f), 4, and''; and

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

''(c) CLARIFICATION OF EXCLUSIONS FROM DEFINITION OF PLANT.—The Secretary of Agriculture and the Secretary of the Interior, after consultation with the appropriate agencies, shall jointly promulgate regulations to define the terms used in section 2(f)(2)(A) for the purposes of enforcement under this Act.''.

(f) TECHNICAL CORRECTION.—Effective as of November 14, 1988, and as if included therein as enacted, section 102(c) of Public Law 100–653 (102 Stat. 3825) is amended—

(1) by inserting ''of the Lacey Act Amendments of 1981'' after ''Section 4''; and

(2) by striking ''(other than section 3(b))'' and inserting ''(other than subsection 3(b))''.

**SEC. 8205. HEALTHY FORESTS RESERVE PROGRAM.**

(a) ENROLLMENT.—Section 502 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6572(f)(1)) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

''(e) METHODS OF ENROLLMENT.—

''(1) AUTHORIZED METHODS.—Land may be enrolled in the healthy forests reserve program in accordance with—

''(A) a 10-year cost-share agreement;

''(B) a 30-year easement; or

''(C)(i) a permanent easement; or

''(ii) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

''(2) LIMITATION ON USE OF COST-SHARE AGREEMENTS AND EASEMENTS.—

''(A) IN GENERAL.—Of the total amount of funds expended under the program for a fiscal year to acquire easements and enter into cost-share agreements described in paragraph (1)—

''(i) not more than 40 percent shall be used for cost-share agreements described in paragraph (1)(A); and

''(ii) not more than 60 percent shall be used for easements described in subparagraphs (B) and (C) of paragraph (1).

''(B) REPOOLING.—The Secretary may use any funds allocated under clause (i) or (ii) of subparagraph (A) that are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

''(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary may enroll acreage into the healthy forests reserve program through the use of—

''(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

''(B) a 10-year cost-share agreement; or

''(C) any combination of the options described in subparagraphs (A) and (B).''.

(b) FINANCIAL ASSISTANCE.—Section 504(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6574(a)) is amended by striking ''(a) EASEMENTS OF NOT MORE THAN 99 YEARS'' and all that follows through ''502(f)(1)(C)'' and inserting the following:

''(a) PERMANENT EASEMENTS.—In the case of land enrolled in the healthy forests reserve program using a permanent easement (or an easement described in section 502(f)(1)(C)(ii))''.

(c) FUNDING.—Section 508 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6578) is amended to read as follows:

**''SEC. 508. FUNDING.**

''(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $9,750,000 for each of fiscal years 2009 through 2012 to carry out this title.

''(b) DURATION OF AVAILABILITY.—The funds made available under subsection (a) shall remain available until expended.''.

### Subtitle D—Boundary Adjustments and Land Conveyance Provisions

**SEC. 8301. GREEN MOUNTAIN NATIONAL FOREST BOUNDARY ADJUSTMENT.**

(a) IN GENERAL.—The boundary of the Green Mountain National Forest is modified to include the 13 designated expansion units as generally depicted on the forest maps entitled ''Green Mountain Expansion Area Map I'' and ''Green Mountain Expansion Area Map II'' and dated February 20, 2002 (copies of which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia), and more particularly described according to the site specific maps and legal descriptions on file in the office of the Forest Supervisor, Green Mountain National Forest.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 l–9), the boundaries of the Green Mountain National Forest, as adjusted by this section, shall be considered to be the boundaries of the national forest as of January 1, 1965.

**SEC. 8302. LAND CONVEYANCES, CHIHUAHUAN DESERT NATURE PARK, NEW MEXICO, AND GEORGE WASHINGTON NATIONAL FOREST, VIRGINIA.**

(a) CHIHUAHUAN DESERT NATURE PARK CONVEYANCE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and subsection (b), the Secretary of Agriculture shall convey to the Chihuahuan Desert Nature Park, Inc., a nonprofit corporation in the State of New Mexico (in this section referred to as the ''Nature Park''), by quitclaim deed and for no consideration, all right, title, and interest of the United States in and to the land described in paragraph (2)

(2) DESCRIPTION OF LAND.—

(A) IN GENERAL.—The parcel of land referred to in paragraph (1) consists of the approximately 935.62 acres of land in Dona Ana County, New Mexico, which is more particularly described—

(i) as sections 17, 20, and 21 of T. 21 S., R. 2 E., N.M.P.M.; and

(ii) in an easement deed dated May 14, 1998, from the Department of Agriculture to the Nature Park.

(B) MODIFICATIONS.—The Secretary may modify the description of the land under subparagraph (A) to—

(i) correct errors in the description; or

(ii) facilitate management of the land.

(b) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the reservation by the United States of all mineral and subsurface rights to the land, including any geothermal resources;

(2) the condition that the Chihuahuan Desert Nature Park Board pay any costs relating to the conveyance;

(3) any rights-of-way reserved by the Secretary;

(4) a covenant or restriction in the deed to the land requiring that—

(A) the land may be used only for educational or scientific purposes; and

(B) if the land is no longer used for the purposes described in subparagraph (A), the land may, at the discretion of the Secretary, revert to the United States in accordance with subsection (c); and

(5) any other terms and conditions that the Secretary determines to be appropriate.

(c) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (b)(4)(A), the land may, at the discretion of the Secretary, revert to the United States. If the Secretary chooses to have the land revert to the United States, the Secretary shall—

(1) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(2) if the Secretary determines that the land is environmentally contaminated, the Nature Park, the successor to the Nature Park, or any other person responsible for the contamination shall be required to remediate the contamination.

(d) WITHDRAWAL.—All federally owned mineral and subsurface rights to the land to be conveyed under subsection (a) are withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) the operation of the mineral leasing laws, including the geothermal leasing laws.

(e) WATER RIGHTS.—Nothing in subsection (a) authorizes the conveyance of water rights to the Nature Park.

(f) GEORGE WASHINGTON NATIONAL FOREST CONVEYANCE, VIRGINIA.—

(1) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the Central Advent Christian Church of Alleghany County, Virginia (in this subsection referred to as the ''recipient''), all right, title, and interest of the United States in and to a parcel of real property in the George Washington National Forest, Alleghany County, Virginia, consisting of not more than 8 acres, including a cemetery encompassing approximately 6 acres designated as an area of special use for the recipient, and depicted on the Forest Service map showing tract G–2032c and dated August 20, 2002, and the Forest Service map showing the area of special use and dated March 14, 2001.

(2) CONDITION OF CONVEYANCE.—The conveyance under this subsection shall be subject to the condition that the recipient accept the real property described in paragraph (1) in its condition at the time of the conveyance, commonly known as conveyance ''as is''.

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 8303. SALE AND EXCHANGE OF NATIONAL FOREST SYSTEM LAND, VERMONT.**

(a) DEFINITIONS.—In this section:

(1) BROMLEY.—The term ''Bromley'' means Bromley Mountain Ski Resort, Inc.

(2) MAP.—The term ''map'' means the map entitled ''Proposed Bromley Land Sale or Exchange'' and dated April 7, 2004.

(3) STATE.—The term ''State'' means the State of Vermont.

(b) SALE OR EXCHANGE OF GREEN MOUNTAIN NATIONAL FOREST LAND.—

(1) IN GENERAL.—The Secretary of Agriculture may, under any terms and conditions that the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the parcels of National Forest System land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The parcels of National Forest System land referred to in paragraph (1) are the 5 parcels of land in Bennington County in the State, as generally depicted on the map.

(3) MAP AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—The map shall be on file and available for public inspection in—

(i) the office of the Chief of the Forest Service; and

(ii) the office of the Supervisor of the Green Mountain National Forest.

(B) MODIFICATIONS.—The Secretary may modify the map and legal descriptions to—

(i) correct technical errors; or

(ii) facilitate the conveyance under paragraph (1).

(4) CONSIDERATION.—Consideration for the sale or exchange of land described in paragraph (2)—

(A) shall be equal to an amount that is not less than the fair market value of the land sold or exchanged; and

(B) may be in the form of cash, land, or a combination of cash and land.

(5) APPRAISALS.—Any appraisal carried out to facilitate the sale or exchange of land under paragraph (1) shall conform with the Uniform Appraisal Standards for Federal Land Acquisitions.

(6) METHODS OF SALE.—

(A) CONVEYANCE TO BROMLEY.—

(i) IN GENERAL.—Before soliciting offers under subparagraph (B), the Secretary shall offer to convey to Bromley the land described in paragraph (2).

(ii) CONTRACT DEADLINE.—If Bromley accepts the offer under clause (i), the Secretary and Bromley shall have not more than 180 days after the date on which any environmental analyses with respect to the land are completed to enter into a contract for the sale or exchange of the land.

(B) PUBLIC OR PRIVATE SALE.—If the Secretary and Bromley do not enter into a contract for the sale or exchange of the land by the date specified in subparagraph (A)(ii), the Secretary may sell or exchange the land at public or private sale (including auction), in accordance with such terms, conditions, and procedures as the Secretary determines to be in the public interest.

(C) REJECTION OF OFFERS.—The Secretary may reject any offer received under this paragraph if the Secretary determines that the offer is not adequate or is not in the public interest.

(D) BROKERS.—In any sale or exchange of land under this subsection, the Secretary may—

*(i) use a real estate broker or other third party; and*

*(ii) pay the real estate broker or third party a commission in an amount comparable to the amounts of commission generally paid for real estate transactions in the area.*

*(7) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any Federal land exchanged under this section.*

*(c) DISPOSITION OF PROCEEDS.—*

*(1) IN GENERAL.—The Secretary shall deposit the net proceeds from a sale or exchange under this section in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the ''Sisk Act'').*

*(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation, for—*

*(A) the location and relocation of the Appalachian National Scenic Trail and the Long National Recreation Trail in the State;*

*(B) the acquisition of land and interests in land by the Secretary for National Forest System purposes within the boundary of the Green Mountain National Forest, including land for and adjacent to the Appalachian National Scenic Trail and the Long National Recreation Trail;*

*(C) the acquisition of wetland or an interest in wetland within the boundary of the Green Mountain National Forest to offset the loss of wetland from the parcels sold or exchanged; and*

*(D) the payment of direct administrative costs incurred in carrying out this section.*

*(3) LIMITATION.—Amounts deposited under paragraph (1) shall not—*

*(A) be paid or distributed to the State or counties or towns in the State under any provision of law; or*

*(B) be considered to be money received from units of the National Forest System for purposes of—*

*(i) the Act of May 23, 1908 (16 U.S.C. 500); or*

*(ii) the Act of March 4, 1913 (16 U.S.C. 501).*

*(4) PROHIBITION OF TRANSFER OR REPROGRAMMING.—Amounts deposited under paragraph (1) shall not be subject to transfer or reprogramming for wildfire management or any other emergency purposes.*

*(d) ACQUISITION OF LAND.—The Secretary may acquire, using funds made available under subsection (c) or otherwise made available for acquisition, land or an interest in land for National Forest System purposes within the boundary of the Green Mountain National Forest.*

*(e) EXEMPTION FROM CERTAIN LAWS.—Subtitle I of title 40, United States Code, shall not apply to any sale or exchange of National Forest System land under this section.*

***Subtitle E—Miscellaneous Provisions***

***SEC. 8401. QUALIFYING TIMBER CONTRACT OPTIONS.***

*(a) DEFINITIONS.—In this section:*

*(1) AUTHORIZED PRODUCER PRICE INDEX.—The term ''authorized Producer Price Index'' includes—*

*(A) the softwood commodity index (code number WPU 0811);*

*(B) the hardwood commodity index (code number WPU 0812);*

*(C) the wood chip index (code number PCU 3211133211135); and*

*(D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.*

*(2) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract for the sale of timber on National Forest System land—*

*(A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;*

*(B) for which there is unharvested volume remaining;*

*(C) for which, not later than 90 days after the date of enactment of this Act, the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);*

*(D) that is not a salvage sale;*

*(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and*

*(F) that is not in breach or in default.*

*(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.*

*(b) OPTIONS FOR QUALIFYING CONTRACTS.—*

*(1) CANCELLATION OR RATE REDETERMINATION.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—*

*(A) cancel the qualifying contract if the timber purchaser—*

*(i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;*

*(ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and*

*(iii) terminates its rights under the qualifying contract; or*

*(B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—*

*(i) 25 percent of the bid premium on the qualifying contract; and*

*(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act.*

*(2) SUBSTITUTION OF INDEX.—*

*(A) SUBSTITUTION.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—*

*(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and*

*(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.*

*(B) RATE REDETERMINATION FOLLOWING SUBSTITUTION OF INDEX.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—*

*(i) an emergency rate redetermination under the terms of the contract; or*

*(ii) a rate redetermination under paragraph (1)(B).*

*(C) LIMITATION ON MARKET-RELATED CONTRACT TERM ADDITION; PERIODIC PAYMENTS.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—*

*(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and*

*(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.*

*(3) CONTRACTS USING HARDWOOD LUMBER INDEX.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—*

*(A) extend the contract term for a 1-year period beginning on the current contract termination date; and*

*(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.*

*(c) EXTENSION OF MARKET-RELATED CONTRACT TERM ADDITION TIME LIMIT FOR CERTAIN CONTRACTS.—Notwithstanding any other provision of law, upon the written request of a timber purchaser, the Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.*

*(d) EFFECT OF OPTIONS.—*

*(1) NO SURRENDER OF CLAIMS.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—*

*(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or*

*(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).*

*(2) RELEASE OF LIABILITY.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—*

*(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or*

*(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.*

*(3) LIMITATION.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.*

***SEC. 8402. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.***

*(a) DEFINITION OF HISPANIC-SERVING INSTITUTION.—In this section, the term ''Hispanic-serving institution'' has the meaning given that term in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)).*

*(b) GRANT AUTHORITY.—The Secretary of Agriculture may make grants, on a competitive basis, to Hispanic-serving institutions for the purpose of establishing an undergraduate scholarship program to assist in the recruitment, retention, and training of Hispanics and other under-represented groups in forestry and related fields.*

*(c) USE OF GRANT FUNDS.—Grants made under this section shall be used to recruit, retain,*

*train, and develop professionals to work in forestry and related fields with Federal agencies, such as the Forest Service, State agencies, and private-sector entities.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.*

***TITLE IX—ENERGY***

***SEC. 9001. ENERGY.***

*(a) IN GENERAL.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended to read as follows:*

***"TITLE IX—ENERGY***

***"SEC. 9001. DEFINITIONS.***

*''Except as otherwise provided, in this title:*

*''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.*

*''(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Biomass Research and Development Technical Advisory Committee established by section 9008(d)(1).*

*''(3) ADVANCED BIOFUEL.—*

*''(A) IN GENERAL.—The term 'advanced biofuel' means fuel derived from renewable biomass other than corn kernel starch.*

*''(B) INCLUSIONS.—Subject to subparagraph (A), the term 'advanced biofuel' includes—*

*''(i) biofuel derived from cellulose, hemicellulose, or lignin;*

*''(ii) biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);*

*''(iii) biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;*

*''(iv) diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;*

*''(v) biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;*

*''(vi) butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and*

*''(vii) other fuel derived from cellulosic biomass.*

*''(4) BIOBASED PRODUCT.—The term 'biobased product' means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—*

*''(A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or*

*''(B) an intermediate ingredient or feedstock.*

*''(5) BIOFUEL.—The term 'biofuel' means a fuel derived from renewable biomass.*

*''(6) BIOMASS CONVERSION FACILITY.—The term 'biomass conversion facility' means a facility that converts or proposes to convert renewable biomass into—*

*''(A) heat;*

*''(B) power;*

*''(C) biobased products; or*

*''(D) advanced biofuels.*

*''(7) BIOREFINERY.—The term 'biorefinery' means a facility (including equipment and processes) that—*

*''(A) converts renewable biomass into biofuels and biobased products; and*

*''(B) may produce electricity.*

*''(8) BOARD.—The term 'Board' means the Biomass Research and Development Board established by section 9008(c).*

*''(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*''(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).*

*''(11) INTERMEDIATE INGREDIENT OR FEEDSTOCK.—The term 'intermediate ingredient or feedstock' means a material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product.*

*''(12) RENEWABLE BIOMASS.—The term 'renewable biomass' means—*

*''(A) materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that—*

*''(i) are byproducts of preventive treatments that are removed—*

*''(I) to reduce hazardous fuels;*

*''(II) to reduce or contain disease or insect infestation; or*

*''(III) to restore ecosystem health;*

*''(ii) would not otherwise be used for higher-value products; and*

*''(iii) are harvested in accordance with—*

*''(I) applicable law and land management plans; and*

*''(II) the requirements for—*

*''(aa) old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); and*

*''(bb) large-tree retention of subsection (f) of that section; or*

*''(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—*

*''(i) renewable plant material, including—*

*''(I) feed grains;*

*''(II) other agricultural commodities;*

*''(III) other plants and trees; and*

*''(IV) algae; and*

*''(ii) waste material, including—*

*''(I) crop residue;*

*''(II) other vegetative waste material (including wood waste and wood residues);*

*''(III) animal waste and byproducts (including fats, oils, greases, and manure); and*

*''(IV) food waste and yard waste.*

*''(13) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from—*

*''(A) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal, or hydroelectric source; or*

*''(B) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (A).*

*''(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.*

***"SEC. 9002. BIOBASED MARKETS PROGRAM.***

*''(a) FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.—*

*''(1) DEFINITION OF PROCURING AGENCY.—In this subsection, the term 'procuring agency' means—*

*''(A) any Federal agency that is using Federal funds for procurement; or*

*''(B) a person that is a party to a contract with any Federal agency, with respect to work performed under such a contract.*

*''(2) PROCUREMENT PREFERENCE.—*

*''(A) IN GENERAL.—*

*''(i) PROCURING AGENCY DUTIES.—Except as provided in clause (ii) and subparagraph (B), after the date specified in applicable guidelines prepared pursuant to paragraph (3), each procuring agency shall—*

*''(I) establish a procurement program, develop procurement specifications, and procure biobased products identified under the guidelines described in paragraph (3) in accordance with this section; and*

*''(II) with respect to items described in the guidelines, give a procurement preference to those items that—*

*''(aa) are composed of the highest percentage of biobased products practicable; or*

*''(bb) comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1).*

*''(ii) EXCEPTION.—The requirements of clause (i)(I) to establish a procurement program and develop procurement specifications shall not apply to a person described in paragraph (1)(B).*

*''(B) FLEXIBILITY.—Notwithstanding subparagraph (A), a procuring agency may decide not to procure items described in that subparagraph if the procuring agency determines that the items—*

*''(i) are not reasonably available within a reasonable period of time;*

*''(ii) fail to meet—*

*''(I) the performance standards set forth in the applicable specifications; or*

*''(II) the reasonable performance standards of the procuring agencies; or*

*''(iii) are available only at an unreasonable price.*

*''(C) MINIMUM REQUIREMENTS.—Each procurement program required under this subsection shall, at a minimum—*

*''(i) be consistent with applicable provisions of Federal procurement law;*

*''(ii) ensure that items composed of biobased products will be purchased to the maximum extent practicable;*

*''(iii) include a component to promote the procurement program;*

*''(iv) provide for an annual review and monitoring of the effectiveness of the procurement program; and*

*''(v) adopt 1 of the 2 polices described in subparagraph (D) or (E), or a policy substantially equivalent to either of those policies.*

*''(D) CASE-BY-CASE POLICY.—*

*''(i) IN GENERAL.—Subject to subparagraph (B) and except as provided in clause (ii), a procuring agency adopting the case-by-case policy shall award a contract to the vendor offering an item composed of the highest percentage of biobased products practicable.*

*''(ii) EXCEPTION.—Subject to subparagraph (B), an agency adopting the policy described in clause (i) may make an award to a vendor offering items with less than the maximum biobased products content.*

*''(E) MINIMUM CONTENT STANDARDS.—Subject to subparagraph (B), a procuring agency adopting the minimum content standards policy shall establish minimum biobased products content specifications for awarding contracts in a manner that ensures that the biobased products content required is consistent with this subsection.*

*''(F) CERTIFICATION.—After the date specified in any applicable guidelines prepared pursuant to paragraph (3), contracting offices shall require that vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.*

*''(3) GUIDELINES.—*

*''(A) IN GENERAL.—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this subsection.*

*''(B) REQUIREMENTS.—The guidelines under this paragraph shall—*

*''(i) designate those items (including finished products) that are or can be produced with biobased products (including biobased products for which there is only a single product or manufacturer in the category) that will be subject to the preference described in paragraph (2);*

*''(ii) designate those intermediate ingredients and feedstocks that are or can be used to*

*produce items that will be subject to the preference described in paragraph (2);*

*''(iii) automatically designate items composed of intermediate ingredients and feedstocks designated under clause (ii), if the content of the designated intermediate ingredients and feedstocks exceeds 50 percent of the item (unless the Secretary determines a different composition percentage is appropriate);*

*''(iv) set forth recommended practices with respect to the procurement of biobased products and items containing such materials;*

*''(v) provide information as to the availability, relative price, performance, and environmental and public health benefits of such materials and items; and*

*''(vi) take effect on the date established in the guidelines, which may not exceed 1 year after publication.*

*''(C) INFORMATION PROVIDED.—Information provided pursuant to subparagraph (B)(v) with respect to a material or item shall be considered to be provided for another item made with the same material or item.*

*''(D) PROHIBITION.—Guidelines issued under this paragraph may not require a manufacturer or vendor of biobased products, as a condition of the purchase of biobased products from the manufacturer or vendor, to provide to procuring agencies more data than would be required to be provided by other manufacturers or vendors offering products for sale to a procuring agency, other than data confirming the biobased content of a product.*

*''(E) QUALIFYING PURCHASES.—The guidelines shall apply with respect to any purchase or acquisition of a procurement item for which—*

*''(i) the purchase price of the item exceeds $10,000; or*

*''(ii) the quantity of the items or of functionally-equivalent items purchased or acquired during the preceding fiscal year was at least $10,000.*

*''(4) ADMINISTRATION.—*

*''(A) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall—*

*''(i) coordinate the implementation of this subsection with other policies for Federal procurement;*

*''(ii) annually collect the information required to be reported under subparagraph (B) and make the information publicly available;*

*''(iii) take a leading role in informing Federal agencies concerning, and promoting the adoption of and compliance with, procurement requirements for biobased products by Federal agencies; and*

*''(iv) not less than once every 2 years, submit to Congress a report that—*

*''(I) describes the progress made in carrying out this subsection; and*

*''(II) contains a summary of the information reported pursuant to subparagraph (B).*

*''(B) OTHER AGENCIES.—To assist the Office of Federal Procurement Policy in carrying out subparagraph (A)—*

*''(i) each procuring agency shall submit each year to the Office of Federal Procurement Policy, to the maximum extent practicable, information concerning—*

*''(I) actions taken to implement paragraph (2);*

*''(II) the results of the annual review and monitoring program established under paragraph (2)(C)(iv);*

*''(III) the number and dollar value of contracts entered into during the year that include the direct procurement of biobased products;*

*''(IV) the number of service and construction (including renovations) contracts entered into during the year that include language on the use of biobased products; and*

*''(V) the types and dollar value of biobased products actually used by contractors in carrying out service and construction (including renovations) contracts during the previous year; and*

*''(ii) the General Services Administration and the Defense Logistics Agency shall submit each year to the Office of Federal Procurement Policy information concerning, to the maximum extent practicable, the types and dollar value of biobased products purchased by procuring agencies.*

*''(C) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement by any Federal agency that is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) shall not be subject to the requirements of this section to the extent that the requirements are inconsistent with the regulations.*

*''(b) LABELING.—*

*''(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label 'USDA Certified Biobased Product'.*

*''(2) ELIGIBILITY CRITERIA.—*

*''(A) CRITERIA.—*

*''(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and except as provided in clause (ii), the Secretary, in consultation with the Administrator and representatives from small and large businesses, academia, other Federal agencies, and such other persons as the Secretary considers appropriate, shall issue criteria (as of the date of enactment of that Act) for determining which products may qualify to receive the label under paragraph (1).*

*''(ii) EXCEPTION.—Clause (i) shall not apply to final criteria that have been issued (as of the date of enactment of that Act) by the Secretary.*

*''(B) REQUIREMENTS.—Criteria issued under subparagraph (A) shall—*

*''(i) encourage the purchase of products with the maximum biobased content;*

*''(ii) provide that the Secretary may designate as biobased for the purposes of the voluntary program established under this subsection finished products that contain significant portions of biobased materials or components; and*

*''(iii) to the maximum extent practicable, be consistent with the guidelines issued under subsection (a)(3).*

*''(3) USE OF LABEL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).*

*''(c) RECOGNITION.—The Secretary shall—*

*''(1) establish a program to recognize Federal agencies and private entities that use a substantial amount of biobased products; and*

*''(2) encourage Federal agencies to establish incentives programs to recognize Federal employees or contractors that make exceptional contributions to the expanded use of biobased products.*

*''(d) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels, heating oil, or electricity.*

*''(e) INCLUSION.—Effective beginning on the date that is 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall consider the biobased product designations made under this section in making procurement decisions for the Capitol Complex.*

*''(f) NATIONAL TESTING CENTER REGISTRY.—The Secretary shall establish a national registry of testing centers for biobased products that will serve biobased product manufacturers.*

*''(g) REPORTS.—*

*''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each year thereafter, the Secretary shall submit to Congress a report on the implementation of this section.*

*''(2) CONTENTS.—The report shall include—*

*''(A) a comprehensive management plan that establishes tasks, milestones, and timelines, organizational roles and responsibilities, and funding allocations for fully implementing this section; and*

*''(B) information on the status of implementation of—*

*''(i) item designations (including designation of intermediate ingredients and feedstocks); and*

*''(ii) the voluntary labeling program established under subsection (b).*

*''(h) FUNDING.—*

*''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to provide mandatory funding for biobased products testing and labeling as required to carry out this section—*

*''(A) $1,000,000 for fiscal year 2008; and*

*''(B) $2,000,000 for each of fiscal years 2009 through 2012.*

*''(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2009 through 2012.*

***"SEC. 9003. BIOREFINERY ASSISTANCE.***

*''(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, so as to—*

*''(1) increase the energy independence of the United States;*

*''(2) promote resource conservation, public health, and the environment;*

*''(3) diversify markets for agricultural and forestry products and agriculture waste material; and*

*''(4) create jobs and enhance the economic development of the rural economy.*

*''(b) DEFINITIONS.—In this section:*

*''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers, National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.*

*''(2) ELIGIBLE TECHNOLOGY.—The term 'eligible technology' means, as determined by the Secretary—*

*''(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces an advanced biofuel; and*

*''(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces an advanced biofuel.*

*''(c) ASSISTANCE.—The Secretary shall make available to eligible entities—*

*''(1) grants to assist in paying the costs of the development and construction of demonstration-scale biorefineries to demonstrate the commercial viability of 1 or more processes for converting renewable biomass to advanced biofuels; and*

*''(2) guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.*

*''(d) GRANTS.—*

*''(1) COMPETITIVE BASIS.—The Secretary shall award grants under subsection (c)(1) on a competitive basis.*

*''(2) SELECTION CRITERIA.—*

*''(A) IN GENERAL.—In approving grant applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.*

*''(B) FEASIBILITY.—In approving a grant application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.*

*''(C) SCORING SYSTEM.—In determining the priority scoring system, the Secretary shall consider—*

''(i) the potential market for the advanced biofuel and the byproducts produced;

''(ii) the level of financial participation by the applicant, including support from non-Federal and private sources;

''(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

''(iv) whether the applicant is proposing to work with producer associations or cooperatives;

''(v) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

''(vi) the potential for rural economic development;

''(vii) whether the area in which the applicant proposes to locate the biorefinery has other similar facilities;

''(viii) whether the project can be replicated; and

''(ix) scalability for commercial use.

''(3) COST SHARING.—

''(A) LIMITS.—The amount of a grant awarded for development and construction of a biorefinery under subsection (c)(1) shall not exceed an amount equal to 30 percent of the cost of the project.

''(B) FORM OF GRANTEE SHARE.—

''(i) IN GENERAL.—The grantee share of the cost of a project may be made in the form of cash or material.

''(ii) LIMITATION.—The amount of the grantee share that is made in the form of material shall not exceed 15 percent of the amount of the grantee share determined under subparagraph (A).

''(e) LOAN GUARANTEES.—

''(1) SELECTION CRITERIA.—

''(A) IN GENERAL.—In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

''(B) FEASIBILITY.—In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

''(C) SCORING SYSTEM.—In determining the priority scoring system for loan guarantees under subsection (c)(2), the Secretary shall consider—

''(i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;

''(ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;

''(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

''(iv) whether the applicant is proposing to work with producer associations or cooperatives;

''(v) the level of financial participation by the applicant, including support from non-Federal and private sources;

''(vi) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

''(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

''(viii) the potential for rural economic development;

''(ix) the level of local ownership proposed in the application; and

''(x) whether the project can be replicated.

''(2) LIMITATIONS.—

''(A) MAXIMUM AMOUNT OF LOAN GUARANTEED.—The principal amount of a loan guaranteed under subsection (c)(2) may not exceed $250,000,000.

''(B) MAXIMUM PERCENTAGE OF LOAN GUARANTEED.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c)(2) shall be in an amount not to exceed 80 percent of the project costs, as determined by the Secretary.

''(ii) OTHER DIRECT FEDERAL FUNDING.—The amount of a loan guaranteed for a project under subsection (c)(2) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

''(iii) AUTHORITY TO GUARANTEE THE LOAN.—The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c)(2).

''(C) LOAN GUARANTEE FUND DISTRIBUTION.—Of the funds made available for loan guarantees for a fiscal year under subsection (h), 50 percent of the funds shall be reserved for obligation during the second half of the fiscal year.

''(f) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

''(g) CONDITION ON PROVISION OF ASSISTANCE.—

''(1) IN GENERAL.—As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

''(2) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards described in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40, United States Code.

''(h) FUNDING.—

''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

''(A) $75,000,000 for fiscal year 2009; and

''(B) $245,000,000 for fiscal year 2010.

''(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $150,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9004. REPOWERING ASSISTANCE.**

''(a) IN GENERAL.—The Secretary shall carry out a program to encourage biorefineries in existence on the date of enactment of the Food, Conservation, and Energy Act of 2008 to replace fossil fuels used to produce heat or power to operate the biorefineries by making payments for—

''(1) the installation of new systems that use renewable biomass; or

''(2) the new production of energy from renewable biomass.

''(b) PAYMENTS.—

''(1) IN GENERAL.—The Secretary may make payments under this section to any biorefinery that meets the requirements of this section for a period determined by the Secretary.

''(2) AMOUNT.—The Secretary shall determine the amount of payments to be made under this section to a biorefinery after considering—

''(A) the quantity of fossil fuels a renewable biomass system is replacing;

''(B) the percentage reduction in fossil fuel used by the biorefinery that will result from the installation of the renewable biomass system; and

''(C) the cost and cost effectiveness of the renewable biomass system.

''(c) ELIGIBILITY.—To be eligible to receive a payment under this section, a biorefinery shall demonstrate to the Secretary that the renewable biomass system of the biorefinery is feasible based on an independent feasibility study that takes into account the economic, technical and environmental aspects of the system.

''(d) FUNDING.—

''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to make payments under this section $35,000,000 for fiscal year 2009, to remain available until expended.

''(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

**"SEC. 9005. BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.**

''(a) DEFINITION OF ELIGIBLE PRODUCER.—In this section, the term 'eligible producer' means a producer of advanced biofuels.

''(b) PAYMENTS.—The Secretary shall make payments to eligible producers to support and ensure an expanding production of advanced biofuels.

''(c) CONTRACTS.—To receive a payment, an eligible producer shall—

''(1) enter into a contract with the Secretary for production of advanced biofuels; and

''(2) submit to the Secretary such records as the Secretary may require as evidence of the production of advanced biofuels.

''(d) BASIS FOR PAYMENTS.—The Secretary shall make payments under this section to eligible producers based on—

''(1) the quantity and duration of production by the eligible producer of an advanced biofuel;

''(2) the net nonrenewable energy content of the advanced biofuel, if sufficient data is available, as determined by the Secretary; and

''(3) other appropriate factors, as determined by the Secretary.

''(e) EQUITABLE DISTRIBUTION.—The Secretary may limit the amount of payments that may be received by a single eligible producer under this section in order to distribute the total amount of funding available in an equitable manner.

''(f) OTHER REQUIREMENTS.—To receive a payment under this section, an eligible producer shall meet any other requirements of Federal and State law (including regulations) applicable to the production of advanced biofuels.

''(g) FUNDING.—

''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

''(A) $55,000,000 for fiscal year 2009;

''(B) $55,000,000 for fiscal year 2010;

''(C) $85,000,000 for fiscal year 2011; and

''(D) $105,000,000 for fiscal year 2012.

''(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

''(3) LIMITATION.—Of the funds provided for each fiscal year, not more than 5 percent of the funds shall be made available to eligible producers for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year.

**"SEC. 9006. BIODIESEL FUEL EDUCATION PROGRAM.**

''(a) ESTABLISHMENT.—The Secretary shall, under such terms and conditions as the Secretary determines to be appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

''(b) ELIGIBLE ENTITIES.—To receive a grant under subsection (b), an entity shall—

''(1) be a nonprofit organization or institution of higher education;

''(2) have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

''(3) have demonstrated the ability to conduct educational and technical support programs.

''(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

''(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.

**''SEC. 9007. RURAL ENERGY FOR AMERICA PROGRAM.**

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Energy, shall establish a Rural Energy for America Program to promote energy efficiency and renewable energy development for agricultural producers and rural small businesses through—

''(1) grants for energy audits and renewable energy development assistance; and

''(2) financial assistance for energy efficiency improvements and renewable energy systems.

''(b) ENERGY AUDITS AND RENEWABLE ENERGY DEVELOPMENT ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to provide assistance to agricultural producers and rural small businesses—

''(A) to become more energy efficient; and

''(B) to use renewable energy technologies and resources.

''(2) ELIGIBLE ENTITIES.—An eligible entity under this subsection is—

''(A) a unit of State, tribal, or local government;

''(B) a land-grant college or university or other institution of higher education;

''(C) a rural electric cooperative or public power entity; and

''(D) any other similar entity, as determined by the Secretary.

''(3) SELECTION CRITERIA.—In reviewing applications of eligible entities to receive grants under paragraph (1), the Secretary shall consider—

''(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

''(B) the geographic scope of the program proposed by the eligible entity in relation to the identified need;

''(C) the number of agricultural producers and rural small businesses to be assisted by the program;

''(D) the potential of the proposed program to produce energy savings and environmental benefits;

''(E) the plan of the eligible entity for performing outreach and providing information and assistance to agricultural producers and rural small businesses on the benefits of energy efficiency and renewable energy development; and

''(F) the ability of the eligible entity to leverage other sources of funding.

''(4) USE OF GRANT FUNDS.—A recipient of a grant under paragraph (1) shall use the grant funds to assist agricultural producers and rural small businesses by—

''(A) conducting and promoting energy audits; and

''(B) providing recommendations and information on how—

''(i) to improve the energy efficiency of the operations of the agricultural producers and rural small businesses; and

''(ii) to use renewable energy technologies and resources in the operations.

''(5) LIMITATION.—Grant recipients may not use more than 5 percent of a grant for administrative expenses.

''(6) COST SHARING.—A recipient of a grant under paragraph (1) that conducts an energy audit for an agricultural producer or rural small business under paragraph (4) shall require that, as a condition of the energy audit, the agricultural producer or rural small business pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the energy audit.

''(c) FINANCIAL ASSISTANCE FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS.—

''(1) IN GENERAL.—In addition to any similar authority, the Secretary shall provide loan guarantees and grants to agricultural producers and rural small businesses—

''(A) to purchase renewable energy systems, including systems that may be used to produce and sell electricity; and

''(B) to make energy efficiency improvements.

''(2) AWARD CONSIDERATIONS.—In determining the amount of a loan guarantee or grant provided under this section, the Secretary shall take into consideration, as applicable—

''(A) the type of renewable energy system to be purchased;

''(B) the estimated quantity of energy to be generated by the renewable energy system;

''(C) the expected environmental benefits of the renewable energy system;

''(D) the quantity of energy savings expected to be derived from the activity, as demonstrated by an energy audit;

''(E) the estimated period of time for the energy savings generated by the activity to equal the cost of the activity;

''(F) the expected energy efficiency of the renewable energy system; and

''(G) other appropriate factors.

''(3) FEASIBILITY STUDIES.—

''(A) IN GENERAL.—The Secretary may provide assistance in the form of grants to an agricultural producer or rural small business to conduct a feasibility study for a project for which assistance may be provided under this subsection.

''(B) LIMITATION.—The Secretary shall use not more than 10 percent of the funds made available to carry out this subsection to provide assistance described in subparagraph (A).

''(C) AVOIDANCE OF DUPLICATIVE ASSISTANCE.—An entity shall be ineligible to receive assistance to carry out a feasibility study for a project under this paragraph if the entity has received other Federal or State assistance for a feasibility study for the project.

''(4) LIMITS.—

''(A) GRANTS.—The amount of a grant under this subsection shall not exceed 25 percent of the cost of the activity carried out using funds from the grant.

''(B) MAXIMUM AMOUNT OF LOAN GUARANTEES.—The amount of a loan guaranteed under this subsection shall not exceed $25,000,000.

''(C) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN GUARANTEE.—The combined amount of a grant and loan guaranteed under this subsection shall not exceed 75 percent of the cost of the activity funded under this subsection.

''(d) OUTREACH.—The Secretary shall ensure, to the maximum extent practicable, that adequate outreach relating to this section is being conducted at the State and local levels.

''(e) LOWER-COST ACTIVITIES.—

''(1) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (2), the Secretary shall use not less than 20 percent of the funds made available under subsection (g) to provide grants of $20,000 or less.

''(2) EXCEPTION.—Effective beginning on June 30 of each fiscal year, paragraph (1) shall not apply to funds made available under subsection (g) for the fiscal year.

''(f) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a report on the implementation of this section, including the outcomes achieved by projects funded under this section.

''(g) FUNDING.—

''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

''(A) $55,000,000 for fiscal year 2009;

''(B) $60,000,000 for fiscal year 2010;

''(C) $70,000,000 for fiscal year 2011; and

''(D) $70,000,000 for fiscal year 2012.

''(2) AUDIT AND TECHNICAL ASSISTANCE FUNDING.—

''(A) IN GENERAL.—Subject to subparagraph (B), of the funds made available for each fiscal year under paragraph (1), 4 percent shall be available to carry out subsection (b).

''(B) OTHER USE.—Funds not obligated under subparagraph (A) by April 1 of each fiscal year to carry out subsection (b) shall become available to carry out subsection (c).

''(3) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

**''SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.**

''(a) DEFINITIONS.—In this section:

''(1) BIOBASED PRODUCT.—The term 'biobased product' means—

''(A) an industrial product (including chemicals, materials, and polymers) produced from biomass; or

''(B) a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.

''(2) DEMONSTRATION.—The term 'demonstration' means demonstration of technology in a pilot plant or semi-works scale facility, including a plant or facility located on a farm.

''(3) INITIATIVE.—The term 'Initiative' means the Biomass Research and Development Initiative established under subsection (e).

''(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy shall coordinate policies and procedures that promote research and development regarding the production of biofuels and biobased products.

''(2) POINTS OF CONTACT.—To coordinate research and development programs and activities relating to biofuels and biobased products that are carried out by their respective departments—

''(A) the Secretary of Agriculture shall designate, as the point of contact for the Department of Agriculture, an officer of the Department of Agriculture appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate; and

''(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate.

''(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—

''(1) ESTABLISHMENT.—There is established the Biomass Research and Development Board to carry out the duties described in paragraph (3).

''(2) MEMBERSHIP.—The Board shall consist of—

''(A) the point of contacts of the Department of Energy and the Department of Agriculture, who shall serve as cochairpersons of the Board;

''(B) a senior officer of each of the Department of the Interior, the Environmental Protection Agency, the National Science Foundation, and the Office of Science and Technology Policy, each of whom shall have a rank that is equivalent to the rank of the points of contact; and

''(C) at the option of the Secretary of Agriculture and the Secretary of Energy, other members appointed by the Secretaries (after consultation with the Board).

''(3) DUTIES.—The Board shall—

''(A) coordinate research and development activities relating to biofuels and biobased products—

''(i) between the Department of Agriculture and the Department of Energy; and

''(ii) with other departments and agencies of the Federal Government;

''(B) provide recommendations to the points of contact concerning administration of this title;

''(C) ensure that—

''(i) solicitations are open and competitive with awards made annually; and

''(ii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

''(D) ensure that the panel of scientific and technical peers assembled under subsection (e) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.

''(4) FUNDING.—Each agency represented on the Board is encouraged to provide funds for any purpose under this section.

''(5) MEETINGS.—The Board shall meet at least quarterly.

''(d) BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—There is established the Biomass Research and Development Technical Advisory Committee to carry out the duties described in paragraph (3).

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The Advisory Committee shall consist of—

''(i) an individual affiliated with the biofuels industry;

''(ii) an individual affiliated with the biobased industrial and commercial products industry;

''(iii) an individual affiliated with an institution of higher education who has expertise in biofuels and biobased products;

''(iv) 2 prominent engineers or scientists from government or academia who have expertise in biofuels and biobased products;

''(v) an individual affiliated with a commodity trade association;

''(vi) 2 individuals affiliated with environmental or conservation organizations;

''(vii) an individual associated with State government who has expertise in biofuels and biobased products;

''(viii) an individual with expertise in energy and environmental analysis;

''(ix) an individual with expertise in the economics of biofuels and biobased products;

''(x) an individual with expertise in agricultural economics;

''(xi) an individual with expertise in plant biology and biomass feedstock development;

''(xii) an individual with expertise in agronomy, crop science, or soil science; and

''(xiii) at the option of the points of contact, other members.

''(B) APPOINTMENT.—The members of the Advisory Committee shall be appointed by the points of contact.

''(3) DUTIES.—The Advisory Committee shall—

''(A) advise the points of contact with respect to the Initiative; and

''(B) evaluate and make recommendations in writing to the Board regarding whether—

''(i) funds authorized for the Initiative are distributed and used in a manner that is consistent with the objectives, purposes, and considerations of the Initiative;

''(ii) solicitations are open and competitive with awards made annually;

''(iii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;

''(iv) the points of contact are funding proposals under this title that are selected on the basis of merit, as determined by an independent panel of scientific and technical peers predominantly from outside the Departments of Agriculture and Energy; and

''(v) activities under this title are carried out in accordance with this title.

''(4) COORDINATION.—To avoid duplication of effort, the Advisory Committee shall coordinate its activities with those of other Federal advisory committees working in related areas.

''(5) MEETINGS.—The Advisory Committee shall meet at least quarterly.

''(6) TERMS.—Members of the Advisory Committee shall be appointed for a term of 3 years.

''(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—

''(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, shall establish and carry out a Biomass Research and Development Initiative under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of—

''(A) biofuels and biobased products; and

''(B) the methods, practices, and technologies, for the production of biofuels and biobased products.

''(2) OBJECTIVES.—The objectives of the Initiative are to develop—

''(A) technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels;

''(B) high-value biobased products—

''(i) to enhance the economic viability of biofuels and power;

''(ii) to serve as substitutes for petroleum-based feedstocks and products; and

''(iii) to enhance the value of coproducts produced using the technologies and processes; and

''(C) a diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

''(3) TECHNICAL AREAS.—The Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this subsection as the 'Secretaries'), shall direct the Initiative in the 3 following areas:

''(A) FEEDSTOCKS DEVELOPMENT.—Research, development, and demonstration activities regarding feedstocks and feedstock logistics (including the harvest, handling, transport, preprocessing, and storage) relevant to production of raw materials for conversion to biofuels and biobased products.

''(B) BIOFUELS AND BIOBASED PRODUCTS DEVELOPMENT.—Research, development, and demonstration activities to support—

''(i) the development of diverse cost-effective technologies for the use of cellulosic biomass in the production of biofuels and biobased products; and

''(ii) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that potentially can increase the feasibility of fuel production in a biorefinery.

''(C) BIOFUELS DEVELOPMENT ANALYSIS.—

''(i) STRATEGIC GUIDANCE.—The development of analysis that provides strategic guidance for the application of renewable biomass technologies to improve sustainability and environmental quality, cost effectiveness, security, and rural economic development.

''(ii) ENERGY AND ENVIRONMENTAL IMPACT.—Development of systematic evaluations of the impact of expanded biofuel production on the environment (including forest land) and on the food supply for humans and animals, including the improvement and development of tools for life cycle analysis of current and potential biofuels.

''(iii) ASSESSMENT OF FEDERAL LAND.—Assessments of the potential of Federal land resources to increase the production of feedstocks for biofuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

''(4) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in paragraph (3), the Secretaries shall support research and development—

''(A) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices;

''(B) to maximize the environmental, economic, and social benefits of production of biofuels and derived biobased products on a large scale; and

''(C) to facilitate small-scale production and local and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.

''(5) ELIGIBILITY.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

''(A) an institution of higher education;

''(B) a National Laboratory;

''(C) a Federal research agency;

''(D) a State research agency;

''(E) a private sector entity;

''(F) a nonprofit organization; or

''(G) a consortium of 2 or more entities described in subparagraphs (A) through (F).

''(6) ADMINISTRATION.—

''(A) IN GENERAL.—After consultation with the Board, the points of contact shall—

''(i) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this subsection;

''(ii) require that grants, contracts, and assistance under this section be awarded based on a scientific peer review by an independent panel of scientific and technical peers;

''(iii) give special consideration to applications that—

''(I) involve a consortia of experts from multiple institutions;

''(II) encourage the integration of disciplines and application of the best technical resources; and

''(III) increase the geographic diversity of demonstration projects; and

''(iv) require that the technical areas described in each of subparagraphs (A), (B), and (C) of paragraph (3) receive not less than 15 percent of funds made available to carry out this section.

''(B) COST SHARE.—

''(i) RESEARCH AND DEVELOPMENT PROJECTS.—

''(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of a research or development project under this section shall be not less than 20 percent.

''(II) REDUCTION.—The Secretary of Agriculture or the Secretary of Energy, as appropriate, may reduce the non-Federal share required under subclause (I) if the appropriate Secretary determines the reduction to be necessary and appropriate.

''(ii) DEMONSTRATION AND COMMERCIAL PROJECTS.—The non-Federal share of the cost of a demonstration or commercial project under this section shall be not less than 50 percent.

''(C) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary of Agriculture and the Secretary of Energy shall ensure that applicable research results and technologies from the Initiative are—

''(i) adapted, made available, and disseminated, as appropriate; and

''(ii) included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990.

''(f) ADMINISTRATIVE SUPPORT AND FUNDS.—

''(1) IN GENERAL.—The Secretary of Energy and the Secretary of Agriculture may provide such administrative support and funds of the Department of Energy and the Department of Agriculture to the Board and the Advisory Committee as are necessary to enable the Board and the Advisory Committee to carry out their duties under this section.

''(2) OTHER AGENCIES.—The heads of the agencies referred to in subsection (c)(2)(B), and the other members of the Board appointed under subsection (c)(2)(C), are encouraged to provide administrative support and funds of their respective agencies to the Board and the Advisory Committee.

''(3) LIMITATION.—Not more than 4 percent of the amount made available for each fiscal year under subsection (h) may be used to pay the administrative costs of carrying out this section.

''(g) REPORTS.—For each fiscal year for which funds are made available to carry out this section, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a detailed report on—

''(1) the status and progress of the Initiative, including a report from the Advisory Committee on whether funds appropriated for the Initiative have been distributed and used in a manner that is consistent with the objectives and requirements of this section;

''(2) the general status of cooperation and research and development efforts carried out at each agency with respect to biofuels and biobased products; and

''(3) the plans of the Secretary of Energy and the Secretary of Agriculture for addressing concerns raised in the report, including concerns raised by the Advisory Committee.

''(h) FUNDING.—

''(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out this section, to remain available until expended—

''(A) $20,000,000 for fiscal year 2009;

''(B) $28,000,000 for fiscal year 2010;

''(C) $30,000,000 for fiscal year 2011; and

''(D) $40,000,000 for fiscal year 2012.

''(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 2009 through 2012.

**''SEC. 9009. RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.**

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means a community located in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A))).

''(2) INITIATIVE.—The term 'Initiative' means the Rural Energy Self-Sufficiency Initiative established under this section.

''(3) INTEGRATED RENEWABLE ENERGY SYSTEM.—The term 'integrated renewable energy system' means a community-wide energy system that—

''(A) reduces conventional energy use; and

''(B) increases the use of energy from renewable sources.

''(b) ESTABLISHMENT.—The Secretary shall establish a Rural Energy Self-Sufficiency Initiative to provide financial assistance for the purpose of enabling eligible rural communities to substantially increase the energy self-sufficiency of the eligible rural communities.

''(c) GRANT ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make grants available under the Initiative to eligible rural communities to carry out an activity described in paragraph (2).

''(2) USE OF GRANT FUNDS.—An eligible rural community may use a grant—

''(A) to conduct an energy assessment that assesses the total energy use of all energy users in the eligible rural community;

''(B) to formulate and analyze ideas for reducing energy usage by the eligible rural community from conventional sources; and

''(C) to develop and install an integrated renewable energy system.

''(3) GRANT SELECTION.—

''(A) APPLICATION.—To be considered for a grant, an eligible rural community shall submit an application to the Secretary that describes the ways in which the community would use the grant to carry out an activity described in paragraph (2).

''(B) PREFERENCE.—The Secretary shall give preference to those applications that propose to carry out an activity in coordination with—

''(i) institutions of higher education or nonprofit foundations of institutions of higher education;

''(ii) Federal, State, or local government agencies;

''(iii) public or private power generation entities; or

''(iv) government entities with responsibility for water or natural resources.

''(4) REPORT.—An eligible rural community receiving a grant under the Initiative shall submit to the Secretary a report on the project of the eligible rural community.

''(5) COST-SHARING.—The amount of a grant under the Initiative shall not exceed 50 percent of the cost of the activities described in the application.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.

**''SEC. 9010. FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.**

''(a) DEFINITIONS.—In this section:

''(1) BIOENERGY.—The term 'bioenergy' means fuel grade ethanol and other biofuel.

''(2) BIOENERGY PRODUCER.—The term 'bioenergy producer' means a producer of bioenergy that uses an eligible commodity to produce bioenergy under this section.

''(3) ELIGIBLE COMMODITY.—The term 'eligible commodity' means a form of raw or refined sugar or in-process sugar that is eligible to be marketed in the United States for human consumption or to be used for the extraction of sugar for human consumption.

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity located in the United States that markets an eligible commodity in the United States.

''(b) FEEDSTOCK FLEXIBILITY PROGRAM.—

''(1) IN GENERAL.—

''(A) PURCHASES AND SALES.—For each of the 2008 through 2012 crops, the Secretary shall purchase eligible commodities from eligible entities and sell such commodities to bioenergy producers for the purpose of producing bioenergy in a manner that ensures that section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

''(B) COMPETITIVE PROCEDURES.—In carrying out the purchases and sales required under subparagraph (A), the Secretary shall, to the maximum extent practicable, use competitive procedures, including the receiving, offering, and accepting of bids, when entering into contracts with eligible entities and bioenergy producers, provided that such procedures are consistent with the purposes of subparagraph (A).

''(C) LIMITATION.—The purchase and sale of eligible commodities under subparagraph (A) shall only be made in crop years in which such purchases and sales are necessary to ensure that the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

''(2) NOTICE.—

''(A) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each September 1 thereafter through September 1, 2012, the Secretary shall provide notice to eligible entities and bioenergy producers of the quantity of eligible commodities that shall be made available for purchase and sale for the crop year following the date of the notice under this section.

''(B) REESTIMATES.—Not later than the January 1, April 1, and July 1 of the calendar year following the date of a notice under subparagraph (A), the Secretary shall reestimate the quantity of eligible commodities determined under subparagraph (A), and provide notice and make purchases and sales based on such reestimates.

''(3) COMMODITY CREDIT CORPORATION INVENTORY.—

''(A) DISPOSITIONS.—

''(i) BIOENERGY AND GENERALLY.—Except as provided in clause (ii), to the extent that an eligible commodity is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)), the Secretary shall—

''(I) sell the eligible commodity to bioenergy producers under this section consistent with paragraph (1)(C);

''(II) dispose of the eligible commodity in accordance with section 156(f)(2) of that Act; or

''(III) otherwise dispose of the eligible commodity through the buyback of certificates of quota entry.

''(ii) PRESERVATION OF OTHER AUTHORITIES.—Nothing in this section limits the use of other authorities for the disposition of an eligible commodity held in the inventory of the Commodity Credit Corporation for nonfood use or otherwise in a manner that does not increase the net quantity of sugar available for human consumption in the United States market, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272(f)(1)).

''(B) EMERGENCY SHORTAGES.—Notwithstanding subparagraph (A), if there is an emergency shortage of sugar for human consumption in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event, the Secretary may dispose of an eligible commodity that is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)) through disposition as authorized under section 156(f) of that Act or through the use of any other authority of the Commodity Credit Corporation.

''(4) TRANSFER RULE; STORAGE FEES.—

''(A) GENERAL TRANSFER RULE.—Except with regard to emergency dispositions under paragraph (3)(B) and as provided in subparagraph (C), the Secretary shall ensure that bioenergy producers that purchase eligible commodities pursuant to this section take possession of the eligible commodities within 30 calendar days of the date of such purchase from the Commodity Credit Corporation.

''(B) PAYMENT OF STORAGE FEES PROHIBITED.—

''(i) IN GENERAL.—The Secretary shall, to the maximum extent practicable, carry out this section in a manner that ensures no storage fees are paid by the Commodity Credit Corporation in the administration of this section.

''(ii) EXCEPTION.—Clause (i) shall not apply with respect to any commodities owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)).

''(C) OPTION TO PREVENT STORAGE FEES.—

''(i) IN GENERAL.—The Secretary may enter into contracts with bioenergy producers to sell eligible commodities to such producers prior in time to entering into contracts with eligible entities to purchase the eligible commodities to be used to satisfy the contracts entered into with the bioenergy producers.

''(ii) SPECIAL TRANSFER RULE.—If the Secretary makes a sale and purchase referred to in clause (i), the Secretary shall ensure that the bioenergy producer that purchased eligible commodities takes possession of such commodities within 30 calendar days of the date the Commodity Credit Corporation purchases the eligible commodities.

''(5) RELATION TO OTHER LAWS.—If sugar that is subject to a marketing allotment under part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is the subject of a payment under this section, the sugar shall be considered marketed and

*shall count against a processor's allocation of an allotment under such part, as applicable.*

*''(6) FUNDING.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation, including the use of such sums as are necessary, to carry out this section.*

***"SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.***

*''(a) DEFINITIONS.—In this section:*

*''(1) BCAP.—The term 'BCAP' means the Biomass Crop Assistance Program established under this section.*

*''(2) BCAP PROJECT AREA.—The term 'BCAP project area' means an area that—*

*''(A) has specified boundaries that are submitted to the Secretary by the project sponsor and subsequently approved by the Secretary;*

*''(B) includes producers with contract acreage that will supply a portion of the renewable biomass needed by a biomass conversion facility; and*

*''(C) is physically located within an economically practicable distance from the biomass conversion facility.*

*''(3) CONTRACT ACREAGE.—The term 'contract acreage' means eligible land that is covered by a BCAP contract entered into with the Secretary.*

*''(4) ELIGIBLE CROP.—*

*''(A) IN GENERAL.—The term 'eligible crop' means a crop of renewable biomass.*

*''(B) EXCLUSIONS.—The term 'eligible crop' does not include—*

*''(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title; or*

*''(ii) any plant that is invasive or noxious or has the potential to become invasive or noxious, as determined by the Secretary, in consultation with other appropriate Federal or State departments and agencies.*

*''(5) ELIGIBLE LAND.—*

*''(A) IN GENERAL.—The term 'eligible land' includes agricultural and nonindustrial private forest lands (as defined in section 5(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a(c))).*

*''(B) EXCLUSIONS.—The term 'eligible land' does not include—*

*''(i) Federal- or State-owned land;*

*''(ii) land that is native sod, as of the date of enactment of the Food, Conservation, and Energy Act of 2008;*

*''(iii) land enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);*

*''(iv) land enrolled in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of that Act (16 U.S.C. 3837 et seq.); or*

*''(v) land enrolled in the grassland reserve program established under subchapter D of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.).*

*''(6) ELIGIBLE MATERIAL.—*

*''(A) IN GENERAL.—The term 'eligible material' means renewable biomass.*

*''(B) EXCLUSIONS.—The term 'eligible material' does not include—*

*''(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title;*

*''(ii) animal waste and byproducts (including fats, oils, greases, and manure);*

*''(iii) food waste and yard waste; or*

*''(iv) algae.*

*''(7) PRODUCER.—The term 'producer' means an owner or operator of contract acreage that is physically located within a BCAP project area.*

*''(8) PROJECT SPONSOR.—The term 'project sponsor' means—*

*''(A) a group of producers; or*

*''(B) a biomass conversion facility.*

*''(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and administer a Biomass Crop Assistance Program to—*

*''(1) support the establishment and production of eligible crops for conversion to bioenergy in selected BCAP project areas; and*

*''(2) assist agricultural and forest land owners and operators with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.*

*''(c) BCAP PROJECT AREA.—*

*''(1) IN GENERAL.—The Secretary shall provide financial assistance to producers of eligible crops in a BCAP project area.*

*''(2) SELECTION OF PROJECT AREAS.—*

*''(A) IN GENERAL.—To be considered for selection as a BCAP project area, a project sponsor shall submit to the Secretary a proposal that includes, at a minimum—*

*''(i) a description of the eligible land and eligible crops of each producer that will participate in the proposed BCAP project area;*

*''(ii) a letter of commitment from a biomass conversion facility that the facility will use the eligible crops intended to be produced in the proposed BCAP project area;*

*''(iii) evidence that the biomass conversion facility has sufficient equity available, as determined by the Secretary, if the biomass conversion facility is not operational at the time the proposal is submitted to the Secretary; and*

*''(iv) any other appropriate information about the biomass conversion facility or proposed biomass conversion facility that gives the Secretary a reasonable assurance that the plant will be in operation by the time that the eligible crops are ready for harvest.*

*''(B) BCAP PROJECT AREA SELECTION CRITERIA.—In selecting BCAP project areas, the Secretary shall consider—*

*''(i) the volume of the eligible crops proposed to be produced in the proposed BCAP project area and the probability that such crops will be used for the purposes of the BCAP;*

*''(ii) the volume of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;*

*''(iii) the anticipated economic impact in the proposed BCAP project area;*

*''(iv) the opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed BCAP project area;*

*''(v) the participation rate by—*

*''(I) beginning farmers or ranchers (as defined in accordance with section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))); or*

*''(II) socially disadvantaged farmers or ranchers (as defined in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)));*

*''(vi) the impact on soil, water, and related resources;*

*''(vii) the variety in biomass production approaches within a project area, including (as appropriate)—*

*''(I) agronomic conditions;*

*''(II) harvest and postharvest practices; and*

*''(III) monoculture and polyculture crop mixes;*

*''(viii) the range of eligible crops among project areas; and*

*''(ix) any additional information, as determined by the Secretary.*

*''(3) CONTRACT.—*

*''(A) IN GENERAL.—On approval of a BCAP project area by the Secretary, each producer in the BCAP project area shall enter into a contract directly with the Secretary.*

*''(B) MINIMUM TERMS.—At a minimum, contracts shall include terms that cover—*

*''(i) an agreement to make available to the Secretary, or to an institution of higher education or other entity designated by the Secretary, such information as the Secretary considers to be appropriate to promote the production of eligible crops and the development of biomass conversion technology;*

*''(ii) compliance with the highly erodible land conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and the wetland conservation requirements of subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);*

*''(iii) the implementation of (as determined by the Secretary)—*

*''(I) a conservation plan; or*

*''(II) a forest stewardship plan or an equivalent plan; and*

*''(iv) any additional requirements the Secretary considers appropriate.*

*''(C) DURATION.—A contract under this subsection shall have a term of up to—*

*''(i) 5 years for annual and perennial crops; or*

*''(ii) 15 years for woody biomass.*

*''(4) RELATIONSHIP TO OTHER PROGRAMS.—In carrying out this subsection, the Secretary shall provide for the preservation of cropland base and yield history applicable to the land enrolled in a BCAP contract.*

*''(5) PAYMENTS.—*

*''(A) IN GENERAL.—The Secretary shall make establishment and annual payments directly to producers to support the establishment and production of eligible crops on contract acreage.*

*''(B) AMOUNT OF ESTABLISHMENT PAYMENTS.—The amount of an establishment payment under this subsection shall be up to 75 percent of the costs of establishing an eligible perennial crop covered by the contract, including—*

*''(i) the cost of seeds and stock for perennials;*

*''(ii) the cost of planting the perennial crop, as determined by the Secretary; and*

*''(iii) in the case of nonindustrial private forestland, the costs of site preparation and tree planting.*

*''(C) AMOUNT OF ANNUAL PAYMENTS.—*

*''(i) IN GENERAL.—Subject to clause (ii), the amount of an annual payment under this subsection shall be determined by the Secretary.*

*''(ii) REDUCTION.—The Secretary shall reduce an annual payment by an amount determined to be appropriate by the Secretary, if—*

*''(I) an eligible crop is used for purposes other than the production of energy at the biomass conversion facility;*

*''(II) an eligible crop is delivered to the biomass conversion facility;*

*''(III) the producer receives a payment under subsection (d);*

*''(IV) the producer violates a term of the contract; or*

*''(V) there are such other circumstances, as determined by the Secretary to be necessary to carry out this section.*

*''(d) ASSISTANCE WITH COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION.—*

*''(1) IN GENERAL.—The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to—*

*''(A) a producer of an eligible crop that is produced on BCAP contract acreage; or*

*''(B) a person with the right to collect or harvest eligible material.*

*''(2) PAYMENTS.—*

*''(A) COSTS COVERED.—A payment under this subsection shall be in an amount described in subparagraph (B) for—*

*''(i) collection;*

*''(ii) harvest;*

*''(iii) storage; and*

*''(iv) transportation to a biomass conversion facility.*

*''(B) AMOUNT.—Subject to paragraph (3), the Secretary may provide matching payments at a rate of $1 for each $1 per ton provided by the biomass conversion facility, in an amount equal to not more than $45 per ton for a period of 2 years.*

*''(3) LIMITATION ON ASSISTANCE FOR BCAP CONTRACT ACREAGE.—As a condition of the receipt of annual payment under subsection (c), a producer receiving a payment under this subsection for collection, harvest, storage or transportation of an eligible crop produced on BCAP acreage shall agree to a reduction in the annual payment.*

*''(e) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation,*

*and Energy Act of 2008, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the dissemination by the Secretary of the best practice data and information gathered from participants receiving assistance under this section.*

*''(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.*

***"SEC. 9012. FOREST BIOMASS FOR ENERGY.***

*''(a) IN GENERAL.—The Secretary, acting through the Forest Service, shall conduct a competitive research and development program to encourage use of forest biomass for energy.*

*''(b) ELIGIBLE ENTITIES.—Entities eligible to compete under the program under this section include—*

*''(1) the Forest Service (acting through Research and Development);*

*''(2) other Federal agencies;*

*''(3) State and local governments;*

*''(4) Indian tribes;*

*''(5) land-grant colleges and universities; and*

*''(6) private entities.*

*''(c) PRIORITY FOR PROJECT SELECTION.—In carrying out this section, the Secretary shall give priority to projects that—*

*''(1) develop technology and techniques to use low-value forest biomass, such as byproducts of forest health treatments and hazardous fuels reduction, for the production of energy;*

*''(2) develop processes that integrate production of energy from forest biomass into biorefineries or other existing manufacturing streams;*

*''(3) develop new transportation fuels from forest biomass; and*

*''(4) improve the growth and yield of trees intended for renewable energy production.*

*''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.*

***"SEC. 9013. COMMUNITY WOOD ENERGY PROGRAM.***

*''(a) DEFINITIONS.—In this section:*

*''(1) COMMUNITY WOOD ENERGY PLAN.—The term 'community wood energy plan' means an assessment of—*

*''(A) available feedstocks necessary to supply a community wood energy system; and*

*''(B) the long-term feasibility of supplying and operating a community wood energy system.*

*''(2) COMMUNITY WOOD ENERGY SYSTEM.—*

*''(A) IN GENERAL.—The term 'community wood energy system' means an energy system that—*

*''(i) primarily services public facilities owned or operated by State or local governments, including schools, town halls, libraries, and other public buildings; and*

*''(ii) uses woody biomass as the primary fuel.*

*''(B) INCLUSIONS.—The term 'community wood energy system' includes single facility central heating, district heating, combined heat and energy systems, and other related biomass energy systems.*

*''(b) GRANT PROGRAM.—*

*''(1) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall establish a program to be known as the 'Community Wood Energy Program' to provide—*

*''(A) grants of up to $50,000 to State and local governments (or designees) to develop community wood energy plans; and*

*''(B) competitive grants to State and local governments to acquire or upgrade community wood energy systems.*

*''(2) CONSIDERATIONS.—In selecting applicants for grants under paragraph (1)(B), the Secretary shall consider—*

*''(A) the energy efficiency of the proposed system;*

*''(B) the cost effectiveness of the proposed system; and*

*''(C) other conservation and environmental criteria that the Secretary considers appropriate.*

*''(3) USE OF PLAN.—A State or local government applying to receive a competitive grant described in paragraph (1)(B) shall submit to the Secretary as part of the grant application the applicable community wood energy plan.*

*''(c) LIMITATION.—A community wood energy system acquired with grant funds provided under subsection (b)(1)(B) shall not exceed an output of—*

*''(1) 50,000,000 Btu per hour for heating; and*

*''(2) 2 megawatts for electric power production.*

*''(d) MATCHING FUNDS.—A State or local government that receives a grant under subsection (b) shall contribute an amount of non-Federal funds towards the development of the community wood energy plan, or acquisition of the community wood energy systems that is at least equal to the amount of grant funds received by the State or local government under that subsection.*

*''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.''.*

*(b) CONFORMING AMENDMENT.—The Biomass Research and Development Act of 2000 (7 U.S.C. 8601 et seq.) is repealed.*

***SEC. 9002. BIOFUELS INFRASTRUCTURE STUDY.***

*(a) IN GENERAL.—The Secretary of Agriculture, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation (referred to in this section as the ''Secretaries''), shall jointly conduct a study that includes—*

*(1) an assessment of the infrastructure needs for expanding the domestic production, transport, and distribution of biofuels given current and likely future market trends;*

*(2) recommendations for infrastructure needs and development approaches, taking into account cost and other associated factors; and*

*(3) a report that includes—*

*(A) a summary of infrastructure needs;*

*(B) an analysis of alternative development approaches to meeting the needs described in subparagraph (A), including cost, siting, and other regulatory issues; and*

*(C) recommendations for specific infrastructure development actions to be taken.*

*(b) SCOPE OF STUDY.—*

*(1) IN GENERAL.—In conducting the study described in subsection (a), the Secretaries shall address—*

*(A) current and likely future market trends for biofuels through calendar year 2025;*

*(B) current and future availability of feedstocks;*

*(C) water resource needs, including water requirements for biorefineries;*

*(D) shipping and storage needs for biomass feedstock and biofuels, including the adequacy of rural roads; and*

*(E) modes of transportation and delivery for biofuels (including shipment by rail, truck, pipeline or barge) and associated infrastructure issues.*

*(2) CONSIDERATIONS.—In addressing the issues described in paragraph (1), the Secretaries shall consider—*

*(A) the effects of increased tank truck, rail, and barge transport on existing infrastructure and safety;*

*(B) the feasibility of shipping biofuels through pipelines in existence as the date of enactment of this Act;*

*(C) the development of new biofuels pipelines, including siting, financing, timing, and other economic issues;*

*(D) the implications of various biofuel blend levels on infrastructure needs;*

*(E) the implications of various approaches to infrastructure development on resource use and conservation;*

*(F) regional differences in biofuels infrastructure needs; and*

*(G) other infrastructure issues, as determined by the Secretaries.*

*(c) IMPLEMENTATION.—In carrying out this section, the Secretaries —*

*(1) shall—*

*(A) consult with individuals and entities with interest or expertise in the areas described in subsection (b);*

*(B) to the extent available, use the information developed and results of the related studies authorized under sections 243 and 245 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1540, 1546)); and*

*(C) submit to Congress the report required under subsection (a)(3), including—*

*(i) in the Senate—*

*(I) the Committee on Agriculture, Nutrition, and Forestry ;*

*(II) the Committee on Commerce, Science, and Transportation;*

*(III) the Committee on Energy and Natural Resources; and*

*(IV) the Committee on Environment and Public Works; and*

*(ii) in the House of Representatives—*

*(I) the Committee on Agriculture;*

*(II) the Committee on Energy and Commerce;*

*(III) the Committee on Transportation and Infrastructure; and*

*(IV) the Committee on Science and Technology; and*

*(2) may issue a solicitation for a competition to select a contractor to support the Secretaries.*

***SEC. 9003. RENEWABLE FERTILIZER STUDY.***

*(a) IN GENERAL.—Not later than 1 year after the date of receipt of appropriations to carry out this section, the Secretary shall—*

*(1) conduct a study to assess the current state of knowledge regarding the potential for the production of fertilizer from renewable energy sources in rural areas, including—*

*(A) identification of the critical challenges to commercialization of rural production of nitrogen and phosphorus-based fertilizer from renewables;*

*(B) the most promising processes and technologies for renewable fertilizer production;*

*(C) the potential cost-competitiveness of renewable fertilizer; and*

*(D) the potential impacts of renewable fertilizer on fossil fuel use and the environment; and*

*(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2009.*

## *TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE*

***SEC. 10001. DEFINITIONS.***

*In this title:*

*(1) SPECIALTY CROP.—The term ''specialty crop'' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).*

*(2) STATE DEPARTMENT OF AGRICULTURE.—The term ''State department of agriculture'' means the agency, commission, or department of a State government responsible for protecting and promoting agriculture in the State.*

### *Subtitle A—Horticulture Marketing and Information*

***SEC. 10101. INDEPENDENT EVALUATION OF DEPARTMENT OF AGRICULTURE COMMODITY PURCHASE PROCESS.***

*(a) EVALUATION REQUIRED.—The Secretary shall arrange to have performed an independent evaluation of the purchasing processes (including the budgetary, statutory, and regulatory authority underlying the processes) used by the Department of Agriculture to implement the requirement that funds available under section 32*

*of the Act of August 24, 1935 (7 U.S.C. 612c), shall be principally devoted to perishable agricultural commodities.*

*(b) SUBMISSION OF RESULTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the evaluation.*

***SEC. 10102. QUALITY REQUIREMENTS FOR CLEMENTINES.***

*Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the matter preceding the first proviso in the first sentence by inserting ''clementines,'' after ''nectarines,''.*

***SEC. 10103. INCLUSION OF SPECIALTY CROPS IN CENSUS OF AGRICULTURE.***

*Section 2(a) of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g(a)) is amended—*

*(1) by striking ''In 1998'' and inserting the following:*

*''(1) IN GENERAL.—In 1998''; and*

*(2) by adding at the end the following:*

*''(2) INCLUSION OF SPECIALTY CROPS.—Effective beginning with the census of agriculture required to be conducted in 2008, the Secretary shall conduct as part of each census of agriculture a census of specialty crops (as that term is defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465)).''.*

***SEC. 10104. MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION.***

*(a) REGIONS AND MEMBERS.—Section 1925(b)(2) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(b)(2)) is amended—*

*(1) in subparagraph (B), by striking ''4 regions'' and inserting ''3 regions'';*

*(2) in subparagraph (D), by striking ''35,000,000 pounds'' and inserting ''50,000,000 pounds''; and*

*(3) by striking subparagraph (E) and inserting the following:*

*''(E) ADDITIONAL MEMBERS.—In addition to the members appointed pursuant to paragraph (1), and subject to the 9-member limit of members on the Council provided in that paragraph, the Secretary shall appoint additional members to the council from a region that attains additional pounds of production as follows:*

*''(i) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.*

*''(ii) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.*

*''(iii) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.''.*

*(b) POWERS AND DUTIES OF COUNCIL.—Section 1925(c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(c)) is amended—*

*(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and*

*(2) by inserting after paragraph (5) the following:*

*''(6) to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms;''.*

***SEC. 10105. FOOD SAFETY EDUCATION INITIATIVES.***

*(a) INITIATIVE AUTHORIZED.—The Secretary may carry out a food safety education program to educate the public and persons in the fresh produce industry about—*

*(1) scientifically proven practices for reducing microbial pathogens on fresh produce; and*

*(2) methods of reducing the threat of cross-contamination of fresh produce through sanitary handling practices.*

*(b) COOPERATION.—The Secretary may carry out the education program in cooperation with public and private partners.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.*

***SEC. 10106. FARMERS' MARKET PROMOTION PROGRAM.***

*Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is amended—*

*(1) in subsection (a), by inserting ''and to promote direct producer-to-consumer marketing'' before the period at the end;*

*(2) in subsection (b)(1)—*

*(A) in subparagraph (A), by inserting ''agri-tourism activities,'' after ''programs,''; and*

*(B) in subparagraph (B)—*

*(i) by inserting ''agri-tourism activities,'' after ''programs,'' and*

*(ii) by striking ''infrastructure'' and inserting ''marketing opportunities'';*

*(3) in subsection (c)(1), by inserting ''or a producer network or association'' after ''cooperative''; and*

*(4) by striking subsection (e) and inserting the following:*

*''(e) FUNDING.—*

*''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—*

*''(A) $3,000,000 for fiscal year 2008;*

*''(B) $5,000,000 for each of fiscal years 2009 through 2010; and*

*''(C) $10,000,000 for each of fiscal years 2011 and 2012.*

*''(2) USE OF FUNDS.—Not less than 10 percent of the funds used to carry out this section in a fiscal year under paragraph (1) shall be used to support the use of electronic benefits transfers for Federal nutrition programs at farmers' markets.*

*''(3) INTERDEPARTMENTAL COORDINATION.—In carrying out this subsection, the Secretary shall ensure coordination between the various agencies to the maximum extent practicable.*

*''(4) LIMITATION.—Funds described in paragraph (2)—*

*''(A) may not be used for the ongoing cost of carrying out any project; and*

*''(B) shall only be provided to eligible entities that demonstrate a plan to continue to provide EBT card access at 1 or more farmers' markets following the receipt of the grant.''.*

***SEC. 10107. SPECIALTY CROPS MARKET NEWS ALLOCATION.***

*(a) IN GENERAL.—The Secretary shall—*

*(1) carry out market news activities to provide timely price and shipment information of specialty crops in the United States; and*

*(2) use funds made available under subsection (b) to increase the reporting levels for specialty crops in effect on the date of enactment of this Act.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated to carry out this section $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.*

***SEC. 10108. EXPEDITED MARKETING ORDER FOR HASS AVOCADOS FOR GRADES AND STANDARDS AND OTHER PURPOSES.***

*(a) IN GENERAL.—The Secretary shall initiate procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to determine whether it would be appropriate to establish a Federal marketing order for Hass avocados relating to grades and standards and for other purposes under that Act.*

*(b) EXPEDITED PROCEDURES.—*

*(1) PROPOSAL FOR AN ORDER.—An organization of domestic avocado producers in existence on the date of enactment of this Act may request the issuance of, and submit to the Secretary a proposal for, an order described in subsection (a).*

*(2) PUBLICATION OF PROPOSAL.—Not later than 60 days after the date on which the Secretary receives a proposed order under paragraph (1), the Secretary shall initiate procedures described in subsection (a) to determine whether the proposed order should proceed.*

*(c) EFFECTIVE DATE.—Any order issued under this section shall become effective not later than 15 months after the date on which the Secretary initiates procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.*

***SEC. 10109. SPECIALTY CROP BLOCK GRANTS.***

*(a) DEFINITION OF SPECIALTY CROP.—Section 3(1) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by inserting ''horticulture and'' before ''nursery''.*

*(b) DEFINITION OF STATE.—Section 3(2) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by striking ''and the Commonwealth of Puerto Rico'' and inserting ''the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands''.*

*(c) SPECIALTY CROP BLOCK GRANTS.—Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended—*

*(1) in subsection (a)—*

*(A) by striking ''Subject to the appropriation of funds to carry out this section'' and inserting ''Using the funds made available under subsection (j)''; and*

*(B) by striking ''2009'' and inserting ''2012'';*

*(2) in subsection (b), by striking ''appropriated pursuant to the authorization of appropriations in subsection (i)'' and inserting ''made available under subsection (j)'';*

*(3) by striking subsection (c) and inserting the following:*

*''(c) MINIMUM GRANT AMOUNT.—Notwithstanding subsection (b), each State shall receive a grant under this section for each fiscal year in an amount that is at least equal to the higher of—*

*''(1) $100,000; or*

*''(2) ⅓ of 1 percent of the total amount of funding made available to carry out this section for the fiscal year.''; and*

*(4) by striking subsection (i) and inserting the following:*

*''(i) REALLOCATION.—*

*''(1) IN GENERAL.—The Secretary shall reallocate to other States in accordance with paragraph (2) any amounts made available for a fiscal year under this section that are not obligated or expended by a date during that fiscal year determined by the Secretary.*

*''(2) PRO RATA ALLOCATION.—The Secretary shall allocate funds described in paragraph (1) pro rata to the remaining States that applied during the specified grant application period.*

*''(3) USE OF REALLOCATED FUNDS.—Funds allocated to a State under this subsection shall be used by the State only to carry out projects that were previously approved in the State plan of the State.*

*''(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—*

*''(1) $10,000,000 for fiscal year 2008;*

*''(2) $49,000,000 for fiscal year 2009; and*

*''(3) $55,000,000 for each of fiscal years 2010 through 2012.''.*

***Subtitle B—Pest and Disease Management***

***SEC. 10201. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.***

*(a) IN GENERAL.—Subtitle A of the Plant Protection Act (7 U.S.C. 7711 et seq.) is amended by adding at the end the following:*

**"SEC. 420. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.**

''(a) DEFINITIONS.—In this section:

''(1) EARLY PLANT PEST DETECTION AND SURVEILLANCE.—The term 'early plant pest detection and surveillance' means the full range of activities undertaken to find newly introduced plant pests, whether the plant pests are new to the United States or new to certain areas of the United States, before—

''(A) the plant pests become established; or

''(B) the plant pest infestations become too large and costly to eradicate or control.

''(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

''(3) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means an agency of a State that has a legal responsibility to perform early plant pest detection and surveillance activities.

''(b) EARLY PLANT PEST DETECTION AND SURVEILLANCE IMPROVEMENT PROGRAM.—

''(1) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative agreement with each State department of agriculture that agrees to conduct early plant pest detection and surveillance activities.

''(2) CONSULTATION.—In carrying out this subsection, the Secretary shall consult with—

''(A) the National Plant Board; and

''(B) other interested parties.

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

''(4) APPLICATION.—

''(A) IN GENERAL.—A State department of agriculture seeking to enter into a cooperative agreement under this subsection shall submit to the Secretary an application containing such information as the Secretary may require.

''(B) NOTIFICATION.—The Secretary shall notify applicants of—

''(i) the requirements to be imposed on a State department of agriculture for auditing of, and reporting on, the use of any funds provided by the Secretary under the cooperative agreement;

''(ii) the criteria to be used to ensure that early pest detection and surveillance activities supported under the cooperative agreement are based on sound scientific data or thorough risk assessments; and

''(iii) the means of identifying pathways of pest introductions.

''(5) USE OF FUNDS.—

''(A) PLANT PEST DETECTION AND SURVEILLANCE ACTIVITIES.—A State department of agriculture that receives funds under this subsection shall use the funds to carry out early plant pest detection and surveillance activities approved by the Secretary to prevent the introduction or spread of a plant pest.

''(B) SUBAGREEMENTS.—Nothing in this subsection prevents a State department of agriculture from using funds received under paragraph (4) to enter into subagreements with political subdivisions of the State that have legal responsibilities relating to agricultural plant pest and disease surveillance.

''(C) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out a cooperative agreement under this section may be provided in-kind, including through provision of such indirect costs of the cooperative agreement as the Secretary considers to be appropriate.

''(D) ABILITY TO PROVIDE FUNDS.—The Secretary shall not take the ability to provide non-Federal costs to carry out a cooperative agreement entered into under subparagraph (A) into consideration when deciding whether to enter into a cooperative agreement with a State department of agriculture.

''(6) SPECIAL FUNDING CONSIDERATIONS.—The Secretary shall provide funds to a State department of agriculture if the Secretary determines that—

''(A) the State department of agriculture is in a State that has a high risk of being affected by 1 or more plant pests or diseases, taking into consideration—

''(i) the number of international ports of entry in the State;

''(ii) the volume of international passenger and cargo entry into the State;

''(iii) the geographic location of the State and if the location or types of agricultural commodities produced in the State are conducive to agricultural pest and disease establishment due to the climate, crop diversity, or natural resources (including unique plant species) of the State; and

''(iv) whether the Secretary has determined that an agricultural pest or disease in the State is a Federal concern ; and

''(B) the early plant pest detection and surveillance activities supported with the funds will likely—

''(i) prevent the introduction and establishment of plant pests; and

''(ii) provide a comprehensive approach to compliment Federal detection efforts.

''(7) REPORTING REQUIREMENT.—Not later than 90 days after the date of completion of an early plant pest detection and surveillance activity conducted by a State department of agriculture using funds provided under this section, the State department of agriculture shall submit to the Secretary a report that describes the purposes and results of the activities.

''(c) THREAT IDENTIFICATION AND MITIGATION PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a threat identification and mitigation program to determine and address threats to the domestic production of crops.

''(2) REQUIREMENTS.—In conducting the program established under paragraph (1), the Secretary shall—

''(A) develop risk assessments of the potential threat to the agricultural industry of the United States from foreign sources;

''(B) collaborate with the National Plant Board; and

''(C) implement action plans for high consequence plant pest and diseases to assist in preventing the introduction and widespread dissemination of new plant pest and disease threats in the United States.

''(3) REPORTS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the action plans described in paragraph (2), including an accounting of funds expended on the action plans.

''(d) SPECIALTY CROP CERTIFICATION AND RISK MANAGEMENT SYSTEMS.—The Secretary shall provide funds and technical assistance to specialty crop growers, organizations representing specialty crop growers, and State and local agencies working with specialty crop growers and organizations for the development and implementation of—

''(1) audit-based certification systems, such as best management practices—

''(A) to address plant pests; and

''(B) to mitigate the risk of plant pests in the movement of plants and plant products; and

''(2) nursery plant pest risk management systems, in collaboration with the nursery industry, research institutions, and other appropriate entities—

''(A) to enable growers to identify and prioritize nursery plant pests and diseases of regulatory significance;

''(B) to prevent the introduction, establishment, and spread of those plant pests and diseases; and

''(C) to reduce the risk of and mitigate those plant pests and diseases.

''(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

''(1) $12,000,000 for fiscal year 2009;

''(2) $45,000,000 for fiscal year 2010;

''(3) $50,000,000 for fiscal year 2011; and

''(4) $50,000,000 for fiscal year 2012 and each fiscal year thereafter.''.

(b) CONGRESSIONAL DISAPPROVAL.—Congress disapproves the rule submitted by the Secretary of Agriculture relating to cost-sharing for animal and plant health emergency programs (68 Fed. Reg. 40541 (2003)), and such rule shall have no force or effect.

**SEC. 10202. NATIONAL CLEAN PLANT NETWORK.**

(a) IN GENERAL.—The Secretary shall establish a program to be known as the ''National Clean Plant Network'' (referred to in this section as the ''Program'').

(b) REQUIREMENTS.—Under the Program, the Secretary shall establish a network of clean plant centers for diagnostic and pathogen elimination services to—

(1) produce clean propagative plant material; and

(2) maintain blocks of pathogen-tested plant material in sites located throughout the United States.

(c) AVAILABILITY OF CLEAN PLANT SOURCE MATERIAL.—Clean plant source material may be made available to—

(1) a State for a certified plant program of the State; and

(2) private nurseries and producers.

(d) CONSULTATION AND COLLABORATION.—In carrying out the Program, the Secretary shall—

(1) consult with State departments of agriculture, land grant universities, and NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); and

(2) to the extent practicable and with input from the appropriate State officials and industry representatives, use existing Federal or State facilities to serve as clean plant centers.

(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out the Program $5,000,000 for each of fiscal years 2009 through 2012, to remain available until expended.

**SEC. 10203. PLANT PROTECTION.**

(a) REVIEW OF PAYMENT OF COMPENSATION.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended in the second sentence by striking ''of longer than 60 days''.

(b) SECRETARIAL DISCRETION.—Section 442(c) of the Plant Protection Act (7 U.S.C. 7772(c)) is amended by striking ''of longer than 60 days''.

(c) SUBPOENA AUTHORITY.—Section 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

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

''(a) AUTHORITY TO ISSUE.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.'';

(2) in subsection (b), by striking ''documentary''; and

(3) in subsection (c)—

(A) in the first sentence, by striking ''testimony of any witness and the production of documentary evidence'' and inserting ''testimony of any witness, the production of evidence, or the inspection of premises''; and

(B) in the second sentence, by striking ''question or to produce documentary evidence'' and inserting ''question, produce evidence, or permit the inspection of premises''.

(d) WILLFUL VIOLATIONS.—Section 424(b)(1)(A) of the Plant Protection Act (7 U.S.C. 7734(b)(1)(A)) is amended by striking ''and $500,000 for all violations adjudicated in a

*single proceeding'' and inserting ''$500,000 for all violations adjudicated in a single proceeding if the violations do not include a willful violation, and $1,000,000 for all violations adjudicated in a single proceeding if the violations include a willful violation''.*

**SEC. 10204. REGULATIONS TO IMPROVE MANAGEMENT AND OVERSIGHT OF CERTAIN REGULATED ARTICLES.**

*(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—*

*(1) take action on each issue identified in the document entitled ''Lessons Learned and Revisions under Consideration for APHIS' Biotechnology Framework'', dated October 4, 2007; and*

*(2) as the Secretary considers appropriate, promulgate regulations to improve the management and oversight of articles regulated under the Plant Protection Act (7 U.S.C. 7701 et seq.).*

*(b) INCLUSIONS.—In carrying out subsection (a), the Secretary shall take actions that are designed to enhance—*

*(1) the quality and completeness of records;*

*(2) the availability of representative samples;*

*(3) the maintenance of identity and control in the event of an unauthorized release;*

*(4) corrective actions in the event of an unauthorized release;*

*(5) protocols for conducting molecular forensics;*

*(6) clarity in contractual agreements;*

*(7) the use of the latest scientific techniques for isolation and confinement distances;*

*(8) standards for quality management systems and effective research; and*

*(9) the design of electronic permits to store documents and other information relating to the permit and notification processes.*

*(c) CONSIDERATION.—In carrying out subsection (a), the Secretary shall consider—*

*(1) establishing—*

*(A) a system of risk-based categories to classify each regulated article;*

*(B) a means to identify regulated articles (including the retention of seed samples); and*

*(C) standards for isolation and containment distances; and*

*(2) requiring permit holders—*

*(A) to maintain a positive chain of custody;*

*(B) to provide for the maintenance of records;*

*(C) to provide for the accounting of material;*

*(D) to conduct periodic audits;*

*(E) to establish an appropriate training program;*

*(F) to provide contingency and corrective action plans; and*

*(G) to submit reports as the Secretary considers to be appropriate.*

**SEC. 10205. PEST AND DISEASE REVOLVING LOAN FUND.**

*(a) DEFINITIONS.—In this section:*

*(1) AUTHORIZED EQUIPMENT.—*

*(A) IN GENERAL.—The term ''authorized equipment'' means any equipment necessary for the management of forest land.*

*(B) INCLUSIONS.—The term ''authorized equipment'' includes—*

*(i) cherry pickers;*

*(ii) equipment necessary for—*

*(I) the construction of staging and marshalling areas;*

*(II) the planting of trees; and*

*(III) the surveying of forest land;*

*(iii) vehicles capable of transporting harvested trees;*

*(iv) wood chippers; and*

*(v) any other appropriate equipment, as determined by the Secretary.*

*(2) FUND.—The term ''Fund'' means the Pest and Disease Revolving Loan Fund established by subsection (b).*

*(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Deputy Chief of the State and Private Forestry organization.*

*(b) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Pest and Disease Revolving Loan Fund'', consisting of such amounts as are appropriated to the Fund under subsection (f).*

*(c) EXPENDITURES FROM FUND.—*

*(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (e).*

*(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.*

*(d) TRANSFERS OF AMOUNTS.—*

*(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.*

*(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.*

*(e) USES OF FUND.—*

*(1) LOANS.—*

*(A) IN GENERAL.—The Secretary shall use amounts in the Fund to provide loans to eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees that are located—*

*(i) on land under the jurisdiction of the eligible units of local government; and*

*(ii) within the borders of quarantine areas infested by plant pests.*

*(B) MAXIMUM AMOUNT.—The maximum amount of a loan that may be provided by the Secretary to an eligible unit of local government under this subsection shall be the lesser of—*

*(i) the amount that the eligible unit of local government has appropriated to finance purchases of authorized equipment in accordance with subparagraph (A); or*

*(ii) $5,000,000.*

*(C) INTEREST RATE.—The interest rate on any loan made by the Secretary under this paragraph shall be a rate equal to 2 percent.*

*(D) REPORT.—Not later than 180 days after the date on which an eligible unit of local government receives a loan provided by the Secretary under subparagraph (A), the eligible unit of local government shall submit to the Secretary a report that describes each purchase made by the eligible unit of local government using assistance provided through the loan.*

*(2) LOAN REPAYMENT SCHEDULE.—*

*(A) IN GENERAL.—To be eligible to receive a loan from the Secretary under paragraph (1), in accordance with each requirement described in subparagraph (B), an eligible unit of local government shall enter into an agreement with the Secretary to establish a loan repayment schedule relating to the repayment of the loan.*

*(B) REQUIREMENTS RELATING TO LOAN REPAYMENT SCHEDULE.—A loan repayment schedule established under subparagraph (A) shall require the eligible unit of local government—*

*(i) to repay to the Secretary of the Treasury, not later than 1 year after the date on which the eligible unit of local government receives a loan under paragraph (1), and semiannually thereafter, an amount equal to the quotient obtained by dividing—*

*(I) the principal amount of the loan (including interest); by*

*(II) the total quantity of payments that the eligible unit of local government is required to make during the repayment period of the loan; and*

*(ii) not later than 20 years after the date on which the eligible unit of local government receives a loan under paragraph (1), to complete repayment to the Secretary of the Treasury of the loan made under this section (including interest).*

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

**SEC. 10206. COOPERATIVE AGREEMENTS RELATING TO PLANT PEST AND DISEASE PREVENTION ACTIVITIES.**

*Section 431 of the Plant Protection Act (7 U.S.C. 7751) is amended by adding at the end the following:*

*''(f) TRANSFER OF COOPERATIVE AGREEMENT FUND.—*

*''(1) IN GENERAL.—A State may provide to a unit of local government in the State described in paragraph (2) any cost-sharing assistance or financing mechanism provided to the State under a cooperative agreement entered into under this Act between the Secretary and the State relating to the eradication, prevention, control, or suppression of plant pests.*

*''(2) REQUIREMENTS.—To be eligible for assistance or financing under paragraph (1), a unit of local government shall be—*

*''(A) engaged in any activity relating to the eradication, prevention, control, or suppression of the plant pest infestation covered under the cooperative agreement between the Secretary and the State; and*

*''(B) capable of documenting each plant pest infestation eradication, prevention, control, or suppression activity generally carried out by—*

*''(i) the Department of Agriculture; or*

*''(ii) the State department of agriculture that has jurisdiction over the unit of local government.''.*

***Subtitle C—Organic Agriculture***

**SEC. 10301. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.**

*Section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) is amended—*

*(1) in subsection (a), by striking ''$5,000,000 for fiscal year 2002'' and inserting ''$22,000,000 for fiscal year 2008'';*

*(2) in subsection (b)(2), by striking ''$500'' and inserting ''$750''; and*

*(3) by adding at the end the following:*

*''(c) REPORTING.—Not later than March 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the requests by, disbursements to, and expenditures for each State under the program during the current and previous fiscal year, including the number of producers and handlers served by the program in the previous fiscal year.''.*

**SEC. 10302. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.**

*Section 7407 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5925c) is amended to read as follows:*

**''SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.**

*''(a) IN GENERAL.—The Secretary shall collect and report data on the production and marketing of organic agricultural products.*

*''(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall, at a minimum—*

*''(1) collect and distribute comprehensive reporting of prices relating to organically produced agricultural products;*

*''(2) conduct surveys and analysis and publish reports relating to organic production, handling, distribution, retail, and trend studies (including consumer purchasing patterns); and*

*''(3) develop surveys and report statistical analysis on organically produced agricultural products.*

*''(c) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—*

''(1) describes the progress that has been made in implementing this section; and

''(2) identifies any additional production and marketing data needs.

''(d) FUNDING.—

''(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $5,000,000, to remain available until expended.

''(2) ADDITIONAL FUNDING.—In addition to funds made available under paragraph (1), there are authorized to be appropriated to carry out this section not more than $5,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.''.

**SEC. 10303. NATIONAL ORGANIC PROGRAM.**

Section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) is amended—

(1) by striking ''There are'' and inserting the following:

''(a) IN GENERAL.—There are''; and

(2) by adding at the end the following:

''(b) NATIONAL ORGANIC PROGRAM.—Notwithstanding any other provision of law, in order to carry out activities under the national organic program established under this title, there are authorized to be appropriated—

''(1) $5,000,000 for fiscal year 2008;

''(2) $6,500,000 for fiscal year 2009;

''(3) $8,000,000 for fiscal year 2010;

''(4) $9,500,000 for fiscal year 2011;

''(5) $11,000,000 for fiscal year 2012; and

''(6) in addition to those amounts, such additional sums as are necessary for fiscal year 2009 and each fiscal year thereafter.''.

**Subtitle D—Miscellaneous**

**SEC. 10401. NATIONAL HONEY BOARD.**

Section 7(c) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(c)) is amended by adding at the end the following:

''(12) REFERENDUM REQUIREMENT.—

''(A) DEFINITION OF EXISTING HONEY BOARD.—The term 'existing Honey Board' means the Honey Board in effect on the date of enactment of this paragraph.

''(B) CONDUCT OF REFERENDA.—Notwithstanding any other provision of law, subject to subparagraph (C), the order providing for the establishment and operation of the existing Honey Board shall continue in force, until the Secretary first conducts, at the earliest practicable date, but not later than 180 days after the date of enactment of this paragraph, referenda on orders to establish a honey packer-importer board or a United States honey producer board.

''(C) REQUIREMENTS.—In conducting referenda under subparagraph (B), and in exercising fiduciary responsibilities in any transition to any 1 or more successor boards, the Secretary shall—

''(i) conduct a referendum of eligible United States honey producers for the establishment of a marketing board solely for United States honey producers;

''(ii) conduct a referendum of eligible packers, importers, and handlers of honey for the establishment of a marketing board for packers, importers, and handlers of honey;

''(iii) notwithstanding the timing of the referenda required under clauses (i) and (ii) or of the establishment of any 1 or more successor boards pursuant to those referenda, ensure that the rights and interests of honey producers, importers, packers, and handlers of honey are equitably protected in any disposition of the assets, facilities, intellectual property, and programs of the existing Honey Board and in the transition to any 1 or more new successor marketing boards;

''(iv) ensure that the existing Honey Board continues in operation until such time as the Secretary determines that—

''(I) any 1 or more successor boards, if approved, are operational; and

''(II) the interests of producers, importers, packers, and handlers of honey can be equitably protected during any remaining period in which a referendum on a successor board or the establishment of such a board is pending; and

''(v) discontinue collection of assessments under the order establishing the existing Honey Board on the date the Secretary requires that collections commence pursuant to an order approved in a referendum by eligible producers or processors and importers of honey.

''(D) HONEY BOARD REFERENDUM.—If 1 or more orders are approved pursuant to paragraph (C)—

''(i) the Secretary shall not be required to conduct a continuation referendum on the order in existence on the date of enactment of this paragraph; and

''(ii) that order shall be terminated pursuant to the provisions of the order.''.

**SEC. 10402. IDENTIFICATION OF HONEY.**

(a) IN GENERAL.—Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended—

(1) by designating the first through sixth sentences as paragraphs (1), (2)(A), (2)(B), (3), (4), and (5), respectively; and

(2) by adding at the end the following:

''(6) IDENTIFICATION OF HONEY.—

''(A) IN GENERAL.—The use of a label or advertising material on, or in conjunction with, packaged honey that bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited under this Act unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the 1 or more names of the 1 or more countries of origin of the lot or container of honey, preceded by the words 'Product of' or other words of similar meaning.

''(B) VIOLATION.—A violation of the requirements of subparagraph (A) may be deemed by the Secretary to be sufficient cause for debarment from the benefits of this Act only with respect to honey.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act.

**SEC. 10403. GRANT PROGRAM TO IMPROVE MOVEMENT OF SPECIALTY CROPS.**

(a) GRANTS AUTHORIZED.—The Secretary may make grants under this section to an eligible entity described in subsection (b)—

(1) to improve the cost-effective movement of specialty crops to local, regional, national, and international markets; and

(2) to address regional intermodal transportation deficiencies that adversely affect the movement of specialty crops to markets inside or outside the United States.

(b) ELIGIBLE GRANT RECIPIENTS.—Grants may be made under this section to any of, or any combination of:

(1) State and local governments.

(2) Grower cooperatives.

(3) National, State, or regional organizations of producers, shippers, or carriers.

(4) Other entities as determined to be appropriate by the Secretary.

(c) MATCHING FUNDS.—The recipient of a grant under this section shall contribute an amount of non-Federal funds toward the project for which the grant is provided that is at least equal to the amount of grant funds received by the recipient under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

**SEC. 10404. MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall make payments to producers of the 2007 crop of asparagus for market loss resulting from imports during the 2004 through 2007 crop years.

(b) PAYMENT RATE.—The payment rate for a payment under this section shall be based on the reduction in revenue received by asparagus producers associated with imports during the 2004 through 2007 crop years.

(c) PAYMENT QUANTITY.—The payment quantity for asparagus for which the producers on a farm are eligible for payments under this section shall be equal to the average quantity of the 2003 crop of asparagus produced by producers on the farm.

(d) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make available $15,000,000 of the funds of the Commodity Credit Corporation to carry out a program to provide market loss payments to producers of asparagus under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1), the Secretary shall use—

(A) $7,500,000 to make payments to producers of asparagus for the fresh market; and

(B) $7,500,000 to make payments to producers of asparagus for the processed or frozen market.

**TITLE XI—LIVESTOCK**

**SEC. 11001. LIVESTOCK MANDATORY REPORTING.**

(a) WEB SITE IMPROVEMENTS AND USER EDUCATION.—

(1) IN GENERAL.—Section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)) is amended to read as follows:

''(g) ELECTRONIC REPORTING AND PUBLISHING.—

''(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subtitle by electronic means.

''(2) IMPROVEMENTS AND EDUCATION.—

''(A) ENHANCED ELECTRONIC PUBLISHING.—The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subtitle. Such system shall—

''(i) present information in a format that can be readily understood by producers, packers, and other market participants;

''(ii) adhere to the publication deadlines in this subtitle;

''(iii) present information in charts and graphs, as appropriate;

''(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

''(v) be updated as soon as practicable after information is reported to the Secretary.

''(B) EDUCATION.—The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

''(i) usage of the system developed under subparagraph (A); and

''(ii) interpreting and understanding information collected and disseminated through such system.''.

(2) APPLICABILITY.—

(A) ENHANCED REPORTING.—The Secretary of Agriculture shall develop and implement the system required under paragraph (2)(A) of section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)), as amended by paragraph (1), not later than one year after the date on which the Secretary determines sufficient funds have been appropriated pursuant to subsection (c).

(B) CURRENT SYSTEM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall continue to use the information format for disseminating information under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) in effect on the date of the enactment of this Act at least until the date that is two years after the date on which the Secretary makes the determination referred to in subparagraph (A).

*(b) STUDY AND REPORT.—*

*(1) STUDY.—The Secretary shall conduct a study on the effects of requiring packer processing plants to report to the Secretary information on wholesale pork cuts (including price and volume information), including—*

*(A) the positive or negative economic effects on producers and consumers; and*

*(B) the effects of a confidentiality requirement on mandatory reporting.*

*(2) INFORMATION.—During the period preceding the submission of the report under paragraph (3), the Secretary may collect, and each packer processing plant shall provide, such information as is necessary to enable the Secretary to conduct the study required under paragraph (1).*

*(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study conducted under paragraph (1).*

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

***SEC. 11002. COUNTRY OF ORIGIN LABELING.***

*Subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) is amended—*

*(1) in section 281(2)(A)—*

*(A) in clause (v), by striking ''and'';*

*(B) in clause (vi), by striking the period at the end and inserting ''; and''; and*

*(C) by adding at the end the following:*

*''(vii) meat produced from goats;*

*''(viii) chicken, in whole and in part;*

*''(ix) ginseng;*

*''(x) pecans; and*

*''(xi) macadamia nuts.'';*

*(2) in section 282—*

*(A) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:*

*''(2) DESIGNATION OF COUNTRY OF ORIGIN FOR BEEF, LAMB, PORK, CHICKEN, AND GOAT MEAT.—*

*''(A) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat may designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—*

*''(i) exclusively born, raised, and slaughtered in the United States;*

*''(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or*

*''(iii) present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.*

*''(B) MULTIPLE COUNTRIES OF ORIGIN.—*

*''(i) IN GENERAL.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is—*

*''(I) not exclusively born, raised, and slaughtered in the United States,*

*''(II) born, raised, or slaughtered in the United States, and*

*''(III) not imported into the United States for immediate slaughter,*

*may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.*

*''(ii) RELATION TO GENERAL REQUIREMENT.—Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).*

*''(C) IMPORTED FOR IMMEDIATE SLAUGHTER.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—*

*''(i) the country from which the animal was imported; and*

*''(ii) the United States.*

*''(D) FOREIGN COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall designate a country other than the United States as the country of origin of such commodity.*

*''(E) GROUND BEEF, PORK, LAMB, CHICKEN, AND GOAT.—The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, or ground goat shall include—*

*''(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat; or*

*''(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat.*

*''(3) DESIGNATION OF COUNTRY OF ORIGIN FOR FISH.—*

*''(A) IN GENERAL.—A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—*

*''(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and*

*''(ii) in the case of wild fish, is—*

*''(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and*

*''(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States.*

*''(B) DESIGNATION OF WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.*

*''(4) DESIGNATION OF COUNTRY OF ORIGIN FOR PERISHABLE AGRICULTURAL COMMODITIES, GINSENG, PEANUTS, PECANS, AND MACADAMIA NUTS.—*

*''(A) IN GENERAL.—A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.*

*''(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin.''; and*

*(B) by striking subsection (d) and inserting the following:*

*''(d) AUDIT VERIFICATION SYSTEM.—*

*''(1) IN GENERAL.—The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).*

*''(2) RECORD REQUIREMENTS.—*

*''(A) IN GENERAL.—A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.*

*''(B) PROHIBITION ON REQUIREMENT OF ADDITIONAL RECORDS.—The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person.''; and*

*(3) in section 283—*

*(A) by striking subsections (a) and (c);*

*(B) by redesignating subsection (b) as subsection (a);*

*(C) in subsection (a) (as so redesignated), by striking ''retailer'' and inserting ''retailer or person engaged in the business of supplying a covered commodity to a retailer''; and*

*(D) by adding at the end the following new subsection:*

*''(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—*

*''(1) not made a good faith effort to comply with section 282, and*

*''(2) continues to willfully violate section 282 with respect to the violation about which the retailer or person received notification under subsection (a)(1),*

*after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than $1,000 for each violation.''.*

***SEC. 11003. AGRICULTURAL FAIR PRACTICES ACT OF 1967 DEFINITIONS.***

*Section 3 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2302) is amended—*

*(1) by striking ''When used in this Act—'' and inserting ''In this Act:'';*

*(2) in subsection (a)—*

*(A) by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively; and*

*(B) in clause (iv) (as so redesignated), by striking ''clause (1), (2), or (3) of this paragraph'' and inserting ''clause (i), (ii), or (iii)'';*

*(3) by striking subsection (d);*

*(4) by redesignating subsections (a), (b), (c), and (e) as paragraphs (3), (4), (2), (1), respectively, indenting appropriately, and moving those paragraphs so as to appear in numerical order;*

*(5) in each paragraph (as so redesignated) that does not have a heading, by inserting a heading, in the same style as the heading in the amendment made by paragraph (6), the text of which is comprised of the term defined in the paragraph;*

*(6) in paragraph (2) (as so redesignated)—*

*(A) by striking ''The term 'association of producers' means'' and inserting the following:*

*''(2) ASSOCIATION OF PRODUCERS.—*

*''(A) IN GENERAL.—The term 'association of producers' means''; and*

*(B) by adding at the end the following:*

*''(B) INCLUSION.—The term 'association of producers' includes an organization whose membership is exclusively limited to agricultural producers and dedicated to promoting the common interest and general welfare of producers of agricultural products.''; and*

*(7) in paragraph (3) (as so redesignated)—*

*(A) by striking ''The term'' and inserting the following:*

*''(3) HANDLER.—*

*''(A) IN GENERAL.—The term''; and*

*(B) by inserting after clause (iv) of subparagraph (A) (as redesignated by subparagraph (A) and paragraph (2)) the following:*

*''(B) EXCLUSION.—The term 'handler' does not include a person, other than a packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)), that provides custom feeding services for a producer.''.*

***SEC. 11004. ANNUAL REPORT.***

*(a) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended—*

*(1) by redesignating section 416 (7 U.S.C. 229) as section 417; and*

*(2) by inserting after section 415 (7 U.S.C. 228d) the following:*

***"SEC. 416. ANNUAL REPORT.***

*''(a) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—*

''(1) states, for the preceding year, separately for livestock and poultry and separately by enforcement area category (financial, trade practice, or competitive acts and practices), with respect to investigations into possible violations of this Act—

''(A) the number of investigations opened;

''(B) the number of investigations that were closed or settled without a referral to the General Counsel of the Department of Agriculture;

''(C) for investigations described in subparagraph (B), the length of time from initiation of the investigation to when the investigation was closed or settled without the filing of an enforcement complaint;

''(D) the number of investigations that resulted in referral to the General Counsel of the Department of Agriculture for further action, the number of such referrals resolved without administrative enforcement action, and the number of enforcement actions filed by the General Counsel;

''(E) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from the referral to the filing of the administrative action;

''(F) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from filing to resolution of the administrative enforcement action;

''(G) the number of investigations that resulted in referral to the Department of Justice for further action, and the number of civil enforcement actions filed by the Department of Justice on behalf of the Secretary pursuant to such a referral;

''(H) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the referral to the filing of the enforcement action;

''(I) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the filing of the enforcement action to resolution; and

''(J) the average civil penalty imposed in administrative or civil enforcement actions for violations of this Act, and the total amount of civil penalties imposed in all such enforcement actions; and

''(2) includes any other additional information the Secretary considers important to include in the annual report.

''(b) FORMAT OF INFORMATION PROVIDED.—For subparagraphs (C), (E), (F), and (H) of subsection (a)(1), the Secretary may, if appropriate due to the number of complaints for a given category, provide summary statistics (including range, maximum, minimum, mean, and average times) and graphical representations.''.

(b) SUNSET.—Effective September 30, 2012, section 416 of the Packers and Stockyards Act, 1921, as added by subsection (a)(2), is repealed.

**SEC. 11005. PRODUCTION CONTRACTS.**

Title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 198 et seq.) is amended by adding at the end the following:

**''SEC. 208. PRODUCTION CONTRACTS.**

''(a) RIGHT OF CONTRACT PRODUCERS TO CANCEL PRODUCTION CONTRACTS.—

''(1) IN GENERAL.—A poultry grower or swine production contract grower may cancel a poultry growing arrangement or swine production contract by mailing a cancellation notice to the live poultry dealer or swine contractor not later than the later of—

''(A) the date that is 3 business days after the date on which the poultry growing arrangement or swine production contract is executed; or

''(B) any cancellation date specified in the poultry growing arrangement or swine production contract.

''(2) DISCLOSURE.—A poultry growing arrangement or swine production contract shall clearly disclose—

''(A) the right of the poultry grower or swine production contract grower to cancel the poultry growing arrangement or swine production contract;

''(B) the method by which the poultry grower or swine production contract grower may cancel the poultry growing arrangement or swine production contract; and

''(C) the deadline for canceling the poultry growing arrangement or swine production contract.

''(b) REQUIRED DISCLOSURE OF ADDITIONAL CAPITAL INVESTMENTS IN PRODUCTION CONTRACTS.—

''(1) IN GENERAL.—A poultry growing arrangement or swine production contract shall contain on the first page a statement identified as 'Additional Capital Investments Disclosure Statement', which shall conspicuously state that additional large capital investments may be required of the poultry grower or swine production contract grower during the term of the poultry growing arrangement or swine production contract.

''(2) APPLICATION.—Paragraph (1) shall apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this section.

**''SEC. 209. CHOICE OF LAW AND VENUE.**

''(a) LOCATION OF FORUM.—The forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract that arises out of the arrangement or contract shall be located in the Federal judicial district in which the principle part of the performance takes place under the arrangement or contract.

''(b) CHOICE OF LAW.—A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal part of the performance takes place under the arrangement or contract.

**''SEC. 210. ARBITRATION.**

''(a) IN GENERAL.—Any livestock or poultry contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a producer or grower, prior to entering the contract to decline to be bound by the arbitration provision.

''(b) DISCLOSURE.—Any livestock or poultry contract that contains a provision requiring the use of arbitration shall contain terms that conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract.

''(c) DISPUTE RESOLUTION.—Any contract producer or grower that declines a requirement of arbitration pursuant to subsection (b) has the right, to nonetheless seek to resolve any controversy that may arise under the livestock or poultry contract, if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

''(d) APPLICATION.—Subsections (a) (b) and (c) shall apply to any contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of the Food, Conservation, and Energy Act of 2008.

''(e) UNLAWFUL PRACTICE.—Any action by or on behalf of a packer, swine contractor, or live poultry dealer that violates this section (including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice described in subsection (b)) is an unlawful practice under this Act.

''(f) REGULATIONS.—The Secretary shall promulgate regulations to—

''(1) carry out this section; and

''(2) establish criteria that the Secretary will consider in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process.''.

**SEC. 11006. REGULATIONS.**

As soon as practicable, but not later than 2 years after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations with respect to the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) to establish criteria that the Secretary will consider in determining—

(1) whether an undue or unreasonable preference or advantage has occurred in violation of such Act;

(2) whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement;

(3) when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of such Act; and

(4) if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.

**SEC. 11007. SENSE OF CONGRESS REGARDING PSEUDORABIES ERADICATION PROGRAM.**

It is the sense of Congress that—

(1) the Secretary of Agriculture should recognize the threat feral swine pose to the domestic swine population and the entire livestock industry;

(2) keeping the United States commercial swine herd free of pseudorabies is essential to maintaining and growing pork export markets;

(3) the establishment and continued support of a swine surveillance system will assist the swine industry in the monitoring, surveillance, and eradication of pseudorabies; and

(4) pseudorabies eradication is a high priority that the Secretary should carry out under the authorities of the Animal Health Protection Act.

**SEC. 11008. SENSE OF CONGRESS REGARDING THE CATTLE FEVER TICK ERADICATION PROGRAM.**

It is the sense of Congress that—

(1) the cattle fever tick and the southern cattle tick are vectors of the causal agent of babesiosis, a severe and often fatal disease of cattle; and

(2) implementing a national strategic plan for the cattle fever tick eradication program is a high priority that the Secretary of Agriculture should carry out in order to—

(A) prevent the entry of cattle fever ticks into the United States;

(B) enhance and maintain an effective surveillance program to rapidly detect any cattle fever tick incursions; and

(C) research, identify, and procure the tools and knowledge necessary to prevent and eradicate cattle fever ticks in the United States.

**SEC. 11009. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.**

(a) FUNDING.—Section 375(e)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for fiscal year 2008, to remain available until expended.

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.''.

(b) REPEAL OF REQUIREMENT TO PRIVATIZE REVOLVING FUND.—

(1) IN GENERAL.—Section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) is amended by striking subsection (j).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on May 1, 2007.

**SEC. 11010. TRICHINAE CERTIFICATION PROGRAM.**

(a) VOLUNTARY TRICHINAE CERTIFICATION.—

*(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall establish a voluntary trichinae certification program. Such program shall include the facilitation of the export of pork products and certification services related to such products.*

*(2) REGULATIONS.—The Secretary shall issue final regulations to implement the program under paragraph (1) not later than 90 days after the date of the enactment of this Act.*

*(3) REPORT.—If final regulations are not published in accordance with paragraph (2) within 90 days of the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—*

*(A) an explanation of why the final regulations have not been issued in accordance with paragraph (2); and*

*(B) the date on which the Secretary expects to issue such final regulations.*

*(b) FUNDING.—Subject to the availability of appropriations under subsection (d)(1)(A) of section 10405 of the Animal Health Protection Act (7 U.S.C. 8304), as added by subsection (c), the Secretary shall use not less than $6,200,000 of the funds made available under such subsection to carry out subsection (a).*

*(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10405 of the Animal Health Protection Act (7 U.S.C. 8304) is amended by adding at the end the following new subsection:*

*''(d) AUTHORIZATION OF APPROPRIATIONS.—*

*''(1) IN GENERAL.—There is authorized to be appropriated—*

*''(A) $1,500,000 for each of fiscal years 2008 through 2012 to carry out section 11010 of the Food, Conservation, and Energy Act of 2008; and*

*''(B) such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.*

*''(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.''.*

***SEC. 11011. LOW PATHOGENIC DISEASES.***

*The Animal Health Protection Act (7 U.S.C. 8301 et seq.) is amended—*

*(1) in section 10407(d)(2)(C) (7 U.S.C. 8306(d)(2)(C)), by striking ''of longer than 60 days'';*

*(2) in section 10409(b) (7 U.S.C. 8308(b))—*

*(A) by redesignating paragraph (2) as paragraph (3);*

*(B) by inserting after paragraph (1) the following new paragraph:*

*''(2) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary shall compensate industry participants and State agencies that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of low pathogenicity in accordance with regulations issued by the Secretary.''; and*

*(C) in paragraph (3) (as so redesignated), by striking ''of longer than 60 days''; and*

*(3) in section 10417(b)(3) (7 U.S.C. 8316(b)(3)), by striking ''of longer than 60 days''.*

***SEC. 11012. ANIMAL PROTECTION.***

*(a) WILLFUL VIOLATIONS.—Section 10414(b)(1)(A) of the Animal Health Protection Act (7 U.S.C. 8316(b)(1)(A)) is amended by striking clause (iii) and inserting the following:*

*''(iii) for all violations adjudicated in a single proceeding—*

*''(I) $500,000 if the violations do not include a willful violation; or*

*''(II) $1,000,000 if the violations include 1 or more willful violations.''.*

*(b) SUBPOENA AUTHORITY.—Section 10415(a)(2) of the Animal Health Protection Act (7 U.S.C. 8314) is amended*

*(1) by striking subparagraph (A) and inserting the following:*

*''(A) IN GENERAL.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.'';*

*(2) in subparagraph (B), by striking ''documentary''; and*

*(3) in subparagraph (C)—*

*(A) in clause (i), by striking ''testimony of any witness and the production of documentary evidence'' and inserting ''testimony of any witness, the production of evidence, or the inspection of premises''; and*

*(B) in clause (ii), by striking ''question or to produce documentary evidence'' and inserting ''question, produce evidence, or permit the inspection of premises''.*

***SEC. 11013. NATIONAL AQUATIC ANIMAL HEALTH PLAN.***

*(a) IN GENERAL.—The Secretary of Agriculture may enter into a cooperative agreement with an eligible entity to carry out a project under a national aquatic animal health plan under the authority of the Secretary under section 10411 of the Animal Health Protection Act (7 U.S.C. 8310) for the purpose of detecting, controlling, or eradicating diseases of aquaculture species and promoting species-specific best management practices.*

*(b) COOPERATIVE AGREEMENTS BETWEEN ELIGIBLE ENTITIES AND THE SECRETARY.—*

*(1) DUTIES.—As a condition of entering into a cooperative agreement with the Secretary under this section, an eligible entity shall agree to—*

*(A) assume responsibility for the non-Federal share of the cost of carrying out the project under the national aquatic health plan, as determined by the Secretary in accordance with paragraph (2); and*

*(B) act in accordance with applicable disease and species specific best management practices relating to activities to be carried out under such project.*

*(2) NON-FEDERAL SHARE.—The Secretary shall determine the non-Federal share of the cost of carrying out a project under the national aquatic health plan on a case-by-case basis for each such project. Such non-Federal share may be provided in cash or in-kind.*

*(c) APPLICABILITY OF OTHER LAWS.—In carrying out this section, the Secretary may make use of the authorities under the Animal Health Protection Act (7 U.S.C. 8301 et seq.), including the authority to carry out operations and measures to detect, control, and eradicate pests and diseases and the authority to pay claims arising out of the destruction of any animal, article, or means of conveyance.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.*

*(e) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State, a political subdivision of a State, Indian tribe, or other appropriate entity, as determined by the Secretary of Agriculture.*

***SEC. 11014. STUDY ON BIOENERGY OPERATIONS.***

*(a) STUDY.—The Secretary of Agriculture shall conduct a study to evaluate the role of animal manure as a source of fertilizer and its potential additional uses. Such study shall include—*

*(1) a determination of the extent to which animal manure is utilized as fertilizer in agricultural operations by type (including species and agronomic practices employed) and size;*

*(2) an evaluation of the potential impact on consumers and on agricultural operations (by size) resulting from limitations being placed on the utilization of animal manure as fertilizer; and*

*(3) an evaluation of the effects on agriculture production contributable to the increased competition for animal manure use due to bioenergy production, including as a feedstock or a replacement for fossil fuels.*

*(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the results of the study conducted under subsection (a).*

***SEC. 11015. INTERSTATE SHIPMENT OF MEAT AND POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.***

*(a) MEAT AND MEAT PRODUCTS.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following:*

***''TITLE V—INSPECTIONS BY FEDERAL AND STATE AGENCIES***

***''SEC. 501. INTERSTATE SHIPMENT OF MEAT INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.***

*''(a) DEFINITIONS.—*

*''(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 301(b).*

*''(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.*

*''(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—*

*''(A) the State inspection program of the State in which the establishment is located; and*

*''(B) this Act, including rules and regulations issued under this Act.*

*''(4) MEAT ITEM.—The term 'meat item' means—*

*''(A) a portion of meat; and*

*''(B) a meat food product.*

*''(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship carcasses, portions of carcasses, and meat items in interstate commerce.*

*''(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—*

*''(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship carcasses, portions of carcasses, and meat items in interstate commerce, and place on each carcass, portion of a carcass, and meat item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—*

*''(A) the carcass, portion of carcass, or meat item qualifies for the mark, stamp, tag, or label of inspection under the requirements of this Act;*

*''(B) the establishment is an eligible establishment; and*

*''(C) inspection services for the establishment are provided by designated personnel.*

*''(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—*

*''(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;*

*''(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or meat items that are inspected by the Secretary in accordance with this Act;*

*''(C)(i) is a Federal establishment;*

*''(ii) was a Federal establishment that was reorganized on a later date under the same name*

*or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or*

*''(iii) was a State establishment as of the date of the enactment of this section that—*

*''(I) as of the date of the enactment of this section, employed more than 25 employees; and*

*''(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;*

*''(D) is in violation of this Act;*

*''(E) is located in a State that does not have a State inspection program; or*

*''(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).*

*''(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—*

*''(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.*

*''(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—*

*''(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.*

*''(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (j).*

*''(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.*

*''(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—*

*''(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—*

*''(A) to provide oversight and enforcement of this title; and*

*''(B) to oversee the training and inspection activities of designated personnel of the State agency.*

*''(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.*

*''(3) DUTIES OF STATE COORDINATOR.—*

*''(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).*

*''(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.*

*''(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—*

*''(i) immediately notify the Secretary of the violation; and*

*''(ii) deselect the selected establishment or suspend inspection at the selected establishment.*

*''(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.*

*''(e) AUDITS.—*

*''(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (j), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.*

*''(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—*

*''(A) the effectiveness of the implementation of this section; and*

*''(B) the number of selected establishments selected by the Secretary to ship carcasses, portions of carcasses, or meat items under this section.*

*''(f) TECHNICAL ASSISTANCE DIVISION.—*

*''(1) ESTABLISHMENT.—Not later than 180 days after the effective date described in subsection (j), the Secretary shall establish in the Food Safety and Inspection Service of the Department of Agriculture a technical assistance division to coordinate the initiatives of any other appropriate agency of the Department of Agriculture to provide—*

*''(A) outreach, education, and training to very small or certain small establishments (as defined by the Secretary); and*

*''(B) grants to appropriate State agencies to provide outreach, technical assistance, education, and training to very small or certain small establishments (as defined by the Secretary).*

*''(2) PERSONNEL.—The technical assistance division shall be comprised of individuals that, as determined by the Secretary—*

*''(A) are of a quantity sufficient to carry out the duties of the technical assistance division; and*

*''(B) possess appropriate qualifications and expertise relating to the duties of the technical assistance division.*

*''(g) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by title III to transition to selected establishments.*

*''(h) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).*

*''(i) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of meat and meat products under this Act.*

*''(j) EFFECTIVE DATE.—*

*''(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.*

*''(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).''.*

*(b) POULTRY AND POULTRY PRODUCTS.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:*

***''SEC. 31. INTERSTATE SHIPMENT OF POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.***

*''(a) DEFINITIONS.—*

*''(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 5(a)(1).*

*''(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.*

*''(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—*

*''(A) the State inspection program of the State in which the establishment is located; and*

*''(B) this Act, including rules and regulations issued under this Act.*

*''(4) POULTRY ITEM.—The term 'poultry item' means—*

*''(A) a portion of poultry; and*

*''(B) a poultry product.*

*''(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship poultry items in interstate commerce.*

*''(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—*

*''(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship poultry items in interstate commerce, and place on each poultry item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—*

*''(A) the poultry item qualifies for the Federal mark, stamp, tag, or label of inspection under the requirements of this Act;*

*''(B) the establishment is an eligible establishment; and*

*''(C) inspection services for the establishment are provided by designated personnel.*

*''(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—*

*''(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;*

*''(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or poultry items that are inspected by the Secretary in accordance with this Act;*

*''(C)(i) is a Federal establishment;*

*''(ii) was a Federal establishment as of the date of the enactment of this section, and was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or*

*''(iii) was a State establishment as of the date of the enactment of this section that—*

*''(I) as of the date of the enactment of this section, employed more than 25 employees; and*

*''(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;*

*''(D) is in violation of this Act;*

*''(E) is located in a State that does not have a State inspection program; or*

*''(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).*

*''(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—*

*''(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.*

*''(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—*

*''(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.*

''(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (i).

''(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

''(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

''(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

''(A) to provide oversight and enforcement of this section; and

''(B) to oversee the training and inspection activities of designated personnel of the State agency.

''(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

''(3) DUTIES OF STATE COORDINATOR.—

''(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

''(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

''(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

''(i) immediately notify the Secretary of the violation; and

''(ii) deselect the selected establishment or suspend inspection at the selected establishment.

''(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

''(e) AUDITS.—

''(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (i), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

''(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

''(A) the effectiveness of the implementation of this section; and

''(B) the number of selected establishments selected by the Secretary to ship poultry items under this section.

''(f) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by this Act to transition to selected establishments.

''(g) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

''(h) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of poultry and poultry products under this Act.

''(i) EFFECTIVE DATE.—

''(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

''(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).''.

**SEC. 11016. INSPECTION AND GRADING.**

(a) GRADING.—Section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended—

(1) by redesignating subsection (n) as subsection (o); and

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

''(n) GRADING PROGRAM.—To establish within the Department of Agriculture a voluntary fee based grading program for—

''(1) catfish (as defined by the Secretary under paragraph (2) of section 1(w) of the Federal Meat Inspection Act (21 U.S.C. 601(w))); and

''(2) any additional species of farm-raised fish or farm-raised shellfish—

''(A) for which the Secretary receives a petition requesting such voluntary fee based grading; and

''(B) that the Secretary considers appropriate.''.

(b) INSPECTION.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) in section 1(w) (21 U.S.C. 601(w)) —

(i) by striking ''and'' at the end of paragraph (1);

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph:

''(2) catfish, as defined by the Secretary; and'';

(B) by striking section 6 (21 U.S.C. 606) and inserting the following new section:

''SEC. 6. (a) IN GENERAL.—For the purposes hereinbefore set forth the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and for the purposes of any examination and inspection and inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as 'Inspected and passed' all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as 'Inspected and condemned' all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products: Provided, That subject to the rules and regulations of the Secretary the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this chapter.

''(b) CATFISH.—In the case of an examination and inspection under subsection (a) of a meat food product derived from catfish, the Secretary shall take into account the conditions under which the catfish is raised and transported to a processing establishment.''; and

(C) by adding at the end of title I the following new section:

''SEC. 25. Notwithstanding any other provision of this Act, the requirements of sections 3, 4, 5, 10(b), and 23 shall not apply to catfish.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall not apply until the date on which the Secretary of Agriculture issues final regulations (after providing a period of public comment, including through the conduct of public meetings or hearings, in accordance with chapter 5 of title 5, United States Code) to carry out such amendments.

(B) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture, in consultation with the Commissioner of Food and Drugs, shall issue final regulations to carry out the amendments made by paragraph (1).

(3) BUDGET REQUEST.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress an estimate of the costs of implementing the amendments made by paragraph (1), including the estimated—

(A) staff years;

(B) number of establishments;

(C) volume expected to be produced at such establishments; and

(D) any other information used in estimating the costs of implementing such amendments.

**SEC. 11017. FOOD SAFETY IMPROVEMENT.**

(a) FEDERAL MEAT INSPECTION ACT.—Title I of the Federal Meat Inspection Act is further amended by inserting after section 11 (21 U.S.C. 611) the following:

**''SEC. 12. NOTIFICATION.**

''Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded meat or meat food product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the meat or meat food product.

**''SEC. 13. PLANS AND REASSESSMENTS.**

''The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

''(1) prepare and maintain current procedures for the recall of all meat or meat food products produced and shipped by the establishment;

''(2) document each reassessment of the process control plans of the establishment; and

''(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.''.

(b) POULTRY PRODUCTS INSPECTION ACT.—Section 10 of the Poultry Products Inspection Act (21 U.S.C. 459) is amended—

(1) by striking the section heading and all that follows through ''sec. 10. No establishment'' and inserting the following:

**''SEC. 10. COMPLIANCE BY ALL ESTABLISHMENTS.**

''(a) IN GENERAL.—No establishment''; and

(2) by adding at the end the following:

''(b) NOTIFICATION.—Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded poultry or poultry product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the poultry or poultry product.

''(c) PLANS AND REASSESSMENTS.—The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

''(1) prepare and maintain current procedures for the recall of all poultry or poultry products produced and shipped by the establishment;

''(2) document each reassessment of the process control plans of the establishment; and

''(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.''.

## TITLE XII—CROP INSURANCE AND DISASTER ASSISTANCE PROGRAMS

### Subtitle A—Crop Insurance and Agricultural Disaster Assistance

**SEC. 12001. DEFINITION OF ORGANIC CROP.**

Section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) ORGANIC CROP.—The term 'organic crop' means an agricultural commodity that is organically produced consistent with section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).''.

**SEC. 12002. GENERAL POWERS.**

(a) IN GENERAL.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in the first sentence of subsection (d), by striking ''The Corporation'' and inserting ''Subject to section 508(j)(2)(A), the Corporation''; and

(2) by striking subsection (n).

(b) CONFORMING AMENDMENTS.—

(1) Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by redesignating subsections (o), (p), and (q) as subsections (n), (o), and (p), respectively.

(2) Section 521 of the Federal Crop Insurance Act (7 U.S.C. 1521) is amended by striking the last sentence.

**SEC. 12003. REDUCTION IN LOSS RATIO.**

(a) PROJECTED LOSS RATIO.—Subsection (n)(2) of section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) (as redesignated by section 12002(b)(1)) is amended—

(1) in the paragraph heading, by striking ''AS OF OCTOBER 1, 1998'';

(2) by striking '', on and after October 1, 1998,''; and

(3) by striking ''1.075'' and inserting ''1.0''.

(b) PREMIUMS REQUIRED.—Section 508(d)(1) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(1)) is amended by striking ''not greater than 1.1'' and all that follows and inserting ''not greater than—

''(A) 1.1 through September 30, 1998;

''(B) 1.075 for the period beginning October 1, 1998, and ending on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008; and

''(C) 1.0 on and after the date of enactment of that Act.''.

**SEC. 12004. PREMIUMS ADJUSTMENTS.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

''(9) PREMIUM ADJUSTMENTS.—

''(A) PROHIBITION.—Except as provided in subparagraph (B), no person shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, either as an inducement to procure insurance or after insurance has been procured, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy or any other valuable consideration or inducement not specified in the policy.

''(B) EXCEPTIONS.—Subparagraph (A) does not apply with respect to—

''(i) a payment authorized under subsection (b)(5)(B);

''(ii) a performance-based discount authorized under subsection (d)(3); or

''(iii) a patronage dividend, or similar payment, that is paid—

''(I) by an entity that was approved by the Corporation to make such payments for the 2005, 2006, or 2007 reinsurance year, in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment of this paragraph; and

''(II) in a manner consistent with the payment plan approved in accordance with that subsection for the entity by the Corporation for the applicable reinsurance year.''.

**SEC. 12005. CONTROLLED BUSINESS INSURANCE.**

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 12004) is amended by adding at the end the following:

''(10) COMMISSIONS.—

''(A) DEFINITION OF IMMEDIATE FAMILY.—In this paragraph, the term 'immediate family' means an individual's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of the foregoing, and the individual's spouse.

''(B) PROHIBITION.—No individual (including a subagent) may receive directly, or indirectly through an entity, any compensation (including any commission, profit sharing, bonus, or any other direct or indirect benefit) for the sale or service of a policy or plan of insurance offered under this title if—

''(i) the individual has a substantial beneficial interest, or a member of the individual's immediate family has a substantial beneficial interest, in the policy or plan of insurance; and

''(ii) the total compensation to be paid to the individual with respect to the sale or service of the policies or plans of insurance that meet the condition described in clause (i) exceeds 30 percent or the percentage specified in State law, whichever is less, of the total of all compensation received directly or indirectly by the individual for the sale or service of all policies and plans of insurance offered under this title for the reinsurance year.

''(C) REPORTING.—Not later than 90 days after the annual settlement date of the reinsurance year, any individual that received directly or indirectly any compensation for the service or sale of any policy or plan of insurance offered under this title in the prior reinsurance year shall certify to applicable approved insurance providers that the compensation that the individual received was in compliance with this paragraph.

''(D) SANCTIONS.—The procedural requirements and sanctions prescribed in section 515(h) shall apply to the prosecution of a violation of this paragraph.

''(E) APPLICABILITY.—

''(i) IN GENERAL.—Sanctions for violations under this paragraph shall only apply to the individuals or entities directly responsible for the certification required under subparagraph (C) or the failure to comply with the requirements of this paragraph.

''(ii) PROHIBITION.—No sanctions shall apply with respect to the policy or plans of insurance upon which compensation is received, including the reinsurance for those policies or plans.''.

**SEC. 12006. ADMINISTRATIVE FEE.**

(a) IN GENERAL.—Section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) BASIC FEE.—Each producer shall pay an administrative fee for catastrophic risk protection in the amount of $300 per crop per county.''; and

(2) in subparagraph (B)—

(A) by striking ''**PAYMENT ON BEHALF OF PRODUCERS**'' and inserting ''**PAYMENT OF CATASTROPHIC RISK PROTECTION FEE ON BEHALF OF PRODUCERS**'';

(B) in clause (i)—

(i) by striking ''or other payment''; and

(ii) by striking ''with catastrophic risk protection or additional coverage'' and inserting ''through the payment of catastrophic risk protection administrative fees'';

(C) by striking clauses (ii) and (vi);

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

(E) in clause (iii) (as so redesignated), by striking ''A policy or plan of insurance'' and inserting ''Catastrophic risk protection coverage''; and

(F) in clause (iv) (as so redesignated)—

(i) by striking ''or other arrangement under this subparagraph''; and

(ii) by striking ''additional''.

(b) REPEAL.—Section 748 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1508 note; Public Law 105–277) is repealed.

**SEC. 12007. TIME FOR PAYMENT.**

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

(1) in subsection (b)(5)(C), by striking ''the date that premium'' and inserting ''the same date on which the premium'';

(2) in subsection (c)(10), by adding at the end the following:

''(C) TIME FOR PAYMENT.—Subsection (b)(5)(C) shall apply with respect to the collection date for the administrative fee.''; and

(3) in subsection (d), by adding at the end the following:

''(4) BILLING DATE FOR PREMIUMS.—Effective beginning with the 2012 reinsurance year, the Corporation shall establish August 15 as the billing date for premiums.''.

**SEC. 12008. CATASTROPHIC COVERAGE REIMBURSEMENT RATE.**

Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking ''8 percent'' and inserting ''6 percent''.

**SEC. 12009. GRAIN SORGHUM PRICE ELECTION.**

Section 508(c)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(5)) is amended by adding at the end the following:

''(D) GRAIN SORGHUM PRICE ELECTION.—

''(i) IN GENERAL.—The Corporation, in conjunction with the Secretary (referred to in this subparagraph as the 'Corporation'), shall—

''(I) not later than 60 days after the date of enactment of this subparagraph, make available all methods and data, including data from the Economic Research Service, used by the Corporation to develop the expected market prices for grain sorghum under the production and revenue-based plans of insurance of the Corporation; and

''(II) request applicable data from the grain sorghum industry.

''(ii) EXPERT REVIEWERS.—

''(I) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Corporation shall contract individually with 5 expert reviewers described in subclause (II) to develop and recommend a methodology for determining an expected market price for sorghum for both the production and revenue-based plans of insurance to more accurately reflect the actual price at harvest.

''(II) REQUIREMENTS.—The expert reviewers under subclause (I) shall be comprised of agricultural economists with experience in grain sorghum and corn markets, of whom—

''(aa) 2 shall be agricultural economists of institutions of higher education;

''(bb) 2 shall be economists from within the Department; and

''(cc) 1 shall be an economist nominated by the grain sorghum industry.

''(iii) RECOMMENDATIONS.—

''(I) IN GENERAL.—Not later than 90 days after the date of contracting with the expert reviewers under clause (ii), the expert reviewers shall submit, and the Corporation shall make available to the public, the recommendations of the expert reviewers.

''(II) CONSIDERATION.—The Corporation shall consider the recommendations under subclause (I) when determining the appropriate pricing methodology to determine the expected market

*price for grain sorghum under both the production and revenue-based plans of insurance.*

*''(III) PUBLICATION.—Not later than 60 days after the date on which the Corporation receives the recommendations of the expert reviewers, the Corporation shall publish the proposed pricing methodology for both the production and revenue-based plans of insurance for notice and comment and, during the comment period, conduct at least 1 public meeting to discuss the proposed pricing methodologies.*

*''(iv) APPROPRIATE PRICING METHODOLOGY.—*

*''(I) IN GENERAL.—Not later than 180 days after the close of the comment period in clause (iii)(III), but effective not later than the 2010 crop year, the Corporation shall implement a pricing methodology for grain sorghum under the production and revenue-based plans of insurance that is transparent and replicable.*

*''(II) INTERIM METHODOLOGY.—Until the date on which the new pricing methodology is implemented, the Corporation may continue to use the pricing methodology that the Corporation determines best establishes the expected market price.*

*''(III) AVAILABILITY.—On an annual basis, the Corporation shall make available the pricing methodology and data used to determine the expected market prices for grain sorghum under the production and revenue-based plans of insurance, including any changes to the methodology used to determine the expected market prices for grain sorghum from the previous year.''.*

***SEC. 12010. PREMIUM REDUCTION AUTHORITY.***

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

*(1) in paragraph (2), by striking ''paragraph (4)'' and inserting ''paragraph (3)'';*

*(2) by striking paragraph (3); and*

*(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.*

***SEC. 12011. ENTERPRISE AND WHOLE FARM UNITS.***

*Section 508(e) of Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12010) is amended by adding at the end the following:*

*''(5) ENTERPRISE AND WHOLE FARM UNITS.—*

*''(A) IN GENERAL.—The Corporation may carry out a pilot program under which the Corporation pays a portion of the premiums for plans or policies of insurance for which the insurable unit is defined on a whole farm or enterprise unit basis that is higher than would otherwise be paid in accordance with paragraph (2).*

*''(B) AMOUNT.—The percentage of the premium paid by the Corporation to a policyholder for a policy with an enterprise or whole farm unit under this paragraph shall, to the maximum extent practicable, provide the same dollar amount of premium subsidy per acre that would otherwise have been paid by the Corporation under paragraph (2) if the policyholder had purchased a basic or optional unit for the crop for the crop year.*

*''(C) LIMITATION.—The amount of the premium paid by the Corporation under this paragraph may not exceed 80 percent of the total premium for the enterprise or whole farm unit policy.''.*

***SEC. 12012. PAYMENT OF PORTION OF PREMIUM FOR AREA REVENUE PLANS.***

*Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12011) is amended—*

*(1) in paragraph (2), in the matter preceding subparagraph (A), by striking ''paragraph (4)'' and inserting ''paragraphs (4), (6), and (7)''; and*

*(2) by adding at the end the following:*

*''(6) PREMIUM SUBSIDY FOR AREA REVENUE PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a reduction in revenue in an area, the amount of the premium paid by the Corporation shall be as follows:*

*''(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 75 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.*

*''(B) In the case of additional area coverage equal to or greater than 75 percent, but less than 85 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.*

*''(C) In the case of additional area coverage equal to or greater than 85 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 49 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.*

*''(D) In the case of additional area coverage equal to or greater than 90 percent of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 44 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.*

*''(7) PREMIUM SUBSIDY FOR AREA YIELD PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a loss of yield or prevented planting in an area, the amount of the premium paid by the Corporation shall be as follows:*

*''(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 80 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.*

*''(B) In the case of additional area coverage equal to or greater than 80 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.*

*''(C) In the case of additional area coverage equal to or greater than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—*

*''(i) 51 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and*

*''(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.''.*

***SEC. 12013. DENIAL OF CLAIMS.***

*Section 508(j)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)(2)(A)) is amended by inserting ''on behalf of the Corporation'' after ''approved provider''.*

***SEC. 12014. SETTLEMENT OF CROP INSURANCE CLAIMS ON FARM-STORED PRODUCTION.***

*(a) IN GENERAL.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:*

*''(5) SETTLEMENT OF CLAIMS ON FARM-STORED PRODUCTION.—A producer with farm-stored production may, at the option of the producer, delay settlement of a crop insurance claim relating to the farm-stored production for up to 4 months after the last date on which claims may be submitted under the policy of insurance.''.*

*(b) STUDY ON THE EFFICACY OF PACK FACTORS.—*

*(1) IN GENERAL.—The Secretary shall conduct a study of the efficacy and accuracy of the application of pack factors regarding the measurement of farm-stored production for purposes of providing policies or plans of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*

*(2) CONSIDERATIONS.—The study shall consider—*

*(A) structural shape and size;*

*(B) time in storage;*

*(C) the impact of facility aeration systems; and*

*(D) any other factors the Secretary considers appropriate.*

*(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes the findings of the study and any related policy recommendations.*

***SEC. 12015. TIME FOR REIMBURSEMENT.***

*Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) is amended by adding at the end the following:*

*''(D) TIME FOR REIMBURSEMENT.—Effective beginning with the 2012 reinsurance year, the Corporation shall reimburse approved insurance providers and agents for the allowable administrative and operating costs of the providers and agents as soon as practicable after October 1 (but not later than October 31) after the reinsurance year for which reimbursements are earned.''.*

***SEC. 12016. REIMBURSEMENT RATE.***

*Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) (as amended by section 12015) is amended—*

*(1) in subparagraph (A), by striking ''Except as provided in subparagraph (B)'' and inserting ''Except as otherwise provided in this paragraph''; and*

*(2) by adding at the end the following:*

*''(E) REIMBURSEMENT RATE REDUCTION.—In the case of a policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 2008 reinsurance year, for each of the 2009 and subsequent reinsurance years, the reimbursement rate for administrative and operating costs shall be 2.3 percentage points below the rates in effect as of the date of enactment of the Food, Conservation, and Energy Act of 2008 for all crop insurance policies used to define loss ratio, except that only ½ of the reduction shall apply in a reinsurance year to the total premium written in a State in which the State loss ratio is greater than 1.2.*

*''(F) REIMBURSEMENT RATE FOR AREA POLICIES AND PLANS OF INSURANCE.—Notwithstanding subparagraphs (A) through (E), for each of the 2009 and subsequent reinsurance years, the reimbursement rate for area policies and plans of insurance widely available as of the date of enactment of this subparagraph shall be 12 percent of the premium used to define loss ratio for that reinsurance year.''.*

**SEC. 12017. RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.**

*Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by adding at the end the following:*

*''(8) RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.—*

*''(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 536 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 1506 note; Public Law 105–185) and section 148 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1506 note; Public Law 106–224), the Corporation may renegotiate the financial terms and conditions of each Standard Reinsurance Agreement—*

*''(i) to be effective for the 2011 reinsurance year beginning July 1, 2010; and*

*''(ii) once during each period of 5 reinsurance years thereafter.*

*''(B) EXCEPTIONS.—*

*''(i) ADVERSE CIRCUMSTANCES.—Subject to clause (ii), subparagraph (A) shall not apply in any case in which the approved insurance providers, as a whole, experience unexpected adverse circumstances, as determined by the Secretary.*

*''(ii) EFFECT OF FEDERAL LAW CHANGES.—If Federal law is enacted after the date of enactment of this paragraph that requires revisions in the financial terms of the Standard Reinsurance Agreement, and changes in the Agreement are made on a mandatory basis by the Corporation, the changes shall not be considered to be a renegotiation of the Agreement for purposes of subparagraph (A).*

*''(C) NOTIFICATION REQUIREMENT.—If the Corporation renegotiates a Standard Reinsurance Agreement under subparagraph (A)(iii), the Corporation shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the renegotiation.*

*''(D) CONSULTATION.—The approved insurance providers may confer with each other and collectively with the Corporation during any renegotiation under subparagraph (A).*

*''(E) 2011 REINSURANCE YEAR.—*

*''(i) IN GENERAL.—As part of the Standard Reinsurance Agreement renegotiation authorized under subparagraph (A)(i), the Corporation shall consider alternative methods to determine reimbursement rates for administrative and operating costs.*

*''(ii) ALTERNATIVE METHODS.—Alternatives considered under clause (i) shall include—*

*''(I) methods that—*

*''(aa) are graduated and base reimbursement rates in a State on changes in premiums in that State;*

*''(bb) are graduated and base reimbursement rates in a State on the loss ratio for crop insurance for that State; and*

*''(cc) are graduated and base reimbursement rates on individual policies on the level of total premium for each policy; and*

*''(II) any other method that takes into account current financial conditions of the program and ensures continued availability of the program to producers on a nationwide basis.''.*

**SEC. 12018. CHANGE IN DUE DATE FOR CORPORATION PAYMENTS FOR UNDERWRITING GAINS.**

*Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) (as amended by section 12017) is amended by adding at the end the following:*

*''(9) DUE DATE FOR PAYMENT OF UNDERWRITING GAINS.—Effective beginning with the 2011 reinsurance year, the Corporation shall make payments for underwriting gains under this title on—*

*''(A) for the 2011 reinsurance year, October 1, 2012; and*

*''(B) for each reinsurance year thereafter, October 1 of the following calendar year.''.*

**SEC. 12019. MALTING BARLEY.**

*Section 508(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) is amended by adding at the end the following:*

*''(5) SPECIAL PROVISIONS FOR MALTING BARLEY.—The Corporation shall promulgate special provisions under this subsection specific to malting barley, taking into consideration any changes in quality factors, as required by applicable market conditions.''.*

**SEC. 12020. CROP PRODUCTION ON NATIVE SOD.**

*(a) FEDERAL CROP INSURANCE.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:*

*''(o) CROP PRODUCTION ON NATIVE SOD.—*

*''(1) DEFINITION OF NATIVE SOD.—In this subsection, the term 'native sod' means land—*

*''(A) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and*

*''(B) that has never been tilled for the production of an annual crop as of the date of enactment of this subsection.*

*''(2) INELIGIBILITY FOR BENEFITS.—*

*''(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this subsection shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—*

*''(i) this title; and*

*''(ii) section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

*''(B) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from subparagraph (A).*

*''(3) APPLICATION.—Paragraph (2) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.''.*

*(b) NONINSURED CROP DISASTER ASSISTANCE.—Section 196(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)) is amended by adding at the end the following:*

*''(4) PROGRAM INELIGIBILITY RELATING TO CROP PRODUCTION ON NATIVE SOD.—*

*''(A) DEFINITION OF NATIVE SOD.—In this paragraph, the term 'native sod' means land—*

*''(i) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and*

*''(ii) that has never been tilled for the production of an annual crop as of the date of enactment of this paragraph.*

*''(B) INELIGIBILITY FOR BENEFITS.—*

*''(i) IN GENERAL.—Subject to clause (ii) and subparagraph (C), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this paragraph shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—*

*''(I) this section; and*

*''(II) the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*

*''(ii) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from clause (i).*

*''(C) APPLICATION.—Subparagraph (B) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.''.*

**SEC. 12021. INFORMATION MANAGEMENT.**

*Section 515 of the Federal Crop Insurance Act (7 U.S.C. 1515) is amended—*

*(a) in subsection (j)(3), by adding before the period at the end the following: '', which shall be subject to competition on a periodic basis, as determined by the Secretary''; and*

*(b) by striking subsection (k) and inserting the following:*

*''(k) FUNDING.—*

*''(1) INFORMATION TECHNOLOGY.—To carry out subsection (j)(1), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $15,000,000 for each of fiscal years 2008 through 2011.*

*''(2) DATA MINING.—To carry out subsection (j)(2), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $4,000,000 for fiscal year 2009 and each subsequent fiscal year.''.*

**SEC. 12022. RESEARCH AND DEVELOPMENT.**

*(a) IN GENERAL.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended by striking paragraphs (1) and (2) and inserting the following:*

*''(1) RESEARCH AND DEVELOPMENT PAYMENT.—*

*''(A) IN GENERAL.—The Corporation shall provide a payment to an applicant for research and development costs in accordance with this subsection.*

*''(B) REIMBURSEMENT.—An applicant who submits a policy under section 508(h) shall be eligible for the reimbursement of reasonable research and development costs directly related to the policy if the policy is approved by the Board for sale to producers.*

*''(2) ADVANCE PAYMENTS.—*

*''(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Board may approve the request of an applicant for advance payment of a portion of reasonable research and development costs prior to submission and approval of the policy by the Board under section 508(h).*

*''(B) PROCEDURES.—The Board shall establish procedures for approving advance payment of reasonable research and development costs to applicants.*

*''(C) CONCEPT PROPOSAL.—As a condition of eligibility for advance payments, an applicant shall submit a concept proposal for the policy that the applicant plans to submit to the Board under section 508(h), consistent with procedures established by the Board for submissions under subparagraph (B), including—*

*''(i) a summary of the qualifications of the applicant, including any prior concept proposals and submissions to the Board under section 508(h) and, if applicable, any work conducted under this section;*

*''(ii) a projection of total research and development costs that the applicant expects to incur;*

*''(iii) a description of the need for the policy, the marketability of and expected demand for the policy among affected producers, and the potential impact of the policy on producers and the crop insurance delivery system;*

*''(iv) a summary of data sources available to demonstrate that the policy can reasonably be developed and actuarially appropriate rates established; and*

*''(v) an identification of the risks the proposed policy will cover and an explanation of how the identified risks are insurable under this title.*

*''(D) REVIEW.—*

*''(i) EXPERTS.—If the requirements of subparagraph (B) and (C) are met, the Board may submit a concept proposal described in subparagraph (C) to not less than 2 independent expert reviewers, whose services are appropriate for the type of concept proposal submitted, to assess the likelihood that the proposed policy being developed will result in a viable and marketable policy, as determined by the Board.*

*''(ii) TIMING.—The time frames described in subparagraphs (C) and (D) of section 508(h)(4) shall apply to the review of concept proposals under this subparagraph.*

*''(E) APPROVAL.—The Board may approve up to 50 percent of the projected total research and development costs to be paid in advance to an applicant, in accordance with the procedures developed by the Board for the making of such payments, if, after consideration of the reviewer reports described in subparagraph (D) and such*

*other information as the Board determines appropriate, the Board determines that—*

*''(i) the concept, in good faith, will likely result in a viable and marketable policy consistent with section 508(h);*

*''(ii) in the sole opinion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—*

*''(I) in a significantly improved form;*

*''(II) to a crop or region not traditionally served by the Federal crop insurance program; or*

*''(III) in a form that addresses a recognized flaw or problem in the program;*

*''(iii) the applicant agrees to provide such reports as the Corporation determines are necessary to monitor the development effort;*

*''(iv) the proposed budget and timetable are reasonable; and*

*''(v) the concept proposal meets any other requirements that the Board determines appropriate.*

*''(F) SUBMISSION OF POLICY.—If the Board approves an advanced payment under subparagraph (E), the Board shall establish a date by which the applicant shall present a submission in compliance with section 508(h) (including the procedures implemented under that section) to the Board for approval.*

*''(G) FINAL PAYMENT.—*

*''(i) APPROVED POLICIES.—If a policy is submitted under subparagraph (F) and approved by the Board under section 508(h) and the procedures established by the Board (including procedures established under subparagraph (B)), the applicant shall be eligible for a payment of reasonable research and development costs in the same manner as policies reimbursed under paragraph (1)(B), less any payments made pursuant to subparagraph (E).*

*''(ii) POLICIES NOT APPROVED.—If a policy is submitted under subparagraph (F) and is not approved by the Board under section 508(h), the Corporation shall—*

*''(I) not seek a refund of any payments made in accordance with this paragraph; and*

*''(II) not make any further research and development cost payments associated with the submission of the policy under this paragraph.*

*''(H) POLICY NOT SUBMITTED.—If an applicant receives an advance payment and fails to fulfill the obligation of the applicant to the Board by not submitting a completed submission without just cause and in accordance with the procedures established under subparagraph (B)), including notice and reasonable opportunity to respond, as determined by the Board, the applicant shall return to the Board the amount of the advance plus interest.*

*''(I) REPEATED SUBMISSIONS.—The Board may prohibit advance payments to applicants who have submitted—*

*''(i) a concept proposal or submission that did not result in a marketable product; or*

*''(ii) a concept proposal or submission of poor quality.*

*''(J) CONTINUED ELIGIBILITY.—A determination that an applicant is not eligible for advance payments under this paragraph shall not prevent an applicant from reimbursement under paragraph (1)(B).''.*

*(b) CONFORMING AMENDMENTS.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended—*

*(1) in paragraph (3), by striking ''or (2)''; and*

*(2) in paragraph (4)(A), by striking ''and (2)''.''*

***SEC. 12023. CONTRACTS FOR ADDITIONAL POLICIES AND STUDIES.***

*Section 522(c) of the Federal Crop Insurance Act (7 U.S.C. 1522) is amended—*

*(1) by redesignating paragraph (10) as paragraph (17); and*

*(2) by inserting after paragraph (9) the following:*

*''(10) CONTRACTS FOR ORGANIC PRODUCTION COVERAGE IMPROVEMENTS.—*

*''(A) CONTRACTS REQUIRED.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall enter into 1 or more contracts for the development of improvements in Federal crop insurance policies covering crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).*

*''(B) REVIEW OF UNDERWRITING RISK AND LOSS EXPERIENCE.—*

*''(i) REVIEW REQUIRED.—*

*''(I) IN GENERAL.—A contract under subparagraph (A) shall include a review of the underwriting, risk, and loss experience of organic crops covered by the Corporation, as compared with the same crops produced in the same counties and during the same crop years using nonorganic methods.*

*''(II) REQUIREMENTS.—The review shall—*

*''(aa) to the maximum extent practicable, be designed to allow the Corporation to determine whether significant, consistent, or systemic variations in loss history exist between organic and nonorganic production;*

*''(bb) include the widest available range of data collected by the Secretary and other outside sources of information; and*

*''(cc) not be limited to loss history under existing crop insurance policies.*

*''(ii) EFFECT ON PREMIUM SURCHARGE.—Unless the review under this subparagraph documents the existence of significant, consistent, and systemic variations in loss history between organic and nonorganic crops, either collectively or on an individual crop basis, the Corporation shall eliminate or reduce the premium surcharge that the Corporation charges for coverage for organic crops, as determined in accordance with the results.*

*''(iii) ANNUAL UPDATES.—Beginning with the 2009 crop year, the review under this subparagraph shall be updated on an annual basis as data is accumulated by the Secretary and other sources, so that the Corporation may make determinations regarding adjustments to the surcharge in a timely manner as quickly as evolving practices and data trends allow.*

*''(C) ADDITIONAL PRICE ELECTION.—*

*''(i) IN GENERAL.—A contract under subparagraph (A) shall include the development of a procedure, including any associated changes in policy terms or materials required for implementation of the procedure, to offer producers of organic crops an additional price election that reflects actual prices received by organic producers for crops from the field (including appropriate retail and wholesale prices), as established using data collected and maintained by the Secretary or from other sources.*

*''(ii) TIMING.—The development of the procedure shall be completed in a timely manner to allow the Corporation to begin offering the additional price election for organic crops with sufficient data for the 2010 crop year.*

*''(iii) EXPANSION.—The procedure shall be expanded as quickly as practicable as additional data on prices of organic crops collected by the Secretary and other sources of information becomes available, with a goal of applying this procedure to all organic crops not later than the fifth full crop year that begins after the date of enactment of Food, Conservation, and Energy Act of 2008.*

*''(D) REPORTING REQUIREMENTS.—*

*''(i) IN GENERAL.—The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—*

*''(I) the numbers and varieties of organic crops insured;*

*''(II) the development of new insurance approaches; and*

*''(III) the progress of implementing the initiatives required under this paragraph, including the rate at which additional price elections are adopted for organic crops.*

*''(ii) RECOMMENDATIONS.—The report shall include such recommendations as the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops.*

*''(11) ENERGY CROP INSURANCE POLICY.—*

*''(A) DEFINITION OF DEDICATED ENERGY CROP.—In this subsection, the term 'dedicated energy crop' means an annual or perennial crop that—*

*''(i) is grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products; and*

*''(ii) is not typically used for food, feed, or fiber.*

*''(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure dedicated energy crops.*

*''(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of dedicated energy crops, including policies and plans of insurance that—*

*''(i) are based on market prices and yields;*

*''(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate the policies and plans of insurance based on the use of weather or rainfall indices to protect the interests of crop producers; and*

*''(iii) provide protection for production or revenue losses, or both.*

*''(12) AQUACULTURE INSURANCE POLICY.—*

*''(A) DEFINITION OF AQUACULTURE.—In this subsection:*

*''(i) IN GENERAL.—The term 'aquaculture' means the propagation and rearing of aquatic species in controlled or selected environments, including shellfish cultivation on grants or leased bottom and ocean ranching.*

*''(ii) EXCLUSION.—The term 'aquaculture' does not include the private ocean ranching of Pacific salmon for profit in any State in which private ocean ranching of Pacific salmon is prohibited by any law (including regulations).*

*''(B) AUTHORITY.—*

*''(i) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall offer to enter into 3 or more contracts with qualified entities to carry out research and development regarding a policy to insure the production of aquacultural species in aquaculture operations.*

*''(ii) BIVALVE SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of bivalve species, including—*

*''(I) American oysters (crassostrea virginica);*

*''(II) hard clams (mercenaria mercenaria);*

*''(III) Pacific oysters (crassostrea gigas);*

*''(IV) Manila clams (tapes phillipinnarium); or*

*''(V) blue mussels (mytilus edulis).*

*''(iii) FRESHWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of freshwater species, including—*

*''(I) catfish (icataluridae);*

*''(II) rainbow trout (oncorhynchus mykiss);*

*''(III) largemouth bass (micropterus salmoides);*

*''(IV) striped bass (morone saxatilis);*

*''(V) bream (abramis brama);*

*''(VI) shrimp (penaeus); or*

*''(VII) tilapia (oreochromis niloticus).*

*''(iv) SALTWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of saltwater species, including—*

*''(I) Atlantic salmon (salmo salar); or*

*''(II) shrimp (penaeus).*

*''(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of policies and*

*plans of insurance for the production of aquacultural species in aquaculture operations, including policies and plans of insurance that—*

*''(i) are based on market prices and yields;*

*''(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate how best to incorporate insuring of production of aquacultural species in aquaculture operations into existing policies covering adjusted gross revenue; and*

*''(iii) provide protection for production or revenue losses, or both.*

*''(13) POULTRY INSURANCE POLICY.—*

*''(A) DEFINITION OF POULTRY.—In this paragraph, the term 'poultry' has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).*

*''(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure commercial poultry production.*

*''(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of poultry, including policies and plans of insurance that provide protection for production or revenue losses, or both, while the poultry is in production.*

*''(14) APIARY POLICIES.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development regarding insurance policies that cover loss of bees.*

*''(15) ADJUSTED GROSS REVENUE POLICIES FOR BEGINNING PRODUCERS.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development into needed modifications of adjusted gross revenue insurance policies, consistent with principles of actuarial sufficiency, to permit coverage for beginning producers with no previous production history, including permitting those producers to have production and premium rates based on information with similar farming operations.*

*''(16) SKIPROW CROPPING PRACTICES.—*

*''(A) IN GENERAL.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research into needed modifications of policies to insure corn and sorghum produced in the Central Great Plains (as determined by the Agricultural Research Service) through use of skiprow cropping practices.*

*''(B) RESEARCH.—Research described in subparagraph (A) shall—*

*''(i) review existing research on skiprow cropping practices and actual production history of producers using skiprow cropping practices; and*

*''(ii) evaluate the effectiveness of risk management tools for producers using skiprow cropping practices, including—*

*''(I) the appropriateness of rules in existence as of the date of enactment of this paragraph relating to the determination of acreage planted in skiprow patterns; and*

*''(II) whether policies for crops produced through skiprow cropping practices reflect actual production capabilities.''.*

***SEC. 12024. FUNDING FROM INSURANCE FUND.***

*Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended—*

*(1) in paragraph (1), by striking ''$10,000,000'' and all that follows through the end of the paragraph and inserting ''$7,500,000 for fiscal year 2008 and each subsequent fiscal year'';*

*(2) in paragraph (2)(A), by striking ''$20,000,000 for'' and all that follows through ''year 2004'' and inserting ''$12,500,000 for fiscal year 2008''; and*

*(3) in paragraph (3), by striking ''the Corporation may use'' and all that follows through the end of the paragraph and inserting ''the Corporation may use—*

*''(A) not more than $5,000,000 for each fiscal year to improve program integrity, including by—*

*''(i) increasing compliance-related training;*

*''(ii) improving analysis tools and technology regarding compliance;*

*''(iii) use of information technology, as determined by the Corporation; and*

*''(iv) identifying and using innovative compliance strategies; and*

*''(B) any excess amounts to carry out other activities authorized under this section.''.*

***SEC. 12025. PILOT PROGRAMS.***

*(a) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:*

*''(f) CAMELINA PILOT PROGRAM.—*

*''(1) IN GENERAL.—The Corporation shall establish a pilot program under which producers or processors of camelina may propose for approval by the Board policies or plans of insurance for camelina, in accordance with section 508(h).*

*''(2) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under paragraph (1) if, as determined by the Board, the policy or plan of insurance—*

*''(A) protects the interests of producers;*

*''(B) is actuarially sound; and*

*''(C) meets the requirements of this title.*

*''(3) TIMEFRAME.—The Corporation shall commence the camelina insurance pilot program as soon as practicable after the date of enactment of this subsection.*

*''(g) SESAME INSURANCE PILOT PROGRAM.—*

*''(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a pilot program under which a producer of nondehiscent sesame under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.*

*''(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the sesame insurance pilot program shall—*

*''(A) be offered through reinsurance arrangements with private insurance companies;*

*''(B) be actuarially sound; and*

*''(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.*

*''(3) LOCATION.—The sesame insurance pilot program shall be carried out only in the State of Texas.*

*''(4) DURATION.—The Corporation shall commence the sesame insurance pilot program as soon as practicable after the date of the enactment of this subsection.*

*''(h) GRASS SEED INSURANCE PILOT PROGRAM.—*

*''(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a grass seed pilot program under which a producer of Kentucky bluegrass or perennial rye grass under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.*

*''(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the grass seed insurance pilot program shall—*

*''(A) be offered through reinsurance arrangements with private insurance companies;*

*''(B) be actuarially sound; and*

*''(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.*

*''(3) LOCATION.—The grass seed insurance pilot program shall be carried out only in each of the States of Minnesota and North Dakota.*

*''(4) DURATION.—The Corporation shall commence the grass seed insurance pilot program as soon as practicable after the date of the enactment of this subsection.''.*

*(b) CONFORMING AMENDMENT.—Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended by adding ''camelina,'' after ''sea oats,''.*

***SEC. 12026. RISK MANAGEMENT EDUCATION FOR BEGINNING FARMERS OR RANCHERS.***

*Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended—*

*(1) in paragraph (1), by striking ''paragraph (4)'' and inserting ''paragraph (5)'';*

*(2) by redesignating paragraph (4) as paragraph (5); and*

*(3) by inserting after paragraph (3) the following:*

*''(4) REQUIREMENTS.—In carrying out the programs established under paragraphs (2) and (3), the Secretary shall place special emphasis on risk management strategies, education, and outreach specifically targeted at—*

*''(A) beginning farmers or ranchers;*

*''(B) legal immigrant farmers or ranchers that are attempting to become established producers in the United States;*

*''(C) socially disadvantaged farmers or ranchers;*

*''(D) farmers or ranchers that—*

*''(i) are preparing to retire; and*

*''(ii) are using transition strategies to help new farmers or ranchers get started; and*

*''(E) new or established farmers or ranchers that are converting production and marketing systems to pursue new markets.''.*

***SEC. 12027. COVERAGE FOR AQUACULTURE UNDER NONINSURED CROP ASSISTANCE PROGRAM.***

*Section 196(c)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(c)(2)) is amended—*

*(1) by striking ''On making'' and inserting the following:*

*''(A) IN GENERAL.—On making''; and*

*(2) by adding at the end the following:*

*''(B) AQUACULTURE PRODUCERS.—On making a determination described in subsection (a)(3) for aquaculture producers, the Secretary shall provide assistance under this section to aquaculture producers from all losses related to drought.''.*

***SEC. 12028. INCREASE IN SERVICE FEES FOR NONINSURED CROP ASSISTANCE PROGRAM.***

*Section 196(k)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(k)(1)) is amended—*

*(1) in subparagraph (A), by striking ''$100'' and inserting ''$250''; and*

*(2) in subparagraph (B)—*

*(A) by striking ''$300'' and inserting ''$750''; and*

*(B) by striking ''$900'' and inserting ''$1,875''.*

***SEC. 12029. DETERMINATION OF CERTAIN SWEET POTATO PRODUCTION.***

*Section 9001(d) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 211) is amended—*

*(1) by redesignating paragraph (8) as paragraph (9); and*

*(2) by inserting after paragraph (7) the following:*

*''(8) SWEET POTATOES.—*

*''(A) DATA.—In the case of sweet potatoes, any data obtained under a pilot program carried out by the Risk Management Agency shall not be considered for the purpose of determining the quantity of production under the crop disaster assistance program established under this section.*

*''(B) EXTENSION OF DEADLINE.—If this paragraph is not implemented before the sign-up deadline for the crop disaster assistance program established under this section, the Secretary shall extend the deadline for producers of sweet potatoes to permit sign-up for the program in accordance with this paragraph.''.*

***SEC. 12030. DECLINING YIELD REPORT.***

*Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing details about activities and administrative options of the Federal Crop Insurance Corporation and Risk Management Agency that address issues relating to—*

*(1) declining yields on the actual production histories of producers; and*

*(2) declining and variable yields for perennial crops, including pecans.*

***SEC. 12031. DEFINITION OF BASIC UNIT.***

*The Secretary shall not modify the definition of ''basic unit'' in accordance with the proposed regulations entitled ''Common Crop Insurance Regulations'' (72 Fed. Reg. 28895; relating to common crop insurance regulations) or any successor regulation.*

***SEC. 12032. CROP INSURANCE MEDIATION.***

*Section 275 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6995) is amended—*

*(1) by striking ''If an officer'' and inserting the following:*

*''(a) IN GENERAL.—If an officer'';*

*(2) by striking ''With respect to'' and inserting the following:*

*''(b) FARM SERVICE AGENCY.—With respect to'';*

*(3) by striking ''If a mediation''; and inserting the following:*

*''(c) MEDIATION.—If a mediation''; and*

*(4) in subsection (c) (as so designated)—*

*(A) by striking ''participant shall be offered'' and inserting ''participant shall—*

*''(1) be offered''; and*

*(B) by striking the period at the end and inserting the following: ''; and*

*''(2) to the maximum extent practicable, be allowed to use both informal agency review and mediation to resolve disputes under that title.''.*

***SEC. 12033. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.***

*(a) IN GENERAL.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following:*

***"Subtitle B—Supplemental Agricultural Disaster Assistance***

***"SEC. 531. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.***

*''(a) DEFINITIONS.—In this section:*

*''(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under subtitle A or the noninsured crop disaster assistance program, respectively.*

*''(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—*

*''(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B), the actual production history for the eligible producer without regard to any yields established under that section;*

*''(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B), the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B); and*

*''(C) in all other cases, the actual production history of the eligible producer on a farm.*

*''(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—*

*''(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;*

*''(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and*

*''(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.*

*''(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.*

*''(5) DISASTER COUNTY.—*

*''(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.*

*''(B) INCLUSION.—The term 'disaster county' includes—*

*''(i) a county contiguous to a county described in subparagraph (A); and*

*''(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.*

*''(6) ELIGIBLE PRODUCER ON A FARM.—*

*''(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.*

*''(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—*

*''(i) a citizen of the United States;*

*''(ii) a resident alien;*

*''(iii) a partnership of citizens of the United States; or*

*''(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.*

*''(7) FARM.—*

*''(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.*

*''(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.*

*''(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.*

*''(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.*

*''(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under subtitle A.*

*''(10) LIVESTOCK.—The term 'livestock' includes—*

*''(A) cattle (including dairy cattle);*

*''(B) bison;*

*''(C) poultry;*

*''(D) sheep;*

*''(E) swine;*

*''(F) horses; and*

*''(G) other livestock, as determined by the Secretary.*

*''(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.*

*''(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

*''(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).*

*''(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.*

*''(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).*

*''(16) STATE.—The term 'State' means—*

*''(A) a State;*

*''(B) the District of Columbia;*

*''(C) the Commonwealth of Puerto Rico; and*

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

*''(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974.*

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

*''(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—*

*''(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.*

*''(2) AMOUNT.—*

*''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—*

*''(i) the disaster assistance program guarantee, as described in paragraph (3); and*

*''(ii) the total farm revenue for a farm, as described in paragraph (4).*

*''(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.*

*''(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—*

*''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—*

*''(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—*

*''(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;*

*''(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;*

*''(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—*

*''(aa) the adjusted actual production history yield; or*

*''(bb) the counter-cyclical program payment yield for each crop; and*

*''(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—*

*''(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;*

*''(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and*

*''(III) the payment yield for the commodity that is equal to the higher of—*

''(aa) the adjusted noninsured crop assistance program yield guarantee; or

''(bb) the counter-cyclical program payment yield for each crop.

''(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

''(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

''(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

''(4) FARM REVENUE.—

''(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

''(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

''(I) the actual crop acreage harvested by an eligible producer on a farm;

''(II) the estimated actual yield of the crop production; and

''(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

''(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

''(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

''(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

''(v) the amount of payments for prevented planting on a farm;

''(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

''(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

''(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

''(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

''(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

''(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

''(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

''(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

''(A) the product obtained by multiplying—

''(i) the greatest of—

''(I) the adjusted actual production history yield of the eligible producer on a farm; and

''(II) the counter-cyclical program payment yield;

''(ii) the acreage planted or prevented from being planted for each crop; and

''(iii) 100 percent of the insurance price guarantee; and

''(B) the product obtained by multiplying—

''(i) 100 percent of the adjusted noninsured crop assistance program yield; and

''(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

''(c) LIVESTOCK INDEMNITY PAYMENTS.—

''(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

''(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

''(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED LIVESTOCK.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

''(I) owned;

''(II) leased;

''(III) purchased;

''(IV) entered into a contract to purchase;

''(V) is a contract grower; or

''(VI) sold or otherwise disposed of due to qualifying drought conditions during—

''(aa) the current production year; or

''(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

''(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

''(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

''(C) ELIGIBLE LIVESTOCK PRODUCER.—

''(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

''(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

''(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

''(III) certifies grazing loss; and

''(IV) meets all other eligibility requirements established under this subsection.

''(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

''(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

''(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

''(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

''(A) a drought condition, as described in paragraph (3); or

''(B) fire, as described in paragraph (4).

''(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

''(A) ELIGIBLE LOSSES.—

''(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

''(I) is native or improved pastureland with permanent vegetative cover; or

''(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

''(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

''(B) MONTHLY PAYMENT RATE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

''(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

''(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

''(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

''(C) MONTHLY FEED COST.—

''(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

''(I) 30 days;

''(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

''(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

''(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

''(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

''(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

''(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

''(I) the higher of—

''(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

''(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

''(II) 56.

''(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

''(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

''(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

''(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

''(ii) DROUGHT INTENSITY.—

''(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

''(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

''(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

''(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

''(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

''(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

''(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

''(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

''(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

''(C) PAYMENT DURATION.—

''(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

''(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

''(II) ending on the last day of the Federal lease of the eligible livestock producer.

''(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

''(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

''(i) obtained a policy or plan of insurance under subtitle A for the grazing land incurring the losses for which assistance is being requested; or

''(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

''(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

''(i) waive subparagraph (A); and

''(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

''(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

''(D) EQUITABLE RELIEF.—

''(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

''(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

''(6) NO DUPLICATIVE PAYMENTS.—

''(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

''(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

''(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

''(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

''(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

''(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

''(f) TREE ASSISTANCE PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

''(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

''(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

''(D) TREE.—The term 'tree' includes a tree, bush, and vine.

''(2) ELIGIBILITY.—

''(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

''(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

''(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

''(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

''(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

''(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

''(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

''(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

''(4) LIMITATIONS ON ASSISTANCE.—

''(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

''(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

''(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a

*person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.*

*''(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—*

*''(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—*

*''(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle); or*

*''(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.*

*''(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.*

*''(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—*

*''(A) waive paragraph (1); and*

*''(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.*

*''(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.*

*''(5) EQUITABLE RELIEF.—*

*''(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.*

*''(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.*

*''(h) PAYMENT LIMITATIONS.—*

*''(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).*

*''(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.*

*''(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.*

*''(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.*

*''(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.*

*''(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under subtitle A and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).*

*''(k) APPLICATION.—*

*''(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any provision of subtitle A, subtitle A shall not apply to this subtitle.*

*''(2) CROSS REFERENCES.—Paragraph (1) shall not apply to a specific reference in this subtitle to a provision of subtitle A.''.*

*(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 531 of the Federal Crop Insurance Act (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.*

*(c) CONFORMING AMENDMENTS.—*

*(1) Section 501 of the Federal Crop Insurance Act (7 U.S.C. 1501) is amended by striking the section heading and enumerator and inserting the following:*

***''Subtitle A—Federal Crop Insurance Act***

***''SEC. 501. SHORT TITLE AND APPLICATION OF OTHER PROVISIONS.''.***

*(2) Subtitle A of the Federal Crop Insurance Act (as designated under paragraph (1)) is amended—*

*(A) by striking ''This title'' each place it appears and inserting ''This subtitle''; and*

*(B) by striking ''this title'' each place it appears and inserting ''this subtitle''.*

***SEC. 12034. FISHERIES DISASTER ASSISTANCE.***

*Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall transfer to the Secretary of Commerce $170,000,000 for fiscal year 2008 for the National Marine Fisheries Service to distribute to commercial and recreational members of the fishing communities affected by the salmon fishery failure in the States of California, Oregon, and Washington designated under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) on May 1, 2008, in accordance with that section.*

***Subtitle B—Small Business Disaster Loan Program***

***SEC. 12051. SHORT TITLE.***

*This subtitle may be cited as the ''Small Business Disaster Response and Loan Improvements Act of 2008''.*

***SEC. 12052. DEFINITIONS.***

*In this subtitle—*

*(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;*

*(2) the term ''disaster area'' means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration;*

*(3) the term ''disaster loan program of the Administration'' means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;*

*(4) the term ''disaster update period'' means the period beginning on the date on which the President declares a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act) and ending on the date on which such declaration terminates;*

*(5) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);*

*(6) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632); and*

*(7) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.*

***PART I—DISASTER PLANNING AND RESPONSE***

***SEC. 12061. ECONOMIC INJURY DISASTER LOANS TO NONPROFITS.***

*(a) IN GENERAL.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—*

*(1) in the matter preceding subparagraph (A)—*

*(A) by inserting after ''small business concern'' the following: '', private nonprofit organization,''; and*

*(B) by inserting after ''the concern'' the following: '', the organization,''; and*

*(2) in subparagraph (D) by inserting after ''small business concerns'' the following: '', private nonprofit organizations,''.*

*(b) CONFORMING AMENDMENT.—Section 7(c)(5)(C) of the Small Business Act (15 U.S.C. 636(c)(5)(C)) is amended by inserting after ''business'' the following: '', private nonprofit organization,''.*

***SEC. 12062. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.***

*The Small Business Act (15 U.S.C. 631 et seq.) is amended—*

*(1) by redesignating section 37 as section 44; and*

*(2) by inserting after section 36 the following:*

***''SEC. 37. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.***

*''(a) COORDINATION REQUIRED.—The Administrator shall ensure that the disaster assistance programs of the Administration are coordinated, to the maximum extent practicable, with the disaster assistance programs of the Federal Emergency Management Agency.*

*''(b) REGULATIONS REQUIRED.—The Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall establish regulations to ensure that each application for disaster assistance is submitted as quickly as practicable to the Administration or directed to the appropriate agency under the circumstances.*

*''(c) COMPLETION; REVISION.—The initial regulations shall be completed not later than 270 days after the date of the enactment of the Small Business Disaster Response and Loan Improvements Act of 2008. Thereafter, the regulations shall be revised on an annual basis.*

*''(d) REPORT.—The Administrator shall include a report on the regulations whenever the Administration submits the report required by section 43.''.*

***SEC. 12063. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.***

*(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3), the following:*

*''(4) COORDINATION WITH FEMA.—*

*''(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster declared*

*under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.*

*''(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—*

*''(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;*

*''(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and*

*''(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.*

*''(5) PUBLIC AWARENESS OF DISASTERS.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—*

*''(A) the date of such declaration;*

*''(B) cities and towns within the area of such declaration;*

*''(C) loan application deadlines related to such disaster;*

*''(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);*

*''(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;*

*''(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and*

*''(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.''.*

*(b) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—*

*(1) encourages a proactive approach to the disaster relief efforts of the Administration;*

*(2) makes clear the services provided by the Administration, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;*

*(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;*

*(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and*

*(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.*

*(c) TECHNICAL AND CONFORMING AMENDMENTS.—*

*(1) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:*

*''(s) MAJOR DISASTER.—In this Act, the term 'major disaster' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).''.*

*(2) TECHNICAL CORRECTION.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended by striking ''Disaster Relief and Emergency Assistance Act'' and inserting ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)''.*

***SEC. 12064. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.***

*(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.*

*(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).*

***SEC. 12065. INCREASING COLLATERAL REQUIREMENTS.***

*Section 7(c)(6) of the Small Business Act (15 U.S.C. 636(c)(6)) is amended by striking ''$10,000 or less'' and inserting ''$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a major disaster)''.*

***SEC. 12066. PROCESSING DISASTER LOANS.***

*(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:*

*''(6) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—*

*''(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.*

*''(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.''.*

*(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.*

***SEC. 12067. INFORMATION TRACKING AND FOLLOW-UP SYSTEM.***

*The Small Business Act is amended by inserting after section 37, as added by this Act, the following:*

***''SEC. 38. INFORMATION TRACKING AND FOLLOW-UP SYSTEM FOR DISASTER ASSISTANCE.***

*''(a) SYSTEM REQUIRED.—The Administrator shall develop, implement, or maintain a centralized information system to track communications between personnel of the Administration and applicants for disaster assistance. The system shall ensure that whenever an applicant for disaster assistance communicates with such personnel on a matter relating to the application, the following information is recorded:*

*''(1) The method of communication.*

*''(2) The date of communication.*

*''(3) The identity of the personnel.*

*''(4) A summary of the subject matter of the communication.*

*''(b) FOLLOW-UP REQUIRED.—The Administrator shall ensure that an applicant for disaster assistance receives, by telephone, mail, or electronic mail, follow-up communications from the Administration at all critical stages of the application process, including the following:*

*''(1) When the Administration determines that additional information or documentation is required to process the application.*

*''(2) When the Administration determines whether to approve or deny the loan.*

*''(3) When the primary contact person managing the loan application has changed.''.*

***SEC. 12068. INCREASED DEFERMENT PERIOD.***

*(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—*

*(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and*

*(2) by inserting after subsection (e), as so redesignated, the following:*

*''(f) ADDITIONAL REQUIREMENTS FOR 7(b) LOANS.—*

*''(1) INCREASED DEFERMENT AUTHORIZED.—*

*''(A) IN GENERAL.—In making loans under subsection (b), the Administrator may provide, to the person receiving the loan, an option to defer repayment on the loan.*

*''(B) PERIOD.—The period of a deferment under subparagraph (A) may not exceed 4 years.''.*

*(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—*

*(1) in section 4(c)—*

*(A) in paragraph (1), by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and*

*(B) in paragraph (2)—*

*(i) by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and*

*(ii) by striking ''7(e),''; and*

*(2) in section 7(b), in the undesignated matter following paragraph (3)—*

*(A) by striking ''That the provisions of paragraph (1) of subsection (c)'' and inserting ''That the provisions of paragraph (1) of subsection (d)''; and*

*(B) by striking ''Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c),'' and inserting ''Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)''.*

***SEC. 12069. DISASTER PROCESSING REDUNDANCY.***

*The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 38, as added by this Act, the following:*

***''SEC. 39. DISASTER PROCESSING REDUNDANCY.***

*''(a) IN GENERAL.—The Administrator shall ensure that the Administration has in place a facility for disaster loan processing that, whenever the Administration's primary facility for disaster loan processing becomes unavailable, is able to take over all disaster loan processing from that primary facility within 2 days.*

*''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such*

*sums as may be necessary to carry out this section.''.*

**SEC. 12070. NET EARNINGS CLAUSES PROHIBITED.**

*Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (f), as added by this Act, the following:*

*''(g) NET EARNINGS CLAUSES PROHIBITED FOR 7(b) LOANS.—In making loans under subsection (b), the Administrator shall not require the borrower to pay any non-amortized amount for the first five years after repayment begins.''.*

**SEC. 12071. ECONOMIC INJURY DISASTER LOANS IN CASES OF ICE STORMS AND BLIZZARDS.**

*Section 3(k)(2) of the Small Business Act (15 U.S.C. 632(k)(2)) is amended—*

*(1) in subparagraph (A) by striking ''and'';*

*(2) in subparagraph (B) by striking the period at the end and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(C) ice storms and blizzards.''.*

**SEC. 12072. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.**

*(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—*

*(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the ''disaster response plan'') to apply to major disasters; and*

*(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing the amendments to the disaster response plan.*

*(b) CONTENTS.—The report required under subsection (a)(2) shall include—*

*(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted to Congress on July 14, 2006;*

*(2) a description of how the Administrator plans to use and integrate District Office personnel of the Administration in the response to a major disaster, including information on the use of personnel for loan processing and loan disbursement;*

*(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;*

*(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;*

*(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;*

*(6) recommendations, if any, on how the Administration can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;*

*(7) any surge plan for the disaster loan program of the Administration in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);*

*(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;*

*(9) the in-service and preservice training procedures for disaster response staff of the Administration;*

*(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;*

*(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and*

*(12) a plan for how the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.*

*(c) BIENNIAL DISASTER SIMULATION EXERCISE.—*

*(1) EXERCISE REQUIRED.—The Administrator shall conduct a disaster simulation exercise at least once every 2 fiscal years. The exercise shall include the participation of, at a minimum, not less than 50 percent of the individuals in the disaster reserve corps and shall test, at maximum capacity, all of the information technology and telecommunications systems of the Administration that are vital to the activities of the Administration during such a disaster.*

*(2) REPORT.—The Administrator shall include a report on the disaster simulation exercises conducted under paragraph (1) each time the Administration submits a report required under section 43 of the Small Business Act, as added by this Act.*

**SEC. 12073. DISASTER PLANNING RESPONSIBILITIES.**

*(a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRATION DISASTER PLANNING RESPONSIBILITIES.—The disaster planning function of the Administration shall be assigned to an individual appointed by the Administrator who—*

*(1) is not an employee of the Office of Disaster Assistance of the Administration;*

*(2) has proven management ability;*

*(3) has substantial knowledge in the field of disaster readiness and emergency response; and*

*(4) has demonstrated significant experience in the area of disaster planning.*

*(b) RESPONSIBILITIES.—The individual assigned the disaster planning function of the Administration shall report directly and solely to the Administrator and shall be responsible for—*

*(1) creating, maintaining, and implementing the comprehensive disaster response plan of the Administration described in section 12072;*

*(2) ensuring there are in-service and pre-service training procedures for the disaster response staff of the Administration;*

*(3) coordinating and directing the training exercises of the Administration relating to disasters, including disaster simulation exercises and disaster exercises coordinated with other government departments and agencies; and*

*(4) other responsibilities relevant to disaster planning and readiness, as determined by the Administrator.*

*(c) COORDINATION.—In carrying out the responsibilities described in subsection (b), the individual assigned the disaster planning function of the Administration shall coordinate with—*

*(1) the Office of Disaster Assistance of the Administration;*

*(2) the Administrator of the Federal Emergency Management Agency; and*

*(3) other Federal, State, and local disaster planning offices, as necessary.*

*(d) RESOURCES.—The Administrator shall ensure that the individual assigned the disaster planning function of the Administration has adequate resources to carry out the duties under this section.*

*(e) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—*

*(1) a description of the actions of the Administrator to assign an individual the disaster planning function of the Administration;*

*(2) information detailing the background and expertise of the individual assigned; and*

*(3) information on the status of the implementation of the responsibilities described in subsection (b).*

**SEC. 12074. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF DISASTER ASSISTANCE AND DISASTER CADRE.**

*(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (6), as added by this Act, the following:*

*''(7) DISASTER ASSISTANCE EMPLOYEES.—*

*''(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—*

*''(i) in the Office of the Disaster Assistance is not fewer than 800; and*

*''(ii) in the Disaster Cadre of the Administration is not fewer than 1,000.*

*''(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—*

*''(i) detailing staffing levels on that date;*

*''(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and*

*''(iii) containing such additional information, as determined appropriate by the Administrator.''.*

**SEC. 12075. COMPREHENSIVE DISASTER RESPONSE PLAN.**

*The Small Business Act (15 U.S.C. 631 et seq.) is amended inserting after section 39, as added by this Act, the following:*

**"SEC. 40. COMPREHENSIVE DISASTER RESPONSE PLAN.**

*''(a) PLAN REQUIRED.—The Administrator shall develop, implement, or maintain a comprehensive written disaster response plan. The plan shall include the following:*

*''(1) For each region of the Administration, a description of the disasters most likely to occur in that region.*

*''(2) For each disaster described under paragraph (1)—*

*''(A) an assessment of the disaster;*

*''(B) an assessment of the demand for Administration assistance most likely to occur in response to the disaster;*

*''(C) an assessment of the needs of the Administration, with respect to such resources as information technology, telecommunications, human resources, and office space, to meet the demand referred to in subparagraph (B); and*

*''(D) guidelines pursuant to which the Administration will coordinate with other Federal agencies and with State and local authorities to best respond to the demand referred to in subparagraph (B) and to best use the resources referred to in that subparagraph.*

*''(b) COMPLETION; REVISION.—The first plan required by subsection (a) shall be completed not later than 180 days after the date of the enactment of this section. Thereafter, the Administrator shall update the plan on an annual basis and following any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under section 7(b)(9).*

*''(c) KNOWLEDGE REQUIRED.—The Administrator shall carry out subsections (a) and (b) through an individual with substantial knowledge in the field of disaster readiness and emergency response.*

*''(d) REPORT.—The Administrator shall include a report on the plan whenever the Administration submits the report required by section 43.''.*

**SEC. 12076. PLANS TO SECURE SUFFICIENT OFFICE SPACE.**

*The Small Business Act is amended by inserting after section 40, as added by this Act, the following:*

**"SEC. 41. PLANS TO SECURE SUFFICIENT OFFICE SPACE.**

*''(a) PLANS REQUIRED.—The Administrator shall develop long-term plans to secure sufficient office space to accommodate an expanded workforce in times of disaster.*

*''(b) REPORT.—The Administrator shall include a report on the plans developed under subsection (a) each time the Administration submits a report required under section 43.''.*

**SEC. 12077. APPLICANTS THAT HAVE BECOME A MAJOR SOURCE OF EMPLOYMENT DUE TO CHANGED ECONOMIC CIRCUMSTANCES.**

*Section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)) is amended by inserting after ''constitutes'' the following: '', or have become due to changed economic circumstances,''.*

**SEC. 12078. DISASTER LOAN AMOUNTS.**

*(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (7), as added by this Act, the following:*

*''(8) INCREASED LOAN CAPS.—*

*''(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $2,000,000.*

*''(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.''.*

*(b) DISASTER MITIGATION.—*

*(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting ''of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)'' after ''20 per centum''.*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act.*

*(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—*

*(1) in the matter preceding paragraph (1), by striking ''the, Administration'' and inserting ''the Administration''; and*

*(2) in the undesignated matter at the end—*

*(A) by striking '', (2), and (4)'' and inserting ''and (2)''; and*

*(B) by striking '', (2), or (4)'' and inserting ''(2)''.*

**SEC. 12079. SMALL BUSINESS BONDING THRESHOLD.**

*(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster, the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.*

*(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.*

*(c) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out this section only with amounts appropriated in advance specifically to carry out this section.*

***PART II—DISASTER LENDING***

**SEC. 12081. ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.**

*Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:*

*''(9) DECLARATION OF ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.—*

*''(A) IN GENERAL.—If the President declares a major disaster, the Administrator may declare eligibility for additional disaster assistance in accordance with this paragraph.*

*''(B) THRESHOLD.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—*

*''(i) have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;*

*''(ii) be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and*

*''(iii) be of such size and scope that—*

*''(I) the disaster assistance programs under the other paragraphs under this subsection are incapable of providing adequate and timely assistance to individuals or business concerns located within the disaster area; or*

*''(II) a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.''.*

**SEC. 12082. ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.**

*Paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by section 12081, is amended by adding at the end the following:*

*''(C) ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.—*

*''(i) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to eligible small business concerns located anywhere in the United States.*

*''(ii) PROCESSING TIME.—*

*''(I) IN GENERAL.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.*

*''(II) SUSPENSION OF APPLICATIONS FROM OUTSIDE DISASTER AREA.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.*

*''(iii) LOAN TERMS.—A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).*

*''(D) DEFINITIONS.—In this paragraph—*

*''(i) the term 'disaster area' means the area for which the applicable major disaster was declared;*

*''(ii) the term 'disaster-related substantial economic injury' means economic harm to a business concern that results in the inability of the business concern to—*

*''(I) meet its obligations as it matures;*

*''(II) meet its ordinary and necessary operating expenses; or*

*''(III) market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business concern relies on materials from the disaster area or sells or markets in the disaster area; and*

*''(iii) the term 'eligible small business concern' means a small business concern—*

*''(I) that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and*

*''(II)(aa) for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;*

*''(bb) for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or*

*''(cc) that relies on a provider located in the disaster area for a service that is not readily available elsewhere.''.*

**SEC. 12083. PRIVATE DISASTER LOANS.**

*(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (b) the following:*

*''(c) PRIVATE DISASTER LOANS.—*

*''(1) DEFINITIONS.—In this subsection—*

*''(A) the term 'disaster area' means any area for which the President declared a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9), during the period of that major disaster declaration;*

*''(B) the term 'eligible individual' means an individual who is eligible for disaster assistance under subsection (b)(1) relating to a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9);*

*''(C) the term 'eligible small business concern' means a business concern that is—*

*''(i) a small business concern, as defined under this Act; or*

*''(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958;*

*''(D) the term 'preferred lender' means a lender participating in the Preferred Lender Program;*

*''(E) the term 'Preferred Lender Program' has the meaning given that term in subsection (a)(2)(C)(ii); and*

*''(F) the term 'qualified private lender' means any privately-owned bank or other lending institution that—*

*''(i) is not a preferred lender; and*

*''(ii) the Administrator determines meets the criteria established under paragraph (10).*

*''(2) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Private Disaster Assistance program, under which the Administration may guarantee timely payment of principal and interest, as scheduled, on any loan made to an eligible small business concern located in a disaster area and to an eligible individual.*

*''(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).*

*''(4) ONLINE APPLICATIONS.—*

*''(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.*

*''(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of*

*any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.*

*''(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.*

*''(5) MAXIMUM AMOUNTS.—*

*''(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.*

*''(B) LOAN AMOUNT.—The maximum amount of a loan guaranteed under this subsection shall be $2,000,000.*

*''(6) TERMS AND CONDITIONS.—A loan guaranteed under this subsection shall be made under the same terms and conditions as a loan under subsection (b).*

*''(7) LENDERS.—*

*''(A) IN GENERAL.—A loan guaranteed under this subsection made to—*

*''(i) a qualified individual may be made by a preferred lender; and*

*''(ii) a qualified small business concern may be made by a qualified private lender or by a preferred lender that also makes loans to qualified individuals.*

*''(B) COMPLIANCE.—If the Administrator determines that a preferred lender knowingly failed to comply with the underwriting standards for loans guaranteed under this subsection or violated the terms of the standard operating procedure agreement between that preferred lender and the Administration, the Administrator shall do 1 or more of the following:*

*''(i) Exclude the preferred lender from participating in the program under this subsection.*

*''(ii) Exclude the preferred lender from participating in the Preferred Lender Program for a period of not more than 5 years.*

*''(8) FEES.—*

*''(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.*

*''(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender or preferred lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender or preferred lender and the Administrator.*

*''(9) DOCUMENTATION.—A qualified private lender or preferred lender may use its own loan documentation for a loan guaranteed by the Administrator under this subsection, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (10).*

*''(10) IMPLEMENTATION REGULATIONS.—*

*''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.*

*''(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.*

*''(11) AUTHORIZATION OF APPROPRIATIONS.—*

*''(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).*

*''(B) AUTHORITY TO REDUCE INTEREST RATES AND OTHER TERMS AND CONDITIONS.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator to meet the loan terms and conditions specified in paragraph (6).*

*''(12) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender or preferred lender to purchase any loan guaranteed under this subsection.''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any major disaster declared on or after the date of enactment of this Act.*

***SEC. 12084. IMMEDIATE DISASTER ASSISTANCE PROGRAM.***

*The Small Business Act is amended by inserting after section 41, as added by this Act, the following:*

***''SEC. 42. IMMEDIATE DISASTER ASSISTANCE PROGRAM.***

*''(a) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Immediate Disaster Assistance program, under which the Administration participates on a deferred (guaranteed) basis in 85 percent of the balance of the financing outstanding at the time of disbursement of the loan if such balance is less than or equal to $25,000 for businesses affected by a disaster.*

*''(b) ELIGIBILITY REQUIREMENT.—To receive a loan guaranteed under subsection (a), the applicant shall also apply for, and meet basic eligibility standards for, a loan under subsection (b) or (c) of section 7.*

*''(c) USE OF PROCEEDS.—A person who receives a loan under subsection (b) or (c) of section 7 shall use the proceeds of that loan to repay all loans guaranteed under subsection (a), if any, before using the proceeds for any other purpose.*

*''(d) LOAN TERMS.—*

*''(1) NO PREPAYMENT PENALTY.—There shall be no prepayment penalty on a loan guaranteed under subsection (a).*

*''(2) REPAYMENT.—A person who receives a loan guaranteed under subsection (a) and who is disapproved for a loan under subsection (b) or (c) of section 7, as the case may be, shall repay the loan guaranteed under subsection (a) not later than the date established by the Administrator, which may not be earlier than 10 years after the date on which the loan guaranteed under subsection is disbursed.*

*''(e) APPROVAL OR DISAPPROVAL.—The Administrator shall ensure that each applicant for a loan under the program receives a decision approving or disapproving of the application within 36 hours after the Administration receives the application.''.*

***SEC. 12085. EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.***

*(a) DEFINITION.—In this section, the term ''program'' means the expedited disaster assistance business loan program established under subsection (b).*

*(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program under which the Administration may, on an expedited basis, guarantee timely payment of principal and interest, as scheduled on any loan made to an eligible small business concern under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act.*

*(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—*

*(1) appropriate personnel of the Administration (including District Office personnel of the Administration);*

*(2) appropriate technical assistance providers (including small business development centers);*

*(3) appropriate lenders and credit unions;*

*(4) the Committee on Small Business and Entrepreneurship of the Senate; and*

*(5) the Committee on Small Business of the House of Representatives.*

*(d) RULES.—*

*(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue rules in final form establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form.*

*(2) CONTENTS.—The rules promulgated under paragraph (1) shall—*

*(A) identify whether appropriate uses of funds under the program may include—*

*(i) paying employees;*

*(ii) paying bills and other financial obligations;*

*(iii) making repairs;*

*(iv) purchasing inventory;*

*(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the applicable major disaster, or to a neighboring area, county, or parish in the disaster area; or*

*(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and*

*(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).*

*(3) TERMS AND CONDITIONS.—A loan guaranteed by the Administration under this section—*

*(A) shall be for not more than $150,000;*

*(B) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;*

*(C) shall have an interest rate not to exceed 300 basis points above the interest rate established by the Board of Governors of the Federal Reserve System that 1 bank charges another for reserves that are lent on an overnight basis on the date the loan is made;*

*(D) shall have no prepayment penalty;*

*(E) may only be made to a borrower that meets the requirements for a loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;*

*(F) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;*

*(G) may receive expedited loss verification and loan processing, if the applicant is—*

*(i) a major source of employment in the disaster area (which shall be determined in the same manner as under section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B))); or*

*(ii) vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials); and*

*(H) shall be subject to such additional terms as the Administrator determines necessary or appropriate.*

*(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.*

*(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.*

***SEC. 12086. GULF COAST DISASTER LOAN REFINANCING PROGRAM.***

*(a) IN GENERAL.—The Administrator may carry out a program to refinance Gulf Coast disaster loans (in this section referred to as the ''program'').*

*(b) TERMS.—The terms of a Gulf Coast disaster loan refinanced under the program shall be identical to the terms of the original loan, except that the Administrator may provide an option to defer repayment on the loan. A deferment under the program shall end not later than 4 years after the date on which the initial disbursement under the original loan was made.*

*(c) AMOUNT.—The amount of a Gulf Coast disaster loan refinanced under the program shall not exceed the amount of the original loan.*

*(d) DISCLOSURE OF ACCRUED INTEREST.—If the Administrator provides an option to defer repayment under the program, the Administrator shall disclose the accrued interest that must be paid under the option.*

*(e) DEFINITION.—In this section, the term ''Gulf Coast disaster loan'' means a loan—*

*(1) made under section 7(b) of the Small Business Act (15 U.S.C. 636(b));*

*(2) in response to Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005; and*

*(3) to a small business concern located in a county or parish designated by the Administrator as a disaster area by reason of a hurricane described in paragraph (2) under disaster declaration 10176, 10177, 10178, 10179, 10180, 10181, 10203, 10204, 10205, 10206, 10222, or 10223.*

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

***PART III—MISCELLANEOUS***

***SEC. 12091. REPORTS ON DISASTER ASSISTANCE.***

*(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—*

*(1) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for that major disaster during the preceding month.*

*(2) CONTENTS.—Each report submitted under paragraph (1) shall include—*

*(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);*

*(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);*

*(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);*

*(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;*

*(E) an estimate of how long the available funding for such loans will last, based on the spending rate;*

*(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);*

*(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);*

*(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and*

*(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.*

*(b) WEEKLY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—*

*(1) IN GENERAL.—Each week during a disaster update period, the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.*

*(2) CONTENTS.—Each report submitted under paragraph (1) shall include—*

*(A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;*

*(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;*

*(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;*

*(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;*

*(K) the daily dollar amount of loans disbursed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;*

*(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully disbursed, including dollar amounts, since the last report under paragraph (1); and*

*(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.*

*(c) PERIODS WHEN ADDITIONAL DISASTER ASSISTANCE IS MADE AVAILABLE.—*

*(1) IN GENERAL.—During any period for which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 632(b)), as amended by this Act, the Administrator shall, on a monthly basis, submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration with respect to the applicable major disaster.*

*(2) CONTENTS.—Each report submitted under paragraph (1) shall specify—*

*(A) the number of applications for disaster assistance distributed;*

*(B) the number of applications for disaster assistance received;*

*(C) the average time for the Administration to approve or disapprove an application for disaster assistance;*

*(D) the amount of disaster loans approved;*

*(E) the average time for initial disbursement of disaster loan proceeds; and*

*(F) the amount of disaster loan proceeds disbursed.*

*(d) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.*

*(e) REPORT ON CONTRACTING.—*

*(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a major disaster, and every 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.*

*(2) CONTENTS.—Each report submitted under paragraph (1) shall include—*

*(A) the total number of contracts awarded as a result of that major disaster;*

*(B) the total number of contracts awarded to small business concerns as a result of that major disaster;*

*(C) the total number of contracts awarded to women and minority-owned businesses as a result of that major disaster; and*

*(D) the total number of contracts awarded to local businesses as a result of that major disaster.*

*(f) REPORT ON LOAN APPROVAL RATE.—*

*(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.*

*(2) CONTENTS.—The report submitted under paragraph (1) shall include—*

*(A) recommendations, if any, regarding—*

*(i) staffing levels during a major disaster;*

*(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;*

*(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;*

*(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);*

*(v) legislative changes, if any, needed to implement findings from the Accelerated Disaster Response Initiative of the Administration; and*

*(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and*

*(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).*

*(g) REPORTS ON DISASTER ASSISTANCE.—The Small Business Act is amended by inserting after section 42, as added by this Act, the following:*

***''SEC. 43. ANNUAL REPORTS ON DISASTER ASSISTANCE.***

*''Not later than 45 days after the end of a fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small*

*Business of the House of Representatives a report on the disaster assistance operations of the Administration for that fiscal year. The report shall—*

*''(1) specify the number of Administration personnel involved in such operations;*

*''(2) describe any material changes to those operations, such as changes to technologies used or to personnel responsibilities;*

*''(3) describe and assess the effectiveness of the Administration in responding to disasters during that fiscal year, including a description of the number and amounts of loans made for damage and for economic injury; and*

*''(4) describe the plans of the Administration for preparing to respond to disasters during the next fiscal year.''.*

***TITLE XIII—COMMODITY FUTURES***

***SEC. 13001. SHORT TITLE.***

*This title may be cited as the ''CFTC Reauthorization Act of 2008''.*

***Subtitle A—General Provisions***

***SEC. 13101. COMMISSION AUTHORITY OVER AGREEMENTS, CONTRACTS OR TRANSACTIONS IN FOREIGN CURRENCY.***

*(a) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:*

*''(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—*

*''(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that—*

*''(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))); and*

*''(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—*

*''(aa) a financial institution;*

*''(bb)(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5); or*

*''(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b), 78q(h));*

*''(cc)(AA) a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, is not a person described in item (bb) of this subclause, and maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph; or*

*''(BB) an affiliated person of a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, and is not a person described in item (bb) of this subclause, if the affiliated person maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is not a person described in such item (bb), and the futures commission merchant makes and keeps records under section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of the affiliated person;*

*''(dd) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated subsidiary or affiliate of such an insurance company;*

*''(ee) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956);*

*''(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i))); or*

*''(gg) a retail foreign exchange dealer that maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is registered in such capacity with the Commission, subject to such terms and conditions as the Commission shall prescribe, and is a member of a futures association registered under section 17.*

*''(ii) The dollar amount that applies for purposes of this clause is—*

*''(I) $10,000,000, beginning 120 days after the date of the enactment of this clause;*

*''(II) $15,000,000, beginning 240 days after such date of enactment; and*

*''(III) $20,000,000, beginning 360 days after such date of enactment.*

*''(iii) Notwithstanding items (cc) and (gg) of clause (i)(II) of this subparagraph, agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if the agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or retail foreign exchange dealer, or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II) of this subparagraph.*

*''(iv)(I) Notwithstanding items (cc) and (gg) of clause (i)(II), a person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—*

*''(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);*

*''(bb) exercise discretionary trading authority or obtain written authorization to exercise discretionary trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II); or*

*''(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II).*

*''(II) Subclause (I) of this clause shall not apply to—*

*''(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);*

*''(bb) any such person's associated persons; or*

*''(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.*

*''(III) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with the activities of persons subject to subclause (I).*

*''(IV) Subclause (III) of this clause shall not apply to—*

*''(aa) any person described in any of item (aa) through (ff) of clause (i)(II);*

*''(bb) any such person's associated persons; or*

*''(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.*

*''(v) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with agreements, contracts, or transactions described in clause (i) which are offered, or entered into, by a person described in item (cc) or (gg) of clause (i)(II).*

*''(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is—*

*''(aa) offered to, or entered into with, a person that is not an eligible contract participant (except that this subparagraph shall not apply if the counterparty, or the person offering to be the counterparty, of the person that is not an eligible contract participant is a person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and*

*''(bb) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.*

*''(II) Subclause (I) of this clause shall not apply to—*

*''(aa) a security that is not a security futures product; or*

*''(bb) a contract of sale that—*

*''(AA) results in actual delivery within 2 days; or*

*''(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.*

*''(ii)(I) Agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b).*

*''(II) Subclause (I) of this clause shall not apply to—*

*''(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or*

*''(bb) any such person's associated persons.*

*''(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of or to accomplish any of the purposes of this Act in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph if the agreements, contracts, or transactions are offered, or entered into, by a person that is not described in item (aa) through (ff) of subparagraph (B)(i)(II).*

*''(iii)(I) A person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—*

*''(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);*

*''(bb) exercise discretionary trading authority or obtain written authorization to exercise written trading authority over any account for or on behalf of any person that is not an eligible*

*contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or*

*''(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II).*

*''(II) Subclause (I) of this clause shall not apply to—*

*''(aa) any person described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);*

*''(bb) any such person's associated persons; or*

*''(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.*

*''(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with the activities of persons subject to subclause (I).*

*''(IV) Subclause (III) of this clause shall not apply to—*

*''(aa) any person described in item (aa) through (ff) of subparagraph (B)(i)(II);*

*''(bb) any such person's associated persons; or*

*''(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.*

*''(iv) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in clause (i) of this subparagraph as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.*

*''(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.*

*''(vi) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products.''.*

*(b) EFFECTIVE DATE.—The following provisions of the Commodity Exchange Act, as amended by subsection (a) of this section, shall be effective 120 days after the date of the enactment of this Act or at such other time as the Commodity Futures Trading Commission shall determine:*

*(1) Subparagraphs (B)(i)(II)(gg), (B)(iv), and (C)(iii) of section 2(c)(2).*

*(2) The provisions of section 2(c)(2)(B)(i)(II)(cc) that set forth adjusted net capital requirements, and the provisions of such section that require a futures commission merchant to be primarily or substantially engaged in certain business activities.*

***SEC. 13102. ANTI-FRAUD AUTHORITY OVER PRINCIPAL-TO-PRINCIPAL TRANSACTIONS.***

*Section 4b of the Commodity Exchange Act (7 U.S.C. Section 6b) is amended—*

*(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and*

*(2) by striking all through the end of subsection (a) and inserting the following:*

***"SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.***

*''(a) UNLAWFUL ACTIONS.—It shall be unlawful—*

*''(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or*

*''(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—*

*''(A) to cheat or defraud or attempt to cheat or defraud the other person;*

*''(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;*

*''(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or*

*''(D)(i) to bucket an order if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or*

*''(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.*

*''(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.''.*

***SEC. 13103. CRIMINAL AND CIVIL PENALTIES.***

*(a) ENFORCEMENT POWERS OF THE COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in clause (3) of the 10th sentence—*

*(1) by inserting ''(A)'' after ''assess such person''; and*

*(2) by inserting after ''each such violation'' the following: '', or (B) in any case of manipulation or attempted manipulation in violation of this subsection, subsection (d) of this section, or section 9(a)(2), a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to the person for each such violation,''.*

*(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of such Act (7 U.S.C. 13a) is amended—*

*(1) in the first sentence, by inserting before the period at the end the following: '', or, in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty of not more than $1,000,000 for each such violation''; and*

*(2) in the second sentence, by inserting before the period at the end the following: '', except that if the failure or refusal to obey or comply with the order involved any offense under section 9(a)(2), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(a)(2)''.*

*(c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of such Act (7 U.S.C. 13a–1(d)) is amended by striking all that precedes paragraph (2) and inserting the following:*

*''(d) CIVIL PENALTIES.—*

*''(1) IN GENERAL.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—*

*''(A) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or*

*''(B) in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.''.*

*(d) VIOLATIONS GENERALLY.—Section 9(a) of such Act (7 U.S.C. 13(a)) is amended in the matter preceding paragraph (1)—*

*(1) by striking ''(or $500,000 in the case of a person who is an individual)''; and*

*(2) by striking ''five years'' and inserting ''10 years''.*

***SEC. 13104. AUTHORIZATION OF APPROPRIATIONS.***

*Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:*

*''(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of the fiscal years 2008 through 2013.''.*

***SEC. 13105. TECHNICAL AND CONFORMING AMENDMENTS.***

*(a) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended—*

*(1) by inserting ''or certified by a registered entity pursuant to section 5c(c)(1)'' after ''approved by the Commission'' ; and*

*(2) by striking ''section 9(c)'' and inserting ''section 9(a)(5)''.*

*(b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended by striking ''compiled'' and inserting ''complied''.*

*(c) Section 4k of such Act (7 U.S.C. 6k) is amended by redesignating the second paragraph (5) as paragraph (6).*

*(d) The Commodity Exchange Act is amended—*

*(1) by redesignating the first section 4p (7 U.S.C. 6o–1), as added by section 121 of the Commodity Futures Modernization Act of 2000, as section 4q; and*

*(2) by moving such section to after the second section 4p, as added by section 206 of Public Law 93–446.*

*(e) Subsections (a)(1) and (d)(1) of section 5c of such Act (7 U.S.C. 7a–2(a)(1), (d)(1)) are each amended by striking ''5b(d)(2)'' and inserting ''5b(c)(2)''.*

*(f) Sections 5c(f) and 17(r) of such Act (7 U.S.C. 7a–2(f), 21(r)) are each amended by striking ''4d(3)'' and inserting ''4d(c)''.*

*(g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1)) is amended in the matter following subparagraph (B)—*

*(1) by striking ''commenced'' in the 2nd place it appears; and*

*(2) by inserting ''commenced'' after ''in a judicial proceeding''.*

*(h) Section 9 of such Act (7 U.S.C. 13) is amended—*

*(1) in subsection (f)(1), by striking the period and inserting ''; or''; and*

*(2) by redesignating subsection (f) as subsection (e).*

*(i) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2)) is amended by striking ''5b(b)(1)(E)'' and inserting ''5b(c)(2)(H)''.*

*(j) Section 1a(33)(A) of such Act (7 U.S.C. 1a(33)(A)) is amended by striking ''transactions'' and all that follows and inserting ''transactions—*

*''(i) by accepting bids or offers made by other participants that are open to multiple partipants in the facility or system; or*

''(ii) through the interaction of multiple bids or multiple offers within a system with a pre-determined non-discretionary automated trade matching and execution algorithm.''.

(k) Section 14(d) of such Act (7 U.S.C. 18(d)) is amended—

(1) by inserting ''(1)'' before ''If''; and

(2) by adding after and below the end the following:

''(2) A reparation award shall be directly enforceable in district court as if it were a judgment pursuant to section 1963 of title 28, United States Code. This paragraph shall operate retroactively from the effective date of its enactment, and shall apply to all reparation awards for which a proceeding described in paragraph (1) is commenced within 3 years of the date of the Commission's order.''.

**SEC. 13106. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES.**

(a) The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit—

(1) by September 30, 2009, risk-based portfolio margining for security options and security futures products (as defined in section 1a(32) of the Commodity Exchange Act); and

(2) by June 30, 2009, the trading of futures on certain security indexes by resolving issues related to foreign security indexes.

**Subtitle B—Significant Price Discovery Contracts on Exempt Commercial Markets**

**SEC. 13201. SIGNIFICANT PRICE DISCOVERY CONTRACTS.**

(a) DEFINITIONS.—Section la of the Commodity Exchange Act (7 U.S.C. la) is amended—

(1) by redesignating paragraph (33) as paragraph (34); and

(2) by inserting after paragraph (32) the following:

''(33) SIGNIFICANT PRICE DISCOVERY CONTRACT.—The term 'significant price discovery contract' means an agreement, contract, or transaction subject to section 2(h)(7).''.

(b) STANDARDS APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h) of such Act (7 U.S.C. 2(h)) is amended by adding at the end the following:

''(7) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

''(A) IN GENERAL.—An agreement, contract, or transaction conducted in reliance on the exemption in paragraph (3) shall be subject to the provisions of subparagraphs (B) through (D), under such rules and regulations as the Commission shall promulgate, provided that the Commission determines, in its discretion, that the agreement, contract, or transaction performs a significant price discovery function as described in subparagraph (B).

''(B) SIGNIFICANT PRICE DISCOVERY DETERMINATION.—In making a determination whether an agreement, contract, or transaction performs a significant price discovery function, the Commission shall consider, as appropriate:

''(i) PRICE LINKAGE.—The extent to which the agreement, contract, or transaction uses or otherwise relies on a daily or final settlement price, or other major price parameter, of a contract or contracts listed for trading on or subject to the rules of a designated contract market or a derivatives transaction execution facility, or a significant price discovery contract traded on an electronic trading facility, to value a position, transfer or convert a position, cash or financially settle a position, or close out a position.

''(ii) ARBITRAGE.—The extent to which the price for the agreement, contract, or transaction is sufficiently related to the price of a contract or contracts listed for trading on or subject to the rules of a designated contract market or derivatives transaction execution facility, or a significant price discovery contract or contracts trading on or subject to the rules of an electronic trading facility, so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the contracts on a frequent and recurring basis.

''(iii) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a commodity are directly based on, or are determined by referencing, the prices generated by agreements, contracts, or transactions being traded or executed on the electronic trading facility.

''(iv) MATERIAL LIQUIDITY.—The extent to which the volume of agreements, contracts, or transactions in the commodity being traded on the electronic trading facility is sufficient to have a material effect on other agreements, contracts, or transactions listed for trading on or subject to the rules of a designated contract market, a derivatives transaction execution facility, or an electronic trading facility operating in reliance on the exemption in paragraph (3).

''(v) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule as relevant to determine whether an agreement, contract, or transaction serves a significant price discovery function.

''(C) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

''(i) IN GENERAL.—An electronic trading facility on which significant price discovery contracts are traded or executed shall, with respect to those contracts, comply with the core principles specified in this subparagraph.

''(ii) CORE PRINCIPLES.—The electronic trading facility shall have reasonable discretion (including discretion to account for differences between cleared and uncleared significant price discovery contracts) in establishing the manner in which it complies with the following core principles:

''(I) CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The electronic trading facility shall list only significant price discovery contracts that are not readily susceptible to manipulation.

''(II) MONITORING OF TRADING.—The electronic trading facility shall monitor trading in significant price discovery contracts to prevent market manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(III) ABILITY TO OBTAIN INFORMATION.—The electronic trading facility shall—

''(aa) establish and enforce rules that will allow the electronic trading facility to obtain any necessary information to perform any of the functions described in this subparagraph;

''(bb) provide the information to the Commission upon request; and

''(cc) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(IV) POSITION LIMITATIONS OR ACCOUNTABILITY.—The electronic trading facility shall adopt, where necessary and appropriate, position limitations or position accountability for speculators in significant price discovery contracts, taking into account positions in other agreements, contracts, and transactions that are treated by a derivatives clearing organization, whether registered or not registered, as fungible with such significant price discovery contracts to reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month.

''(V) EMERGENCY AUTHORITY.—The electronic trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority—

''(aa) to liquidate open positions in a significant price discovery contract; and

''(bb) to suspend or curtail trading in a significant price discovery contract.

''(VI) DAILY PUBLICATION OF TRADING INFORMATION.—The electronic trading facility shall make public daily information on price, trading volume, and other trading data to the extent appropriate for significant price discovery contracts

''(VII) COMPLIANCE WITH RULES.—The electronic trading facility shall monitor and enforce compliance with any rules of the electronic trading facility applicable to significant price discovery contracts, including the terms and conditions of the contracts and any limitations on access to the electronic trading facility with respect to the contracts.

''(VIII) CONFLICT OF INTEREST.—The electronic trading facility, with respect to significant price discovery contracts, shall—

''(aa) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

''(bb) establish a process for resolving the conflicts of interest.

''(IX) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the electronic trading facility, with respect to significant price discovery contracts, shall endeavor to avoid—

''(aa) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

''(bb) imposing any material anticompetitive burden on trading on the electronic trading facility.

''(D) IMPLEMENTATION.—

''(i) CLEARING.—The Commission shall take into consideration differences between cleared and uncleared significant price discovery contracts when reviewing the implementation of the core principles by an electronic trading facility.

''(ii) REVIEW.—As part of the Commission's continual monitoring and surveillance activities, the Commission shall, not less frequently than annually, evaluate, as appropriate, all the agreements, contracts, or transactions conducted on an electronic trading facility in reliance on the exemption provided in paragraph (3) to determine whether they serve a significant price discovery function as described in subparagraph (B) of this paragraph.''.

**SEC. 13202. LARGE TRADER REPORTING.**

(a) REPORTING AND RECORDKEEPING.—Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended by inserting '', and in any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract'' after ''elsewhere''.

(b) REPORTS OF POSITIONS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) by inserting '', or any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract'' after ''subject to the rules of any contract market or derivatives transaction execution facility''; and

(2) in the matter following paragraph (2), by inserting ''or electronic trading facility'' after ''subject to the rules of any other board of trade''.

**SEC. 13203. CONFORMING AMENDMENTS.**

(a) Section 1a(12)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(x)) is amended

*by inserting ''(other than an electronic trading facility with respect to a significant price discovery contract)'' after ''registered entity''.*

*(b) Section 1a(29) of such Act (7 U.S.C. 1a(29)) is amended—*

*(1) in subparagraph (C), by striking ''and'' at the end;*

*(2) in subparagraph (D), by striking the period and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(E) with respect to a contract that the Commission determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded.''.*

*(c) Section 2(a)(1)(A) of such Act (7 U.S.C. 2(a)(1)(A)) is amended by inserting after ''future delivery'' the following: ''(including significant price discovery contracts)''.*

*(d) Section 2(h)(3) of such Act (7 U.S.C. 2(h)(3)) is amended by striking ''paragraph (4)'' and inserting ''paragraphs (4) and (7)''.*

*(e) Section 2(h)(4) of such Act (7 U.S.C. 2(h)(4)) is amended—*

*(1) in subparagraph (B), by inserting ''and, for a significant price discovery contract, requiring large trader reporting,'' after ''proscribing fraud'';*

*(2) by striking ''and'' at the end of subparagraph (C); and*

*(3) by striking subparagraph (D) and inserting the following:*

*''(D) such rules, regulations, and orders as the Commission may issue to ensure timely compliance with any of the provisions of this Act applicable to a significant price discovery contract traded on or executed on any electronic trading facility; and*

*''(E) such other provisions of this Act as are applicable by their terms to significant price discovery contracts or to registered entities or electronic trading facilities with respect to significant price discovery contracts.''.*

*(f) Section 2(h)(5)(B)(iii)(I) of such Act (7 U.S.C. 2(h)(5)(B)(iii)(I)) is amended by inserting ''or to make the determination described in subparagraph (B) of paragraph (7)'' after ''paragraph (4)''.*

*(g) Section 4a of such Act (7 U.S.C. 6a) is amended—*

*(1) in subsection (a)—*

*(A) in the first sentence, by inserting '', or on electronic trading facilities with respect to a significant price discovery contract'' after ''derivatives transaction execution facilities''; and*

*(B) in the second sentence, by inserting '', or on an electronic trading facility with respect to a significant price discovery contract,'' after ''derivatives transaction execution facility''; and*

*(2) in subsection (b)—*

*(A) in paragraph (1), by inserting ''or electronic trading facility with respect to a significant price discovery contract'' after ''facility or facilities''; and*

*(B) in paragraph (2), by inserting ''or electronic trading facility with respect to a significant price discovery contract'' after ''derivatives transaction execution facility''; and*

*(3) in subsection (e)—*

*(A) in the first sentence—*

*(i) by inserting ''or by any electronic trading facility'' after ''registered by the Commission'';*

*(ii) by inserting ''or on an electronic trading facility'' after ''derivatives transaction execution facility'' the second place it appears; and*

*(iii) by inserting ''or electronic trading facility'' before ''or such board of trade'' each place it appears; and*

*(B) in the second sentence, by inserting ''or electronic trading facility with respect to a significant price discovery contract'' after ''registered by the Commission''.*

*(h) Section 5a(d) of such Act (7 U.S.C. 7a(d)(1)) is amended—*

*(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10); and*

*(2) by inserting after paragraph (3) the following:*

*''(4) POSITION LIMITATIONS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the derivatives transaction execution facility shall adopt position limits or position accountability for speculators, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply.''.*

*(i) Section 5c(a) of such Act (7 U.S.C. 7a–2(a)) is amended in paragraph (1) by inserting '', and section 2(h)(7) with respect to significant price discovery contracts,'' after '', and 5b(d)(2)''.*

*(j) Section 5c(b) of such Act (7 U.S.C. 7a–2(b)) is amended—*

*(1) by striking paragraph (1) and inserting the following:*

*''(1) IN GENERAL.—A contract market, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract may comply with any applicable core principle through delegation of any relevant function to a registered futures association or a registered entity that is not an electronic trading facility.'';*

*(2) in paragraph (2), by striking ''contract market or derivatives transaction execution facility'' and inserting ''contract market, derivatives transaction execution facility, or electronic trading facility''; and*

*(3) in paragraph (3), by striking ''contract market or derivatives transaction execution facility'' each place it appears and inserting ''contract market, derivatives transaction execution facility, or electronic trading facility''.*

*(k) Section 5c(d)(1) of such Act (7 U.S.C. 7a–2(d)(1)) is amended by inserting ''or 2(h)(7)(C) with respect to a significant price discovery contract traded or executed on an electronic trading facility,'' after ''5b(d)(2)''.*

*(l) Section 5e of such Act (7 U.S.C. 7b) is amended by inserting '', or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,'' after ''revocation of designation as a registered entity''.*

*(m) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended by striking the first sentence and all that follows through ''hearing on the record: Provided,'' and inserting the following:*

*''The Commission is authorized to suspend for a period not to exceed 6 months or to revoke the designation or registration of any contract market or derivatives transaction execution facility, or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract, on a showing that the contract market or derivatives transaction execution facility is not enforcing or has not enforced its rules of government, made a condition of its designation or registration as set forth in sections 5 through 5b or section 5f, or that the contract market or derivatives transaction execution facility or electronic trading facility, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be made after a notice to the officers of the contract market or derivatives transaction execution facility or electronic trading facility affected and upon a hearing on the record: Provided,''.*

*(n) Section 22(b)(1) of such Act (7 U.S.C. 25(b)(1)) is amended by inserting ''section 2(h)(7) or'' before ''sections 5''.*

***SEC. 13204. EFFECTIVE DATE.***

*(a) IN GENERAL.—Except as provided in this section, this subtitle shall become effective on the date of enactment of this Act.*

*(b) SIGNIFICANT PRICE DISCOVERY STANDARDS RULEMAKING.—*

*(1) The Commodity Futures Trading Commission shall—*

*(A) not later than 180 days after the date of the enactment of this Act, issue a proposed rule regarding the implementation of section 2(h)(7) of the Commodity Exchange Act; and*

*(B) not later than 270 days after the date of enactment of this Act, issue a final rule regarding the implementation.*

*(2) In its rulemaking pursuant to paragraph (1) of this subsection, the Commission shall include the standards, terms, and conditions under which an electronic trading facility will have the responsibility to notify the Commission that an agreement, contract, or transaction conducted in reliance on the exemption provided in section 2(h)(3) of the Commodity Exchange Act may perform a price discovery function.*

*(c) SIGNIFICANT PRICE DISCOVERY DETERMINATIONS.—With respect to any electronic trading facility operating on the effective date of the final rule issued pursuant to subsection (b)(1), the Commission shall complete a review of the agreements, contracts, and transactions of the facility not later than 180 days after that effective date to determine whether any such agreement, contract, or transaction performs a significant price discovery function.*

## *TITLE XIV—MISCELLANEOUS*

### *Subtitle A—Socially Disadvantaged Producers and Limited Resource Producers*

***SEC. 14001. IMPROVED PROGRAM DELIVERY BY DEPARTMENT OF AGRICULTURE ON INDIAN RESERVATIONS.***

*Section 2501(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(g)(1)) is amended—*

*(1) in the first sentence—*

*(A) by striking ''Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices'' and inserting ''Farm Service Agency and Natural Resources Conservation Service''; and*

*(B) by inserting ''where there has been a need demonstrated'' after ''include''; and*

*(2) by striking the second sentence.*

***SEC. 14002. FORECLOSURE.***

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

*(1) by inserting ''(a)'' after ''SEC. 331A.''; and*

*(2) by adding at the end the following:*

*''(b) MORATORIUM.—*

*''(1) IN GENERAL.—Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subtitle A, B, or C, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—*

*''(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or*

*''(B) files a claim of program discrimination that is accepted by the Department as valid.*

*''(2) WAIVER OF INTEREST AND OFFSETS.—During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subtitle A, B, or C for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).*

*''(3) TERMINATION OF MORATORIUM.—The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—*

*''(A) the date the Secretary resolves the claim; or*

*''(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.*

*''(4) FAILURE TO PREVAIL.—If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or*

*rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).''.*

*(b) FORECLOSURE REPORT.—*

*(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Agriculture (referred to in this subsection as the ''Inspector General'') shall determine whether decisions of the Department to implement foreclosure proceedings with respect to farmer program loans made under subtitle A, B, or C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) to socially disadvantaged farmers or ranchers during the 5-year period preceding the date of the enactment of this Act were consistent and in conformity with the applicable laws (including regulations) governing loan foreclosures.*

*(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the determination of the Inspector General under paragraph (1).*

***SEC. 14003. RECEIPT FOR SERVICE OR DENIAL OF SERVICE FROM CERTAIN DEPARTMENT OF AGRICULTURE AGENCIES.***

*Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by adding at the end the following new subsection:*

*''(e) RECEIPT FOR SERVICE OR DENIAL OF SERVICE.—In any case in which a current or prospective producer or landowner, in person or in writing, requests from the Farm Service Agency, the Natural Resources Conservation Service, or an agency of the Rural Development Mission Area any benefit or service offered by the Department to agricultural producers or landowners and, at the time of the request, also requests a receipt, the Secretary shall issue, on the date of the request, a receipt to the producer or landowner that contains—*

*''(1) the date, place, and subject of the request; and*

*''(2) the action taken, not taken, or recommended to the producer or landowner.''.*

***SEC. 14004. OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.***

*(a) OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—*

*(1) PROGRAM REQUIREMENTS.—Paragraph (2) of section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)) is amended to read as follows:*

*''(2) REQUIREMENTS.—The outreach and technical assistance program under paragraph (1) shall be used exclusively—*

*''(A) to enhance coordination of the outreach, technical assistance, and education efforts authorized under agriculture programs; and*

*''(B) to assist the Secretary in—*

*''(i) reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner; and*

*''(ii) improving the participation of those farmers and ranchers in Department programs, as reported under section 2501A.''.*

*(2) GRANTS AND CONTRACTS UNDER PROGRAM.—Section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3)) is amended—*

*(A) in subparagraph (A), by striking ''entity to provide information'' and inserting ''entity that has demonstrated an ability to carry out the requirements described in paragraph (2) to provide outreach''; and*

*(B) by adding at the end the following new subparagraph:*

*''(D) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and make publicly available, an annual report that includes a list of the following:*

*''(i) The recipients of funds made available under the program.*

*''(ii) The activities undertaken and services provided.*

*''(iii) The number of current and prospective socially disadvantaged farmers or ranchers served and outcomes of such service.*

*''(iv) The problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.''.*

*(3) FUNDING AND LIMITATION ON USE OF FUNDS.—Section 2501(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(4)) is amended—*

*(A) by striking subparagraph (A) and inserting the following new subparagraph:*

*''(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—*

*''(i) $15,000,000 for fiscal year 2009; and*

*''(ii) $20,000,000 for each of fiscal years 2010 through 2012.''.*

*(B) by adding at the end the following new subparagraph:*

*''(C) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts made available under subparagraph (A) for a fiscal year may be used for expenses related to administering the program under this section.''.*

*(b) ELIGIBLE ENTITY DEFINED.—Section 2501(e)(5)(A)(ii) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(5)(A)(ii)) is amended by striking ''work with socially disadvantaged farmers or ranchers during the 2-year period'' and inserting ''work with, and on behalf of, socially disadvantaged farmers or ranchers during the 3-year period''.*

***SEC. 14005. ACCURATE DOCUMENTATION IN THE CENSUS OF AGRICULTURE AND CERTAIN STUDIES.***

*Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by adding at the end the following:*

*''(h) ACCURATE DOCUMENTATION.—The Secretary shall ensure, to the maximum extent practicable, that the Census of Agriculture and studies carried out by the Economic Research Service accurately document the number, location, and economic contributions of socially disadvantaged farmers or ranchers in agricultural production.''.*

***SEC. 14006. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.***

*Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by striking subsection (c) and inserting the following new subsections:*

*''(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—*

*''(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary of Agriculture (referred to in this section as the 'Secretary') shall annually compile program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the Department of Agriculture that serves agricultural producers and landowners—*

*''(A) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protections, as determined by the Secretary; and*

*''(B) the application and participation rate, by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.*

*''(2) AUTHORITY TO COLLECT DATA.—The heads of the agencies of the Department of Agriculture shall collect and transmit to the Secretary any data, including data on race, gender, and ethnicity, that the Secretary determines to be necessary to carry out paragraph (1).*

*''(3) REPORT.—Using the technologies and systems of the National Agricultural Statistics Service, the Secretary shall compile and present the data compiled under paragraph (1) for each program described in that paragraph in a manner that includes the raw numbers and participation rates for—*

*''(A) the entire United States;*

*''(B) each State; and*

*''(C) each county in each State.*

*''(4) PUBLIC AVAILABILITY OF REPORT.—The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, the report described in paragraph (3).*

*''(d) LIMITATIONS ON USE OF DATA.—*

*''(1) PRIVACY PROTECTIONS.—In carrying out this section, the Secretary shall not disclose the names or individual data of any program participant.*

*''(2) AUTHORIZED USES.—The data under this section shall be used exclusively for the purposes described in subsection (a).*

*''(3) LIMITATION.—Except as otherwise provided, the data under this section shall not be used for the evaluation of individual applications for assistance.''.*

***SEC. 14007. OVERSIGHT AND COMPLIANCE.***

*The Secretary, acting through the Assistant Secretary for Civil Rights of the Department of Agriculture, shall use the reports described in subsection (c) of section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1), as amended by section 14006, in the conduct of oversight and evaluation of civil rights compliance.*

***SEC. 14008. MINORITY FARMER ADVISORY COMMITTEE.***

*(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the ''Advisory Committee on Minority Farmers'' (in this section referred to as the ''Committee'').*

*(b) DUTIES.—The Committee shall provide advice to the Secretary on—*

*(1) the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279);*

*(2) methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs; and*

*(3) civil rights activities within the Department as such activities relate to participants in such programs.*

*(c) MEMBERSHIP.—*

*(1) IN GENERAL.—The Committee shall be composed of not more than 15 members, who shall be appointed by the Secretary, and shall include—*

*(A) not less than four socially disadvantaged farmers or ranchers (as defined in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)));*

*(B) not less than two representatives of nonprofit organizations with a history of working with minority farmers and ranchers;*

*(C) not less than two civil rights professionals;*

*(D) not less than two representatives of institutions of higher education with demonstrated experience working with minority farmers and ranchers; and*

*(E) such other persons as the Secretary considers appropriate.*

*(2) EX-OFFICIO MEMBERS.—The Secretary may appoint such employees of the Department of Agriculture as the Secretary considers appropriate to serve as ex-officio members of the Committee.*

***SEC. 14009. NATIONAL APPEALS DIVISION.***

*Section 280 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7000) is amended—*

*(1) by striking ''On the return'' and inserting the following:*

*''(a) IN GENERAL.—On the return''; and*

*(2) by adding at the end the following:*

*''(b) REPORTS.—*

*''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, and every 180 days thereafter, the head*

*of each agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and publish on the website of the Department, a report that includes—*

*''(A) a description of all cases returned to the agency during the period covered by the report pursuant to a final determination of the Division;*

*''(B) the status of implementation of each final determination; and*

*''(C) if the final determination has not been implemented—*

*''(i) the reason that the final determination has not been implemented; and*

*''(ii) the projected date of implementation of the final determination.*

*''(2) UPDATES.—Each month, the head of each agency shall publish on the website of the Department any updates to the reports submitted under paragraph (1).''.*

***SEC. 14010. REPORT OF CIVIL RIGHTS COMPLAINTS, RESOLUTIONS, AND ACTIONS.***

*Each year, the Secretary shall—*

*(1) prepare a report that describes, for each agency of the Department of Agriculture—*

*(A) the number of civil rights complaints filed that relate to the agency, including whether a complaint is a program complaint or an employment complaint;*

*(B) the length of time the agency took to process each civil rights complaint;*

*(C) the number of proceedings brought against the agency, including the number of complaints described in paragraph (1) that were resolved with a finding of discrimination; and*

*(D) the number and type of personnel actions taken by the agency following resolution of civil rights complaints;*

*(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report; and*

*(3) make the report available to the public by posting the report on the website of the Department.*

***SEC. 14011. SENSE OF CONGRESS RELATING TO CLAIMS BROUGHT BY SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.***

*It is the sense of Congress that all pending claims and class actions brought against the Department of Agriculture by socially disadvantaged farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)), including Native American, Hispanic, and female farmers or ranchers, based on racial, ethnic, or gender discrimination in farm program participation should be resolved in an expeditious and just manner.*

***SEC. 14012. DETERMINATION ON MERITS OF PIGFORD CLAIMS.***

*(a) DEFINITIONS.—In this section:*

*(1) CONSENT DECREE.—The term ''consent decree'' means the consent decree in the case of Pigford v. Glickman, approved by the United States District Court for the District of Columbia on April 14, 1999.*

*(2) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.*

*(3) PIGFORD CLAIM.—The term ''Pigford claim'' means a discrimination complaint, as defined by section 1(h) of the consent decree and documented under section 5(b) of the consent decree.*

*(4) PIGFORD CLAIMANT.—The term ''Pigford claimant'' means an individual who previously submitted a late-filing request under section 5(g) of the consent decree.*

*(b) DETERMINATION ON MERITS.—Any Pigford claimant who has not previously obtained a determination on the merits of a Pigford claim may, in a civil action brought in the United States District Court for the District of Columbia, obtain that determination.*

*(c) LIMITATION.—*

*(1) IN GENERAL.—Subject to paragraph (2), all payments or debt relief (including any limitation on foreclosure under subsection (h)) shall be made exclusively from funds made available under subsection (i).*

*(2) MAXIMUM AMOUNT.—The total amount of payments and debt relief pursuant to actions commenced under subsection (b) shall not exceed $100,000,000.*

*(d) INTENT OF CONGRESS AS TO REMEDIAL NATURE OF SECTION.—It is the intent of Congress that this section be liberally construed so as to effectuate its remedial purpose of giving a full determination on the merits for each Pigford claim previously denied that determination.*

*(e) LOAN DATA.—*

*(1) REPORT TO PERSON SUBMITTING PETITION.—*

*(A) IN GENERAL.—Not later than 120 days after the Secretary receives notice of a complaint filed by a claimant under subsection (b), the Secretary shall provide to the claimant a report on farm credit loans and noncredit benefits, as appropriate, made within the claimant's county (or if no documents are found, within an adjacent county as determined by the claimant), by the Department during the period beginning on January 1 of the year preceding the period covered by the complaint and ending on December 31 of the year following the period.*

*(B) REQUIREMENTS.—A report under subparagraph (A) shall contain information on all persons whose application for a loan or benefit was accepted, including—*

*(i) the race of the applicant;*

*(ii) the date of application;*

*(iii) the date of the loan or benefit decision, as appropriate;*

*(iv) the location of the office making the loan or benefit decision, as appropriate;*

*(v) all data relevant to the decisionmaking process for the loan or benefit, as appropriate; and*

*(vi) all data relevant to the servicing of the loan or benefit, as appropriate.*

*(2) NO PERSONALLY IDENTIFIABLE INFORMATION.—The reports provided pursuant to paragraph (1) shall not contain any information that would identify any person who applied for a loan from the Department.*

*(3) REPORTING DEADLINE.—*

*(A) IN GENERAL.—The Secretary shall—*

*(i) provide to claimants the reports required under paragraph (1) as quickly as practicable after the Secretary receives notice of a complaint filed by a claimant under subsection (b); and*

*(ii) devote such resources of the Department as are necessary to make providing the reports expeditiously a high priority of the Department.*

*(B) EXTENSION.—A court may extend the deadline for providing the report required in a particular case under paragraph (1) if the Secretary establishes that meeting the deadline is not feasible and demonstrates a continuing effort and commitment to provide the required report expeditiously.*

*(f) EXPEDITED RESOLUTIONS AUTHORIZED.—*

*(1) IN GENERAL.—Any person filing a complaint under this section for discrimination in the application for, or making or servicing of, a farm loan, at the discretion of the person, may seek liquidated damages of $50,000, discharge of the debt that was incurred under, or affected by, the 1 or more programs that were the subject of the 1 or more discrimination claims that are the subject of the person's complaint, and a tax payment in the amount equal to 25 percent of the liquidated damages and loan principal discharged, in which case—*

*(A) if only such damages, debt discharge, and tax payment are sought, the complainant shall be able to prove the case of the complainant by substantial evidence (as defined in section 1(l) of the consent decree); and*

*(B) the court shall decide the case based on a review of documents submitted by the complainant and defendant relevant to the issues of liability and damages.*

*(2) NONCREDIT CLAIMS.—*

*(A) STANDARD.—In any case in which a claimant asserts a noncredit claim under a benefit program of the Department, the court shall determine the merits of the claim in accordance with section 9(b)(i) of the consent decree.*

*(B) RELIEF.—A claimant who prevails on a claim of discrimination involving a noncredit benefit program of the Department shall be entitled to a payment by the Department in a total amount of $3,000, without regard to the number of such claims on which the claimant prevails.*

*(g) ACTUAL DAMAGES.—A claimant who files a claim under this section for discrimination under subsection (b) but not under subsection (f) and who prevails on the claim shall be entitled to actual damages sustained by the claimant.*

*(h) LIMITATION ON FORECLOSURES.—Notwithstanding any other provision of law, during the pendency of a Pigford claim, the Secretary may not begin acceleration on or foreclosure of a loan if—*

*(1) the borrower is a Pigford claimant; and*

*(2) makes a prima facie case in an appropriate administrative proceeding that the acceleration or foreclosure is related to a Pigford claim.*

*(i) FUNDING.—*

*(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available for payments and debt relief in satisfaction of claims against the United States under subsection (b) and for any actions under subsection (g) $100,000,000 for fiscal year 2008, to remain available until expended.*

*(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there are authorized to be appropriated such sums as are necessary to carry out this section.*

*(j) REPORTING REQUIREMENTS.—*

*(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter until the funds made available under subsection (i) are depleted, the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that describes the status of available funds under subsection (i) and the number of pending claims under subsection (f).*

*(2) DEPLETION OF FUNDS REPORT.—In addition to the reports required under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that notifies the Committees when 75 percent of the funds made available under subsection (i)(1) have been depleted.*

*(k) TERMINATION OF AUTHORITY.—The authority to file a claim under this section terminates 2 years after the date of the enactment of this Act.*

***SEC. 14013. OFFICE OF ADVOCACY AND OUTREACH.***

*(a) IN GENERAL.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226A (7 U.S.C. 6933) the following:*

***''SEC. 226B. OFFICE OF ADVOCACY AND OUTREACH.***

*''(a) DEFINITIONS.—In this section:*

*''(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).*

*''(2) OFFICE.—The term 'Office' means the Office of Advocacy and Outreach established under this section.*

*''(3) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).*

*''(b) ESTABLISHMENT AND PURPOSE.—*

''(1) IN GENERAL.—The Secretary shall establish within the executive operations of the Department an office to be known as the 'Office of Advocacy and Outreach'—

''(A) to improve access to programs of the Department; and

''(B) to improve the viability and profitability of—

''(i) small farms and ranches;

''(ii) beginning farmers or ranchers; and

''(iii) socially disadvantaged farmers or ranchers.

''(2) DIRECTOR.—The Office shall be headed by a Director, to be appointed by the Secretary from among the competitive service.

''(c) DUTIES.—The duties of the Office shall be to ensure small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers access to, and equitable participation in, programs and services of the Department by—

''(1) establishing and monitoring the goals and objectives of the Department to increase participation in programs of the Department by small, beginning, or socially disadvantaged farmers or ranchers;

''(2) assessing the effectiveness of Department outreach programs;

''(3) developing and implementing a plan to coordinate outreach activities and services provided by the Department;

''(4) providing input to the agencies and offices on programmatic and policy decisions;

''(5) measuring outcomes of the programs and activities of the Department on small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers programs;

''(6) recommending new initiatives and programs to the Secretary; and

''(7) carrying out any other related duties that the Secretary determines to be appropriate.

''(d) SOCIALLY DISADVANTAGED FARMERS GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Socially Disadvantaged Farmers Group.

''(2) OUTREACH AND ASSISTANCE.—The Socially Disadvantaged Farmers Group—

''(A) shall carry out section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279); and

''(B) in the case of activities described in section 2501(a) of that Act, may conduct such activities through other agencies and offices of the Department.

''(3) SOCIALLY DISADVANTAGED FARMERS AND FARMWORKERS.—The Socially Disadvantaged Farmers Group shall oversee the operations of—

''(A) the Advisory Committee on Minority Farmers established under section 14009 of the Food, Conservation, and Energy Act of 2008; and

''(B) the position of Farmworker Coordinator established under subsection (f).

''(4) OTHER DUTIES.—

''(A) IN GENERAL.—The Socially Disadvantaged Farmers Group may carry out other duties to improve access to, and participation in, programs of the Department by socially disadvantaged farmers or ranchers, as determined by the Secretary.

''(B) OFFICE OF OUTREACH AND DIVERSITY.—The Office of Advocacy and Outreach shall carry out the functions and duties of the Office of Outreach and Diversity carried out by the Assistant Secretary for Civil Rights as such functions and duties existed immediately before the date of the enactment of this section.

''(e) SMALL FARMS AND BEGINNING FARMERS AND RANCHERS GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Small Farms and Beginning Farmers and Ranchers Group.

''(2) DUTIES.—

''(A) OVERSEE OFFICES.—The Small Farms and Beginning Farmers and Ranchers Group shall oversee the operations of the Office of Small Farms Coordination established by Departmental Regulation 9700-1 (August 3, 2006).

''(B) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—The Small Farms and Beginning Farmers and Ranchers Group shall consult with the National Institute for Food and Agriculture on the administration of the beginning farmer and rancher development program established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

''(C) ADVISORY COMMITTEE FOR BEGINNING FARMERS AND RANCHERS.—The Small Farms and Beginning Farmers and Ranchers Group shall coordinate the activities of the Group with the Advisory Committee for Beginning Farmers and Ranchers established under section 5(b) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1621 note; Public Law 102–554).

''(D) OTHER DUTIES.—The Small Farms and Beginning Farmers and Ranchers Group may carry out other duties to improve access to, and participation in, programs of the Department by small farms and ranches and beginning farmers or ranchers, as determined by the Secretary.

''(f) FARMWORKER COORDINATOR.—

''(1) ESTABLISHMENT.—The Secretary shall establish within the Office the position of Farmworker Coordinator (referred to in this subsection as the 'Coordinator').

''(2) DUTIES.—The Secretary shall delegate to the Coordinator responsibility for the following:

''(A) Assisting in administering the program established by section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a).

''(B) Serving as a liaison to community-based nonprofit organizations that represent and have demonstrated experience serving low-income migrant and seasonal farmworkers.

''(C) Coordinating with the Department, other Federal agencies, and State and local governments to ensure that farmworker needs are assessed and met during declared disasters and other emergencies.

''(D) Consulting within the Office and with other entities to better integrate farmworker perspectives, concerns, and interests into the ongoing programs of the Department.

''(E) Consulting with appropriate institutions on research, program improvements, or agricultural education opportunities that assist low-income and migrant seasonal farmworkers.

''(F) Assisting farmworkers in becoming agricultural producers or landowners.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2012.''.

(b) CONFORMING AMENDMENT.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)), as amended by section 7511(b), is further amended—

(1) in paragraph (5), by striking ''; or'' and inserting ''; '';

(2) in paragraph (6), by striking the period and inserting ''; or''; and

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

''(7) the authority of the Secretary to establish in the Department the Office of Advocacy and Outreach in accordance with section 226B.''.

### Subtitle B—Agricultural Security

**SEC. 14101. SHORT TITLE.**

This subtitle may be cited as the ''Agricultural Security Improvement Act of 2008''.

**SEC. 14102. DEFINITIONS.**

In this subtitle:

(1) AGENT.—The term ''agent'' means a nuclear, biological, chemical, or radiological substance that causes agricultural disease or the adulteration of products regulated by the Secretary of Agriculture under any provision of law.

(2) AGRICULTURAL BIOSECURITY.—The term ''agricultural biosecurity'' means protection from an agent that poses a threat to—

(A) plant or animal health;

(B) public health as it relates to the adulteration of products regulated by the Secretary of Agriculture under any provision of law that is caused by exposure to an agent; or

(C) the environment as it relates to agriculture facilities, farmland, and air and water within the immediate vicinity of an area associated with an agricultural disease or outbreak.

(3) AGRICULTURAL COUNTERMEASURE.—The term ''agricultural countermeasure''—

(A) means a product, practice, or technology that is intended to enhance or maintain the agricultural biosecurity of the United States; and

(B) does not include a product, practice, or technology used solely in response to a human medical incident or public health emergency not related to agriculture.

(4) AGRICULTURAL DISEASE.—The term ''agricultural disease'' has the meaning given the term by the Secretary.

(5) AGRICULTURAL DISEASE EMERGENCY.—The term ''agricultural disease emergency'' means an incident of agricultural disease that requires prompt action to prevent significant damage to people, plants, or animals.

(6) AGROTERRORIST ACT.—The term ''agroterrorist act'' means an act that—

(A) causes or attempts to cause—

(i) damage to agriculture; or

(ii) injury to a person associated with agriculture; and

(B) is committed or appears to be committed with the intent to—

(i) intimidate or coerce a civilian population; or

(ii) disrupt the agricultural industry in order to influence the policy of a government by intimidation or coercion.

(7) ANIMAL.—The term ''animal'' has the meaning given the term in section 10403 of the Animal Health Protection Act of 2002 (7 U.S.C. 8302).

(8) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(9) DEVELOPMENT.—The term ''development'' means—

(A) research leading to the identification of products or technologies intended for use as agricultural countermeasures to protect animal health;

(B) the formulation, production, and subsequent modification of those products or technologies;

(C) the conduct of in vitro and in vivo studies;

(D) the conduct of field, efficacy, and safety studies;

(E) the preparation of an application for marketing approval for submission to an applicable agency; or

(F) other actions taken by an applicable agency in a case in which an agricultural countermeasure is procured or used prior to issuance of a license or other form of Federal Government approval.

(10) PLANT.—The term ''plant'' has the meaning given the term in section 411 of the Plant Protection Act of 2000 (7 U.S.C. 7702).

(11) QUALIFIED AGRICULTURAL COUNTERMEASURE.—The term ''qualified agricultural countermeasure'' means an agricultural countermeasure that the Secretary, in consultation with the Secretary of Homeland Security, determines to be a priority in order to address an agricultural biosecurity threat.

### CHAPTER 1—AGRICULTURAL SECURITY

**SEC. 14111. OFFICE OF HOMELAND SECURITY.**

(a) ESTABLISHMENT.—There is established within the Department the Office of Homeland Security (in this section referred to as the ''Office'').

(b) DIRECTOR.—The Office shall be headed by a Director of Homeland Security, who shall be appointed by the Secretary.

(c) RESPONSIBILITIES.—The Director of Homeland Security shall—

(1) coordinate all homeland security activities of the Department, including integration and

*coordination of interagency emergency response plans for—*

*(A) agricultural disease emergencies;*

*(B) agroterrorist acts; and*

*(C) other threats to agricultural biosecurity;*

*(2) act as the primary liaison on behalf of the Department with other Federal departments and agencies on the coordination of efforts and interagency activities pertaining to agricultural biosecurity; and*

*(3) advise the Secretary on policies, regulations, processes, budget, and actions pertaining to homeland security.*

***SEC. 14112. AGRICULTURAL BIOSECURITY COMMUNICATION CENTER.***

*(a) ESTABLISHMENT.—The Secretary shall establish a communication center within the Department to—*

*(1) collect and disseminate information and prepare for an agricultural disease emergency, agroterrorist act, or other threat to agricultural biosecurity; and*

*(2) coordinate activities described in paragraph (1) among agencies and offices within the Department.*

*(b) RELATION TO EXISTING DHS COMMUNICATION SYSTEMS.—*

*(1) CONSISTENCY AND COORDINATION.—The communication center established under subsection (a) shall, to the maximum extent practicable, share and coordinate the dissemination of timely information with the Department of Homeland Security and other communication systems of appropriate Federal departments and agencies.*

*(2) AVOIDING REDUNDANCIES.—Paragraph (1) shall not be construed to impede, conflict with, or duplicate the communications activities performed by the Secretary of Homeland Security under any provision of law.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.*

***SEC. 14113. ASSISTANCE TO BUILD LOCAL CAPACITY IN AGRICULTURAL BIOSECURITY PLANNING, PREPAREDNESS, AND RESPONSE.***

*(a) ADVANCED TRAINING PROGRAMS.—*

*(1) GRANT ASSISTANCE.—The Secretary shall establish a competitive grant program to support the development and expansion of advanced training programs in agricultural biosecurity planning and response for food science professionals and veterinarians.*

*(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection for each of fiscal years 2008 through 2012.*

*(b) ASSESSMENT OF RESPONSE CAPABILITY.—*

*(1) GRANT AND LOAN ASSISTANCE.—The Secretary shall establish a competitive grant and low-interest loan assistance program to assist States in assessing agricultural disease response capability.*

*(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2008 through 2012.*

## *CHAPTER 2—OTHER PROVISIONS*

***SEC. 14121. RESEARCH AND DEVELOPMENT OF AGRICULTURAL COUNTERMEASURES.***

*(a) GRANT PROGRAM.—*

*(1) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to encourage basic and applied research and the development of qualified agricultural countermeasures.*

*(2) WAIVER IN EMERGENCIES.—The Secretary may waive the requirement under paragraph (1) that a grant be provided on a competitive basis if—*

*(A) the Secretary has declared a plant or animal disease emergency under the Plant Protection Act (7 U.S.C. 7701 et seq.) or the Animal Health Protection Act (7 U.S.C. 8301 et seq.); and*

*(B) waiving the requirement would lead to the rapid development of a qualified agricultural countermeasure, as determined by the Secretary.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.*

***SEC. 14122. AGRICULTURAL BIOSECURITY GRANT PROGRAM.***

*(a) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to promote the development of teaching programs in agriculture, veterinary medicine, and disciplines closely allied to the food and agriculture system to increase the number of trained individuals with an expertise in agricultural biosecurity.*

*(b) ELIGIBILITY.—The Secretary may award a grant under this section only to an entity that is—*

*(1) an accredited school of veterinary medicine; or*

*(2) a department of an institution of higher education with a primary focus on—*

*(A) comparative medicine;*

*(B) veterinary science; or*

*(C) agricultural biosecurity.*

*(c) PREFERENCE.—The Secretary shall give preference in awarding grants based on the ability of an applicant—*

*(1) to increase the number of veterinarians or individuals with advanced degrees in food and agriculture disciplines who are trained in agricultural biosecurity practice areas;*

*(2) to increase research capacity in areas of agricultural biosecurity; or*

*(3) to fill critical agricultural biosecurity shortage situations outside of the Federal Government.*

*(d) USE OF FUNDS..—*

*(1) IN GENERAL.—Amounts received under this section shall be used by a grantee to pay—*

*(A) costs associated with the acquisition of equipment and other capital costs relating to the expansion of food, agriculture, and veterinary medicine teaching programs in agricultural biosecurity;*

*(B) capital costs associated with the expansion of academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization; or*

*(C) other capacity and infrastructure program costs that the Secretary considers appropriate.*

*(2) LIMITATION.—Funds received under this section may not be used for the construction, renovation, or rehabilitation of a building or facility.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated sums as are necessary to carry out this section for each of fiscal years 2008 through 2012, to remain available until expended.*

## *Subtitle C—Other Miscellaneous Provisions*

***SEC. 14201. COTTON CLASSIFICATION SERVICES.***

*Section 3a of the Act of March 3, 1927 (7 U.S.C. 473a), is amended to read as follows:*

***"SEC. 3a. COTTON CLASSIFICATION SERVICES.***

*''(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the 'Secretary') shall—*

*''(1) make cotton classification services available to producers of cotton; and*

*''(2) provide for the collection of classification fees from participating producers or agents that voluntarily agree to collect and remit the fees on behalf of producers.*

*''(b) FEES.—*

*''(1) USE OF FEES.—Classification fees collected under subsection (a)(2) and the proceeds from the sales of samples submitted under this section shall, to the maximum extent practicable, be used to pay the cost of the services provided under this section, including administrative and supervisory costs.*

*''(2) ANNOUNCEMENT OF FEES.—The Secretary shall announce a uniform classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies.*

*''(c) CONSULTATION.—*

*''(1) IN GENERAL.—In establishing the amount of fees under this section, the Secretary shall consult with representatives of the United States cotton industry.*

*''(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations with representatives of the United States cotton industry under this section.*

*''(d) CREDITING OF FEES.—Any fees collected under this section and under section 3d, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall—*

*''(1) be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d; and*

*''(2) remain available without fiscal year limitation to pay the expenses of the Secretary in providing those services.*

*''(e) INVESTMENT OF FUNDS.—Funds described in subsection (d) may be invested—*

*''(1) by the Secretary in insured or fully collateralized, interest-bearing accounts; or*

*''(2) at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.*

*''(f) LEASE AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into long-term lease agreements that exceed 5 years or may take title to property (including through purchase agreements) for the purpose of obtaining offices to be used for the classification of cotton in accordance with this Act, if the Secretary determines that action would best effectuate the purposes of this Act.*

*''(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent that financing is not available from fees and the proceeds from the sales of samples, there are authorized to be appropriated such sums as are necessary to carry out this section.''.*

***SEC. 14202. DESIGNATION OF STATES FOR COTTON RESEARCH AND PROMOTION.***

*Section 17(f) of the Cotton Research and Promotion Act (7 U.S.C. 2116(f)) is amended—*

*(1) by striking ''(f) The term'' and inserting the following:*

*''(f) COTTON-PRODUCING STATE.—*

*''(1) IN GENERAL.—The term'';*

*(2) by striking ''more, and the term'' and all that follows through the end of the subsection and inserting the following: ''more.*

*''(2) INCLUSIONS.—The term 'cotton-producing State' includes—*

*''(A) any combination of States described in paragraph (1); and*

*''(B) effective beginning with the 2008 crop of cotton, the States of Kansas, Virginia, and Florida.''.*

***SEC. 14203. GRANTS TO REDUCE PRODUCTION OF METHAMPHETAMINES FROM ANHYDROUS AMMONIA.***

*(a) DEFINITIONS.—In this section:*

*(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—*

*(A) a producer of agricultural commodities;*

*(B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or*

*(C) a person in the trade or business of—*

*(i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or*

*(ii) aerial and ground application of an agricultural chemical.*

*(2) NURSE TANK.—The term ''nurse tank'' shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).*

*(b) GRANT AUTHORITY.—The Secretary may make a grant to an eligible entity to enable the*

*eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.*

*(c) GRANT AMOUNT.—The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—*

*(1) an amount not less than $40 and not more than $60, as determined by the Secretary; and*

*(2) the number of fertilizer nurse tanks of the eligible entity.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to make grants under this section $15,000,000 for the period of fiscal years 2008 through 2012.*

***SEC. 14204. GRANTS TO IMPROVE SUPPLY, STABILITY, SAFETY, AND TRAINING OF AGRICULTURAL LABOR FORCE.***

*(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means an entity described in section 379C(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008q(a)).*

*(b) GRANTS.—*

*(1) IN GENERAL.—To assist agricultural employers and farmworkers by improving the supply, stability, safety, and training of the agricultural labor force, the Secretary may provide grants to eligible entities for use in providing services to assist farmworkers who are citizens or otherwise legally present in the United States in securing, retaining, upgrading, or returning from agricultural jobs.*

*(2) ELIGIBLE SERVICES.—The services referred to in paragraph (1) include—*

*(A) agricultural labor skills development;*

*(B) the provision of agricultural labor market information;*

*(C) transportation;*

*(D) short-term housing while in transit to an agricultural worksite;*

*(E) workplace literacy and assistance with English as a second language;*

*(F) health and safety instruction, including ways of safeguarding the food supply of the United States; and*

*(G) such other services as the Secretary determines to be appropriate.*

*(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the funds made available to carry out this section for a fiscal year may be used to pay for administrative expenses.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.*

***SEC. 14205. AMENDMENT TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.***

*Section 1113(k) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(k)) is amended—*

*(1) by striking the subsection heading and inserting the following:*

*''(k) DISCLOSURE NECESSARY FOR PROPER ADMINISTRATION OF PROGRAMS OF CERTAIN GOVERNMENT AUTHORITIES.—''; and*

*(2) by striking paragraph (2) and inserting the following:*

*''(2) Nothing in this title shall apply to the disclosure by the financial institution of information contained in the financial records of any customer to any Government authority that certifies, disburses, or collects payments, where the disclosure of such information is necessary to, and such information is used solely for the purpose of—*

*''(A) verification of the identity of any person or proper routing and delivery of funds in connection with the issuance of a Federal payment or collection of funds by a Government authority; or*

*''(B) the investigation or recovery of an improper Federal payment or collection of funds or an improperly negotiated Treasury check.*

*''(3) Notwithstanding any other provision of law, a request authorized by paragraph (1) or (2) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing information contained in the financial records of the customer to the Government authority requesting the information, and the financial institution and its agents shall be barred from redisclosure of such information. Any Government authority receiving information pursuant to paragraph (1) or (2) may not disclose or use the information, except for the purposes set forth in such paragraph.''.*

***SEC. 14206. REPORT ON STORED QUANTITIES OF PROPANE.***

*(a) REPORT.—*

*(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the ''Secretary'') shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the effect of interim or final regulations issued by the Secretary pursuant to section 550(a) of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note; Public Law 109–295), with respect to possession of quantities of propane that meet or exceed the screening threshold quantity for propane established in the final rule under that section.*

*(2) INCLUSIONS.—The report under paragraph (1) shall include a description of—*

*(A) the number of facilities that completed a top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;*

*(B) the number of agricultural facilities that completed the top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;*

*(C) the number of propane facilities initially determined to be high risk by the Secretary;*

*(D) the number of propane facilities—*

*(i) required to complete a security vulnerability assessment or a site security plan; or*

*(ii) that submit to the Secretary an alternative security program;*

*(E) the number of propane facilities that file an appeal of a finding under the final rule described in paragraph (1); and*

*(F) to the extent available, the average cost of—*

*(i) completing a top screen consequence assessment requirement;*

*(ii) completing a security vulnerability assessment; and*

*(iii) completing and implementing a site security plan; and*

*(3) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.*

*(b) EDUCATIONAL OUTREACH.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall conduct educational outreach activities for rural facilities that may be required to complete a top screen consequence assessment due to possession of propane in a quantity that meets or exceeds the listed screening threshold quantity for propane.*

***SEC. 14207. PROHIBITIONS ON DOG FIGHTING VENTURES.***

*(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1), by striking '', if any animal in the venture was moved in interstate or foreign commerce''; and*

*(B) in the heading of paragraph (2), by striking ''STATE'' and inserting ''STATE'';*

*(2) in subsection (b)—*

*(A) by striking ''(b) It shall be'' and inserting the following:*

*''(b) BUYING, SELLING, DELIVERING, POSSESSING, TRAINING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.—It shall be''; and*

*(B) by striking ''transport, deliver'' and all that follows through ''participate'' and inserting ''possess, train, transport, deliver, or receive any animal for purposes of having the animal participate'';*

*(3) in subsection (c)—*

*(A) by striking ''(c) It shall be'' and inserting the following:*

*''(c) USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING OR FURTHERING ANIMAL FIGHTING VENTURE.—It shall be''; and*

*(B) by inserting ''advertising an animal, or an instrument described in subsection (e), for use in an animal fighting venture,'' after ''for purposes of'';*

*(4) in subsection (d), by striking ''(d) Notwithstanding'' and inserting the following:*

*''(d) VIOLATION OF STATE LAW.—Notwithstanding'';*

*(5) in subsection (e), by striking ''(e) It shall be'' and inserting the following:*

*''(e) BUYING, SELLING, DELIVERING, OR TRANSPORTING SHARP INSTRUMENTS FOR USE IN ANIMAL FIGHTING VENTURE.—It shall be'';*

*(6) in subsection (f)—*

*(A) by striking ''(f) The Secretary'' and inserting the following:*

*''(f) INVESTIGATION OF VIOLATIONS BY SECRETARY; ASSISTANCE BY OTHER FEDERAL AGENCIES; ISSUANCE OF SEARCH WARRANT; FORFEITURE; COSTS RECOVERABLE IN FORFEITURE OR CIVIL ACTION.—The Secretary''; and*

*(B) in the last sentence—*

*(i) by striking ''by the United States'';*

*(ii) by inserting ''(1)'' after ''owner of the animals''; and*

*(iii) by striking ''proceeding or in'' and inserting ''proceeding, or (2) in'';*

*(7) in subsection (g)—*

*(A) by striking ''(g) For purposes of'' and inserting the following:*

*''(g) DEFINITIONS.—In'';*

*(B) in paragraph (1), by striking ''any event'' and all that follows through ''entertainment'' and inserting ''any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least 2 animals for purposes of sport, wagering, or entertainment,'';*

*(C) by striking paragraph (2);*

*(D) in paragraph (5)—*

*(i) by striking ''dog or other''; and*

*(ii) by striking ''; and'' and inserting a period; and*

*(E) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;*

*(8) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;*

*(9) in subsection (i) (as so redesignated), by striking ''(i)(1) The provisions'' and inserting the following:*

*''(i) CONFLICT WITH STATE LAW.—*

*''(1) IN GENERAL.—The provisions'';*

*(10) in subsection (j) (as so redesignated), by striking ''(j) The criminal'' and inserting the following:*

*''(j) CRIMINAL PENALTIES.—The criminal''; and*

*(11) in subsection (g)(6), by striking ''(6) the conduct'' and inserting the following:*

*''(h) RELATIONSHIP TO OTHER PROVISIONS.—The conduct''.*

*(b) ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS.—Section 49 of title 18, United States Code, is amended by striking ''3 years'' and inserting ''5 years''.*

***SEC. 14208. DEPARTMENT OF AGRICULTURE CONFERENCE TRANSPARENCY.***

*(a) REPORT.—*

*(1) REQUIREMENT.—Not later than September 30 of each year, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on conferences sponsored or*

*held by the Department of Agriculture or attended by employees of the Department of Agriculture.*

*(2) CONTENTS.—Each report under paragraph (1) shall contain—*

*(A) for each conference sponsored or held by the Department or attended by employees of the Department—*

*(i) the name of the conference;*

*(ii) the location of the conference;*

*(iii) the number of Department of Agriculture employees attending the conference; and*

*(iv) the costs (including travel expenses) relating to such conference; and*

*(B) for each conference sponsored or held by the Department of Agriculture for which the Department awarded a procurement contract, a description of the contracting procedures related to such conference.*

*(3) EXCLUSIONS.—The requirement in paragraph (1) shall not apply to any conference—*

*(A) for which the cost to the Federal Government was less than $10,000; or*

*(B) outside of the United States that is attended by the Secretary or the Secretary's designee as an official representative of the United States government.*

*(b) AVAILABILITY OF REPORT.—Each report submitted in accordance with subsection (a) shall be posted in a searchable format on a Department of Agriculture website that is available to the public.*

*(c) DEFINITION OF CONFERENCE.—In this section, the term ''conference''—*

*(1) means a meeting that—*

*(A) is held for consultation, education, awareness, or discussion;*

*(B) includes participants from at least one agency of the Department of Agriculture;*

*(C) is held in whole or in part at a facility outside of an agency of the Department of Agriculture; and*

*(D) involves costs associated with travel and lodging for some participants; and*

*(2) does not include any training program that is continuing education or a curriculum-based educational program, provided that such training program is held independent of a conference of a non-governmental organization.*

***SEC. 14209. FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS.***

*(a) PAYMENT OF EXPENSES.—Section 17(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136o(d)) is amended—*

*(1) by striking ''The Administrator'' and inserting the following:*

*''(1) IN GENERAL.—The Administrator''; and*

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

*''(2) DEPARTMENT OF STATE EXPENSES.—Any expenses incurred by an employee of the Environmental Protection Agency who participates in any international technical, economic, or policy review board, committee, or other official body that is meeting in relation to an international treaty shall be paid by the Department of State.''.*

*(b) CONTAINER RECYCLING.—Section 19(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136q(a)) is amended by adding at the end the following new paragraph:*

*''(4) CONTAINER RECYCLING.—The Secretary may promulgate a regulation for the return and recycling of disposable pesticide containers used for the distribution or sale of registered pesticide products in interstate commerce. Any such regulation requiring recycling of disposable pesticide containers shall not apply to antimicrobial pesticides (as defined in section 2) or other pesticide products intended for non-agricultural uses.''.*

***SEC. 14210. IMPORTATION OF LIVE DOGS.***

*(a) IN GENERAL.—The Animal Welfare Act is amended by adding after section 17 (7 U.S.C. 2147) the following:*

***''SEC. 18. IMPORTATION OF LIVE DOGS.***

*''(a) DEFINITIONS.—In this section:*

*''(1) IMPORTER.—The term 'importer' means any person who, for purposes of resale, transports into the United States puppies from a foreign country.*

*''(2) RESALE.—The term 'resale' includes any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration.*

*''(b) REQUIREMENTS.—*

*''(1) IN GENERAL.—Except as provided in paragraph (2), no person shall import a dog into the United States for purposes of resale unless, as determined by the Secretary, the dog—*

*''(A) is in good health;*

*''(B) has received all necessary vaccinations; and*

*''(C) is at least 6 months of age, if imported for resale.*

*''(2) EXCEPTION.—*

*''(A) IN GENERAL.—The Secretary, by regulation, shall provide an exception to any requirement under paragraph (1) in any case in which a dog is imported for—*

*''(i) research purposes; or*

*''(ii) veterinary treatment.*

*''(B) LAWFUL IMPORTATION INTO HAWAII.—Paragraph (1)(C) shall not apply to the lawful importation of a dog into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of the State of Hawaii and the other requirements of this section, if the dog is not transported out of the State of Hawaii for purposes of resale at less than 6 months of age.*

*''(c) IMPLEMENTATION AND REGULATIONS.—The Secretary, the Secretary of Health and Human Services, the Secretary of Commerce, and the Secretary of Homeland Security shall promulgate such regulations as the Secretaries determine to be necessary to implement and enforce this section.*

*''(d) ENFORCEMENT.—An importer that fails to comply with this section shall—*

*''(1) be subject to penalties under section 19; and*

*''(2) provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at the expense of the importer.''.*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.*

***SEC. 14211. PERMANENT DEBARMENT FROM PARTICIPATION IN DEPARTMENT OF AGRICULTURE PROGRAMS FOR FRAUD.***

*(a) IN GENERAL.—Subject to subsection (b), the Secretary of Agriculture shall permanently debar an individual, organization, corporation, or other entity convicted of a felony for knowingly defrauding the United States in connection with any program administered by the Department of Agriculture from any subsequent participation in Department of Agriculture programs.*

*(b) EXCEPTIONS.—*

*(1) SECRETARY DETERMINATION.—The Secretary may reduce a debarment under subsection (a) to a period of not less than 10 years if the Secretary considers it appropriate.*

*(2) FOOD ASSISTANCE.—A debarment under subsection (a) shall not apply with respect to participation in domestic food assistance programs (as defined by the Secretary).*

***SEC. 14212. PROHIBITION ON CLOSURE OR RELOCATION OF COUNTY OFFICES FOR THE FARM SERVICE AGENCY.***

*(a) TEMPORARY PROHIBITION.—*

*(1) IN GENERAL.—Subject to paragraph (2), until the date that is two years after the date of the enactment of this Act, the Secretary of Agriculture may not close or relocate a county or field office of the Farm Service Agency.*

*(2) EXCEPTION.—Paragraph (1) shall not apply to—*

*(A) an office that is located not more than 20 miles from another office of the Farm Service Agency; or*

*(B) the relocation of an office within the same county in the course of routine leasing operations.*

*(b) LIMITATION ON CLOSURE; NOTICE.—*

*(1) LIMITATION.—After the period referred to in subsection (a)(1), the Secretary shall, before closing any office of the Farm Service Agency that is located more than 20 miles from another office of the Farm Service Agency, to the maximum extent practicable, first close any offices of the Farm Service Agency that—*

*(A) are located less than 20 miles from another office of the Farm Service Agency; and*

*(B) have two or fewer permanent full-time employees.*

*(2) NOTICE.—After the period referred to in subsection (a)(1), the Secretary of Agriculture may not close a county or field office of the Farm Service Agency unless—*

*(A) not later than 30 days after the Secretary proposes to close such office, the Secretary holds a public meeting regarding the proposed closure in the county in which such office is located; and*

*(B) after the public meeting referred to in subparagraph (A), but not less than 90 days before the date on which the Secretary approves the closure of such office, the Secretary notifies the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, each Senator representing the State in which the office proposed to be closed is located, and the member of the House of Representatives who represents the Congressional district in which the office proposed to be closed is located of the proposed closure of such office.*

***SEC. 14213. USDA GRADUATE SCHOOL.***

*(a) IN GENERAL.—Section 921 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279b) is amended—*

*(1) in the heading, to read as follows:*

***''SEC. 921. DEPARTMENT OF AGRICULTURE EDUCATIONAL, TRAINING, AND PROFESSIONAL DEVELOPMENT ACTIVITIES.''; and***

*(2) by striking subsection (b) and inserting the following new subsection:*

*''(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—*

*''(1) CEASE OPERATIONS.—Not later than October 1, 2009, the Secretary of Agriculture shall cease to maintain or operate a nonappropriated fund instrumentality of the United States to develop, administer, or provide educational training and professional development activities, including educational activities for Federal agencies, Federal employees, non-profit organizations, other entities, and members of the general public.*

*''(2) TRANSITION.—*

*''(A) IN GENERAL.—The Secretary of Agriculture is authorized to use funds available to the Department of Agriculture and such resources of the Department as the Secretary considers appropriate (including the assignment of such employees of the Department as the Secretary considers appropriate) to assist the General Administrative Board of the Graduate School in the conversion of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, including such privatization activities not otherwise inconsistent with law or regulation.*

*''(B) TERMINATION OF AUTHORITY.—The authority under paragraph (1) shall terminate on the earlier of—*

*''(i) the completion of the transition of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, as determined by the Secretary; or*

*''(ii) September 30, 2009.''.*

*(b) PROCUREMENT PROCEDURES.—Notwithstanding the amendments made by subsection (a), effective on the date of the enactment of this Act, the Graduate School of the Department of Agriculture shall be subject to Federal procurement laws and regulations in the same manner and subject to the same requirements as a*

*private entity providing services to the Federal Government.*

**SEC. 14214. FINES FOR VIOLATIONS OF THE ANIMAL WELFARE ACT.**

*Section 19(b) of the Animal Welfare Act (7 U.S.C. 2149(b)) is amended in the first sentence by striking ''not more than $2,500 for each such violation'' and inserting ''not more than $10,000 for each such violation''.*

**SEC. 14215. DEFINITION OF CENTRAL FILING SYSTEM.**

*Section 1324(c)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(2)) is amended—*

*(1) in subparagraph (C)(ii)(II), by inserting after ''such debtors'' the following: '', except that the numerical list containing social security or taxpayer identification numbers may be encrypted for security purposes if the Secretary of State provides a method by which an effective search of the encrypted numbers may be conducted to determine whether the farm product at issue is subject to 1 or more liens''; and*

*(2) in subparagraph (E)—*

*(A) by striking ''paragraph (C)'' and inserting ''subparagraph (C)''; and*

*(B) by inserting before the semicolon at the end the following: ''except that—*

*''(i) the distribution of the portion of the master list may be in electronic, written, or printed form; and*

*''(ii) if social security or taxpayer identification numbers on the master list are encrypted, the Secretary of State may distribute the master list only—*

*''(I) by compact disc or other electronic media that contains—*

*''(aa) the recorded list of debtor names; and*

*''(bb) an encryption program that enables the buyer, commission merchant, and selling agent to enter a social security number for matching against the recorded list of encrypted social security or taxpayer identification numbers; and*

*''(II) on the written request of the buyer, commission merchant, or selling agent, by paper copy of the list to the requestor''.*

**SEC. 14216. CONSIDERATION OF PROPOSED RECOMMENDATIONS OF STUDY ON USE OF CATS AND DOGS IN FEDERAL RESEARCH.**

*(a) IN GENERAL.—The Secretary of Agriculture shall—*

*(1) review—*

*(A) any independent reviews conducted by a nationally recognized panel of experts of the use of Class B dogs and cats in federally supported research to determine how frequently such dogs and cats are used in research by the National Institutes of Health; and*

*(B) any recommendations proposed by such panel outlining the parameters of such use; and*

*(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on how recommendations referred to in paragraph (1)(B) can be applied within the Department of Agriculture to ensure such dogs and cats are treated in accordance with regulations of the Department of Agriculture.*

*(b) CLASS B DOGS AND CATS DEFINED.—In this section, the term ''Class B dogs and cats'' means dogs and cats obtained from a Class ''B'' licensee, as such term is defined in section 1.1 of title 9, Code of Federal Regulations.*

**SEC. 14217. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT.**

*(a) IN GENERAL.—Title 40, United States Code, is amended—*

*(1) by redesignating subtitle V as subtitle VI; and*

*(2) by inserting after subtitle IV the following:*

**''Subtitle V—Regional Economic and Infrastructure Development**


''Chapter .....

''151. GENERAL PROVISIONS ..... 15101

''153. REGIONAL COMMISSIONS ..... 15301

''155. FINANCIAL ASSISTANCE ..... 15501

''157. ADMINISTRATIVE PROVISIONS 15701


**''CHAPTER 1—GENERAL PROVISIONS**


''Sec.

''15101. Definitions.


**''§ 15101. Definitions**

*''In this subtitle, the following definitions apply:*

*''(1) COMMISSION.—The term 'Commission' means a Commission established under section 15301.*

*''(2) LOCAL DEVELOPMENT DISTRICT.—The term 'local development district' means an entity that—*

*''(A)(i) is an economic development district that is—*

*''(I) in existence on the date of the enactment of this chapter; and*

*''(II) located in the region; or*

*''(ii) if an entity described in clause (i) does not exist—*

*''(I) is organized and operated in a manner that ensures broad-based community participation and an effective opportunity for local officials, community leaders, and the public to contribute to the development and implementation of programs in the region;*

*''(II) is governed by a policy board with at least a simple majority of members consisting of—*

*''(aa) elected officials; or*

*''(bb) designees or employees of a general purpose unit of local government that have been appointed to represent the unit of local government; and*

*''(III) is certified by the Governor or appropriate State officer as having a charter or authority that includes the economic development of counties, portions of counties, or other political subdivisions within the region; and*

*''(B) has not, as certified by the Federal Cochairperson—*

*''(i) inappropriately used Federal grant funds from any Federal source; or*

*''(ii) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.*

*''(3) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in carrying out economic and community development activities.*

*''(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*''(5) NONPROFIT ENTITY.—The term 'nonprofit entity' means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code that has been formed for the purpose of economic development.*

*''(6) REGION.—The term 'region' means the area covered by a Commission as described in subchapter II of chapter 157.*

**''CHAPTER 2—REGIONAL COMMISSIONS**


''Sec.

''15301. Establishment, membership, and employees.

''15302. Decisions.

''15303. Functions.

''15304. Administrative powers and expenses.

''15305. Meetings.

''15306. Personal financial interests.

''15307. Tribal participation.

''15308. Annual report.


**''§ 15301. Establishment, membership, and employees**

*''(a) ESTABLISHMENT.—There are established the following regional Commissions:*

*''(1) The Southeast Crescent Regional Commission.*

*''(2) The Southwest Border Regional Commission.*

*''(3) The Northern Border Regional Commission.*

*''(b) MEMBERSHIP.—*

*''(1) FEDERAL AND STATE MEMBERS.—Each Commission shall be composed of the following members:*

*''(A) A Federal Cochairperson, to be appointed by the President, by and with the advice and consent of the Senate.*

*''(B) The Governor of each participating State in the region of the Commission.*

*''(2) ALTERNATE MEMBERS.—*

*''(A) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal Cochairperson for each Commission. The alternate Federal Cochairperson, when not actively serving as an alternate for the Federal Cochairperson, shall perform such functions and duties as are delegated by the Federal Cochairperson.*

*''(B) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be appointed by the Governor of the State from among the members of the Governor's cabinet or personal staff.*

*''(C) VOTING.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State member for which the alternate member is an alternate.*

*''(3) COCHAIRPERSONS.—A Commission shall be headed by—*

*''(A) the Federal Cochairperson, who shall serve as a liaison between the Federal Government and the Commission; and*

*''(B) a State Cochairperson, who shall be a Governor of a participating State in the region and shall be elected by the State members for a term of not less than 1 year.*

*''(4) CONSECUTIVE TERMS.—A State member may not be elected to serve as State Cochairperson for more than 2 consecutive terms.*

*''(c) COMPENSATION.—*

*''(1) FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5.*

*''(2) ALTERNATE FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson's alternate shall be compensated by the Federal Government at level V of the Executive Schedule as set out in section 5316 of title 5.*

*''(3) STATE MEMBERS AND ALTERNATES.—Each State member and alternate shall be compensated by the State that they represent at the rate established by the laws of that State.*

*''(d) EXECUTIVE DIRECTOR AND STAFF.—*

*''(1) IN GENERAL.—A Commission shall appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Commission to carry out its duties. Compensation under this paragraph may not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.*

*''(2) EXECUTIVE DIRECTOR.—The executive director shall be responsible for carrying out the administrative duties of the Commission, directing the Commission staff, and such other duties as the Commission may assign.*

*''(e) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of a Commission (other than the Federal Cochairperson, the alternate Federal Cochairperson, staff of the Federal Cochairperson, and any Federal employee detailed to the Commission) shall be considered to be a Federal employee for any purpose.*

**''§ 15302. Decisions**

*''(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 15304(c)(3), decisions by the Commission shall require the affirmative vote of the Federal Cochairperson and a majority of the State members (exclusive of members representing States delinquent under section 15304(c)(3)(C)).*

*''(b) CONSULTATION.—In matters coming before the Commission, the Federal Cochairperson shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.*

''(c) QUORUMS.—A Commission shall determine what constitutes a quorum for Commission meetings; except that—

''(1) any quorum shall include the Federal Cochairperson or the alternate Federal Cochairperson; and

''(2) a State alternate member shall not be counted toward the establishment of a quorum.

''(d) PROJECTS AND GRANT PROPOSALS.—The approval of project and grant proposals shall be a responsibility of each Commission and shall be carried out in accordance with section 15503.

**''§ 15303. Functions**

''A Commission shall—

''(1) assess the needs and assets of its region based on available research, demonstration projects, investigations, assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

''(2) develop, on a continuing basis, comprehensive and coordinated economic and infrastructure development strategies to establish priorities and approve grants for the economic development of its region, giving due consideration to other Federal, State, and local planning and development activities in the region;

''(3) not later than one year after the date of the enactment of this section, and after taking into account State plans developed under section 15502, establish priorities in an economic and infrastructure development plan for its region, including 5-year regional outcome targets;

''(4)(A) enhance the capacity of, and provide support for, local development districts in its region; or

''(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

''(5) encourage private investment in industrial, commercial, and other economic development projects in its region;

''(6) cooperate with and assist State governments with the preparation of economic and infrastructure development plans and programs for participating States;

''(7) formulate and recommend to the Governors and legislatures of States that participate in the Commission forms of interstate cooperation and, where appropriate, international cooperation; and

''(8) work with State and local agencies in developing appropriate model legislation to enhance local and regional economic development.

**''§ 15304. Administrative powers and expenses**

''(a) POWERS.—In carrying out its duties under this subtitle, a Commission may—

''(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Commission as the Commission considers appropriate;

''(2) authorize, through the Federal or State Cochairperson or any other member of the Commission designated by the Commission, the administration of oaths if the Commission determines that testimony should be taken or evidence received under oath;

''(3) request from any Federal, State, or local agency such information as may be available to or procurable by the agency that may be of use to the Commission in carrying out the duties of the Commission;

''(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties by the Commission;

''(5) request the head of any Federal agency, State agency, or local government to detail to the Commission such personnel as the Commission requires to carry out its duties, each such detail to be without loss of seniority, pay, or other employee status;

''(6) provide for coverage of Commission employees in a suitable retirement and employee benefit system by making arrangements or entering into contracts with any participating State government or otherwise providing retirement and other employee coverage;

''(7) accept, use, and dispose of gifts or donations or services or real, personal, tangible, or intangible property;

''(8) enter into and perform such contracts, cooperative agreements, or other transactions as are necessary to carry out Commission duties, including any contracts or cooperative agreements with a department, agency, or instrumentality of the United States, a State (including a political subdivision, agency, or instrumentality of the State), or a person, firm, association, or corporation; and

''(9) maintain a government relations office in the District of Columbia and establish and maintain a central office at such location in its region as the Commission may select.

''(b) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

''(1) cooperate with a Commission; and

''(2) provide, to the extent practicable, on request of the Federal Cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

''(c) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—Subject to paragraph (2), the administrative expenses of a Commission shall be paid—

''(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses of the Commission; and

''(B) by the States participating in the Commission, in an amount equal to 50 percent of the administrative expenses.

''(2) EXPENSES OF THE FEDERAL COCHAIRPERSON.—All expenses of the Federal Cochairperson, including expenses of the alternate and staff of the Federal Cochairperson, shall be paid by the Federal Government.

''(3) STATE SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the share of administrative expenses of a Commission to be paid by each State of the Commission shall be determined by a unanimous vote of the State members of the Commission.

''(B) NO FEDERAL PARTICIPATION.—The Federal Cochairperson shall not participate or vote in any decision under subparagraph (A).

''(C) DELINQUENT STATES.—During any period in which a State is more than 1 year delinquent in payment of the State's share of administrative expenses of the Commission under this subsection—

''(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State) for any project not approved as of the date of the commencement of the delinquency; and

''(ii) no member of the Commission from the State shall participate or vote in any action by the Commission.

''(4) EFFECT ON ASSISTANCE.—A State's share of administrative expenses of a Commission under this subsection shall not be taken into consideration when determining the amount of assistance provided to the State under this subtitle.

**''§ 15305. Meetings**

''(a) INITIAL MEETING.—Each Commission shall hold an initial meeting not later than 180 days after the date of the enactment of this section.

''(b) ANNUAL MEETING.—Each Commission shall conduct at least 1 meeting each year with the Federal Cochairperson and at least a majority of the State members present.

''(c) ADDITIONAL MEETINGS.—Each Commission shall conduct additional meetings at such times as it determines and may conduct such meetings by electronic means.

**''§ 15306. Personal financial interests**

''(a) CONFLICTS OF INTEREST.—

''(1) NO ROLE ALLOWED.—Except as permitted by paragraph (2), an individual who is a State member or alternate, or an officer or employee of a Commission, shall not participate personally and substantially as a member, alternate, officer, or employee of the Commission, through decision, approval, disapproval, recommendation, request for a ruling, or other determination, contract, claim, controversy, or other matter in which, to the individual's knowledge, any of the following has a financial interest:

''(A) The individual.

''(B) The individual's spouse, minor child, or partner.

''(C) An organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.

''(D) Any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment.

''(2) EXCEPTION.—Paragraph (1) shall not apply if the individual, in advance of the proceeding, application, request for a ruling or other determination, contract, claim controversy, or other particular matter presenting a potential conflict of interest—

''(A) advises the Commission of the nature and circumstances of the matter presenting the conflict of interest;

''(B) makes full disclosure of the financial interest; and

''(C) receives a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services that the Commission may expect from the individual.

''(3) VIOLATION.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than 1 year, or both.

''(b) STATE MEMBER OR ALTERNATE.—A State member or alternate member may not receive any salary, or any contribution to, or supplementation of, salary, for services on a Commission from a source other than the State of the member or alternate.

''(c) DETAILED EMPLOYEES.—

''(1) IN GENERAL.—No person detailed to serve a Commission shall receive any salary, or any contribution to, or supplementation of, salary, for services provided to the Commission from any source other than the State, local, or intergovernmental department or agency from which the person was detailed to the Commission.

''(2) VIOLATION.—Any person that violates this subsection shall be fined under title 18, imprisoned not more than 1 year, or both.

''(d) FEDERAL COCHAIRMAN, ALTERNATE TO FEDERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EMPLOYEES.—The Federal Cochairman, the alternate to the Federal Cochairman, and any Federal officer or employee detailed to duty with the Commission are not subject to this section but remain subject to sections 202 through 209 of title 18.

''(e) RESCISSION.—A Commission may declare void any contract, loan, or grant of or by the Commission in relation to which the Commission determines that there has been a violation of any provision under subsection (a)(1), (b), or (c), or any of the provisions of sections 202 through 209 of title 18.

**''§ 15307. Tribal participation**

''Governments of Indian tribes in the region of the Southwest Border Regional Commission shall be allowed to participate in matters before that Commission in the same manner and to the same extent as State agencies and instrumentalities in the region.

**''§ 15308. Annual report**

''(a) IN GENERAL.—Not later than 90 days after the last day of each fiscal year, each Commission shall submit to the President and Congress a report on the activities carried out by the Commission under this subtitle in the fiscal year.

''(b) CONTENTS.—The report shall include—

''(1) a description of the criteria used by the Commission to designate counties under section

*15702 and a list of the counties designated in each category;*

*''(2) an evaluation of the progress of the Commission in meeting the goals identified in the Commission's economic and infrastructure development plan under section 15303 and State economic and infrastructure development plans under section 15502; and*

*''(3) any policy recommendations approved by the Commission.*

***"CHAPTER 3—FINANCIAL ASSISTANCE***

*''Sec.*
*''15501. Economic and infrastructure development grants.*
*''15502. Comprehensive economic and infrastructure development plans.*
*''15503. Approval of applications for assistance.*
*''15504. Program development criteria.*
*''15505. Local development districts and organizations.*
*''15506. Supplements to Federal grant programs.*

***"§ 15501. Economic and infrastructure development grants***

*''(a) IN GENERAL.—A Commission may make grants to States and local governments, Indian tribes, and public and nonprofit organizations for projects, approved in accordance with section 15503—*

*''(1) to develop the transportation infrastructure of its region;*

*''(2) to develop the basic public infrastructure of its region;*

*''(3) to develop the telecommunications infrastructure of its region;*

*''(4) to assist its region in obtaining job skills training, skills development and employment-related education, entrepreneurship, technology, and business development;*

*''(5) to provide assistance to severely economically distressed and underdeveloped areas of its region that lack financial resources for improving basic health care and other public services;*

*''(6) to promote resource conservation, tourism, recreation, and preservation of open space in a manner consistent with economic development goals;*

*''(7) to promote the development of renewable and alternative energy sources; and*

*''(8) to otherwise achieve the purposes of this subtitle.*

*''(b) ALLOCATION OF FUNDS.—A Commission shall allocate at least 40 percent of any grant amounts provided by the Commission in a fiscal year for projects described in paragraphs (1) through (3) of subsection (a).*

*''(c) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this subtitle, in combination with amounts available under other Federal grant programs, or from any other source.*

*''(d) MAXIMUM COMMISSION CONTRIBUTIONS.—*

*''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.*

*''(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 15702 may be increased to 80 percent.*

*''(3) SPECIAL RULE FOR REGIONAL PROJECTS.—A Commission may increase to 60 percent under paragraph (1) and 90 percent under paragraph (2) the maximum Commission contribution for a project or activity if—*

*''(A) the project or activity involves 3 or more counties or more than one State; and*

*''(B) the Commission determines in accordance with section 15302(a) that the project or activity will bring significant interstate or multicounty benefits to a region.*

*''(e) MAINTENANCE OF EFFORT.—Funds may be provided by a Commission for a program or project in a State under this section only if the Commission determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within region, will not be reduced as a result of funds made available by this subtitle.*

*''(f) NO RELOCATION ASSISTANCE.—Financial assistance authorized by this section may not be used to assist a person or entity in relocating from one area to another.*

***"§ 15502. Comprehensive economic and infrastructure development plans***

*''(a) STATE PLANS.—In accordance with policies established by a Commission, each State member of the Commission shall submit a comprehensive economic and infrastructure development plan for the area of the region represented by the State member.*

*''(b) CONTENT OF PLAN.—A State economic and infrastructure development plan shall reflect the goals, objectives, and priorities identified in any applicable economic and infrastructure development plan developed by a Commission under section 15303.*

*''(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State shall—*

*''(1) consult with local development districts, local units of government, and local colleges and universities; and*

*''(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).*

*''(d) PUBLIC PARTICIPATION.—*

*''(1) IN GENERAL.—A Commission and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.*

*''(2) GUIDELINES.—A Commission shall develop guidelines for providing public participation, including public hearings.*

***"§ 15503. Approval of applications for assistance***

*''(a) EVALUATION BY STATE MEMBER.—An application to a Commission for a grant or any other assistance for a project under this subtitle shall be made through, and evaluated for approval by, the State member of the Commission representing the applicant.*

*''(b) CERTIFICATION.—An application to a Commission for a grant or other assistance for a project under this subtitle shall be eligible for assistance only on certification by the State member of the Commission representing the applicant that the application for the project—*

*''(1) describes ways in which the project complies with any applicable State economic and infrastructure development plan;*

*''(2) meets applicable criteria under section 15504;*

*''(3) adequately ensures that the project will be properly administered, operated, and maintained; and*

*''(4) otherwise meets the requirements for assistance under this subtitle.*

*''(c) VOTES FOR DECISIONS.—On certification by a State member of a Commission of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Commission under section 15302 shall be required for approval of the application.*

***"§ 15504. Program development criteria***

*''In considering programs and projects to be provided assistance by a Commission under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Commission, the Commission shall follow procedures that ensure, to the maximum extent practicable, consideration of—*

*''(1) the relationship of the project or class of projects to overall regional development;*

*''(2) the per capita income and poverty and unemployment and outmigration rates in an area;*

*''(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;*

*''(4) the importance of the project or class of projects in relation to the other projects or classes of projects that may be in competition for the same funds;*

*''(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and*

*''(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.*

***"§ 15505. Local development districts and organizations***

*''(a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—Subject to the requirements of this section, a Commission may make grants to a local development district to assist in the payment of development planning and administrative expenses.*

*''(b) CONDITIONS FOR GRANTS.—*

*''(1) MAXIMUM AMOUNT.—The amount of a grant awarded under this section may not exceed 80 percent of the administrative and planning expenses of the local development district receiving the grant.*

*''(2) MAXIMUM PERIOD FOR STATE AGENCIES.—In the case of a State agency certified as a local development district, a grant may not be awarded to the agency under this section for more than 3 fiscal years.*

*''(3) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.*

*''(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—*

*''(1) operate as a lead organization serving multicounty areas in the region at the local level;*

*''(2) assist the Commission in carrying out outreach activities for local governments, community development groups, the business community, and the public;*

*''(3) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens; and*

*''(4) assist the individuals and entities described in paragraph (3) in identifying, assessing, and facilitating projects and programs to promote the economic development of the region.*

***"§ 15506. Supplements to Federal grant programs***

*''(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—*

*''(1) they lack the economic resources to provide the required matching share; or*

*''(2) there are insufficient funds available under the applicable Federal law with respect to a project to be carried out in the region.*

*''(b) FEDERAL GRANT PROGRAM FUNDING.—A Commission, with the approval of the Federal Cochairperson, may use amounts made available to carry out this subtitle—*

*''(1) for any part of the basic Federal contribution to projects or activities under the Federal grant programs authorized by Federal laws; and*

*''(2) to increase the Federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.*

''(c) CERTIFICATION REQUIRED.—For a program, project, or activity for which any part of the basic Federal contribution to the project or activity under a Federal grant program is proposed to be made under subsection (b), the Federal contribution shall not be made until the responsible Federal official administering the Federal law authorizing the Federal contribution certifies that the program, project, or activity meets the applicable requirements of the Federal law and could be approved for Federal contribution under that law if amounts were available under the law for the program, project, or activity.

''(d) LIMITATIONS IN OTHER LAWS INAPPLICABLE.—Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

''(e) FEDERAL SHARE.—The Federal share of the cost of a project or activity receiving assistance under this section shall not exceed 80 percent.

''(f) MAXIMUM COMMISSION CONTRIBUTION.—Section 15501(d), relating to limitations on Commission contributions, shall apply to a program, project, or activity receiving assistance under this section.

**"CHAPTER 4—ADMINISTRATIVE PROVISIONS**

''SUBCHAPTER I—GENERAL PROVISIONS

''Sec. 15701. Consent of States.
''Sec. 15702. Distressed counties and areas.
''Sec. 15703. Counties eligible for assistance in more than one region.
''Sec. 15704. Inspector General; records.
''Sec. 15705. Biannual meetings of representatives of all Commissions.

''SUBCHAPTER II—DESIGNATION OF REGIONS

''Sec. 15731. Southeast Crescent Regional Commission.
''Sec. 15732. Southwest Border Regional Commission.
''Sec. 15733. Northern Border Regional Commission.

''SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

''Sec. 15751. Authorization of appropriations.

''SUBCHAPTER I—GENERAL PROVISIONS

**"§ 15701. Consent of States**

''This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

**"§ 15702. Distressed counties and areas**

''(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this section, and annually thereafter, each Commission shall make the following designations:

''(1) DISTRESSED COUNTIES.—The Commission shall designate as distressed counties those counties in its region that are the most severely and persistently economically distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration.

''(2) TRANSITIONAL COUNTIES.—The Commission shall designate as transitional counties those counties in its region that are economically distressed and underdeveloped or have recently suffered high rates of poverty, unemployment, or outmigration.

''(3) ATTAINMENT COUNTIES.—The Commission shall designate as attainment counties, those counties in its region that are not designated as distressed or transitional counties under this subsection.

''(4) ISOLATED AREAS OF DISTRESS.—The Commission shall designate as isolated areas of distress, areas located in counties designated as attainment counties under paragraph (3) that have high rates of poverty, unemployment, or outmigration.

''(b) ALLOCATION.—A Commission shall allocate at least 50 percent of the appropriations made available to the Commission to carry out this subtitle for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

''(c) ATTAINMENT COUNTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be provided under this subtitle for a project located in a county designated as an attainment county under subsection (a).

''(2) EXCEPTIONS.—

''(A) ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 15505.

''(B) MULTICOUNTY AND OTHER PROJECTS.—A Commission may waive the application of the funding prohibition under paragraph (1) with respect to—

''(i) a multicounty project that includes participation by an attainment county; and

''(ii) any other type of project, if a Commission determines that the project could bring significant benefits to areas of the region outside an attainment county.

''(3) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress to be effective, the designation shall be supported—

''(A) by the most recent Federal data available; or

''(B) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

**"§ 15703. Counties eligible for assistance in more than one region**

''(a) LIMITATION.—A political subdivision of a State may not receive assistance under this subtitle in a fiscal year from more than one Commission.

''(b) SELECTION OF COMMISSION.—A political subdivision included in the region of more than one Commission shall select the Commission with which it will participate by notifying, in writing, the Federal Cochairperson and the appropriate State member of that Commission.

''(c) CHANGES IN SELECTIONS.—The selection of a Commission by a political subdivision shall apply in the fiscal year in which the selection is made, and shall apply in each subsequent fiscal year unless the political subdivision, at least 90 days before the first day of the fiscal year, notifies the Cochairpersons of another Commission in writing that the political subdivision will participate in that Commission and also transmits a copy of such notification to the Cochairpersons of the Commission in which the political subdivision is currently participating.

''(d) INCLUSION OF APPALACHIAN REGIONAL COMMISSION.—In this section, the term 'Commission' includes the Appalachian Regional Commission established under chapter 143.

**"§ 15704. Inspector General; records**

''(a) APPOINTMENT OF INSPECTOR GENERAL.—There shall be an Inspector General for the Commissions appointed in accordance with section 3(a) of the Inspector General Act of 1978 (5 U.S.C. App.). All of the Commissions shall be subject to a single Inspector General.

''(b) RECORDS OF A COMMISSION.—

''(1) IN GENERAL.—A Commission shall maintain accurate and complete records of all its transactions and activities.

''(2) AVAILABILITY.—All records of a Commission shall be available for audit and examination by the Inspector General (including authorized representatives of the Inspector General).

''(c) RECORDS OF RECIPIENTS OF COMMISSION ASSISTANCE.—

''(1) IN GENERAL.—A recipient of funds from a Commission under this subtitle shall maintain accurate and complete records of transactions and activities financed with the funds and report to the Commission on the transactions and activities.

''(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Commission and the Inspector General (including authorized representatives of the Commission and the Inspector General).

''(d) ANNUAL AUDIT.—The Inspector General shall audit the activities, transactions, and records of each Commission on an annual basis.

**"§ 15705. Biannual meetings of representatives of all Commissions**

''(a) IN GENERAL.—Representatives of each Commission, the Appalachian Regional Commission, and the Denali Commission shall meet biannually to discuss issues confronting regions suffering from chronic and contiguous distress and successful strategies for promoting regional development.

''(b) CHAIR OF MEETINGS.—The chair of each meeting shall rotate among the Commissions, with the Appalachian Regional Commission to host the first meeting.

''SUBCHAPTER II—DESIGNATION OF REGIONS

**"§ 15731. Southeast Crescent Regional Commission**

''The region of the Southeast Crescent Regional Commission shall consist of all counties of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already served by the Appalachian Regional Commission or the Delta Regional Authority.

**"§ 15732. Southwest Border Regional Commission**

''The region of the Southwest Border Regional Commission shall consist of the following political subdivisions:

''(1) ARIZONA.—The counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona.

''(2) CALIFORNIA.—The counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California.

''(3) NEW MEXICO.—The counties of Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico.

''(4) TEXAS.—The counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

**"§ 15733. Northern Border Regional Commission**

''The region of the Northern Border Regional Commission shall include the following counties:

''(1) MAINE.—The counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Oxford, Penobscot, Piscataquis, Somerset, Waldo, and Washington in the State of Maine.

''(2) NEW HAMPSHIRE.—The counties of Carroll, Coos, Grafton, and Sullivan in the State of New Hampshire.

''(3) NEW YORK.—The counties of Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Seneca, and St. Lawrence in the State of New York.

''(4) VERMONT.—The counties of Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans in the State of Vermont.

''SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

**"§ 15751. Authorization of appropriations**

''(a) IN GENERAL.—There is authorized to be appropriated to each Commission to carry out this subtitle $30,000,000 for each of fiscal years 2008 through 2012.

''(b) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission in a fiscal year under this section may be used for administrative expenses.''.

(b) CLERICAL AMENDMENT TO TABLE OF SUBTITLES.—The table of subtitles for chapter 40, United States Code, is amended by striking the item relating to subtitle V and inserting the following:

''V. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT 15101
''VI. MISCELLANEOUS ..... 17101''.

(c) CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking ''or the President of the Export-Import Bank;'' and inserting ''the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;''; and

(2) in paragraph (2), by striking ''or the Export-Import Bank,'' and inserting ''the Export-Import Bank, or the Commissions established under section 15301 of title 40, United States Code,''.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

**SEC. 14218. COORDINATOR FOR CHRONICALLY UNDERSERVED RURAL AREAS.**

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a Coordinator for Chronically Underserved Rural Areas (in this section referred to as the ''Coordinator''), to be located in the Rural Development Mission Area.

(b) MISSION.—The mission of the Coordinator shall be to direct Department of Agriculture resources to high need, high poverty rural areas.

(c) DUTIES.—The Coordinator shall consult with other offices in directing technical assistance, strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as necessary to carry out this section for fiscal years 2008 through 2012.

**SEC. 14219. ELIMINATION OF STATUTE OF LIMITATIONS APPLICABLE TO COLLECTION OF DEBT BY ADMINISTRATIVE OFFSET.**

(a) ELIMINATION.—Section 3716(e) of title 31, United States Code, is amended to read as follows:

''(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

''(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.''.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to any debt outstanding on or after the date of the enactment of this Act.

**SEC. 14220. AVAILABILITY OF EXCESS AND SURPLUS COMPUTERS IN RURAL AREAS.**

In addition to any other authority, the Secretary of Agriculture may make available to an organization excess or surplus computers or other technical equipment of the Department of Agriculture for the purposes of distribution to a city, town, or local government entity in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act).

**SEC. 14221. REPEAL OF SECTION 3068 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2007.**

Effective upon the date of enactment of this Act, section 3068 of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1123), and the item relating to section 3068 in the table of contents of that Act, are repealed.

**SEC. 14222. DOMESTIC FOOD ASSISTANCE PROGRAMS.**

(a) DEFINITION OF SECTION 32.—In this section, the term ''section 32'' means section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

(b) TRANSFER TO FOOD AND NUTRITION SERVICE.—

(1) IN GENERAL.—Amounts made available for a fiscal year to carry out section 32 in excess of the maximum amount calculated under paragraph (2) shall be transferred to the Secretary, acting through the Administrator of the Food and Nutrition Service, to be used to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) MAXIMUM AMOUNT.—The maximum amount calculated under this paragraph for a fiscal year is the sum of—

(A)(i) in the case of fiscal year 2009, $1,173,000,000;

(ii) in the case of fiscal year 2010, $1,199,000,000;

(iii) in the case of fiscal year 2011, $1,215,000,000;

(iv) in the case of fiscal year 2012, $1,231,000,000;

(v) in the case of fiscal year 2013, $1,248,000,000;

(vi) in the case of fiscal year 2014, $1,266,000,000;

(vii) in the case of fiscal year 2015, $1,284,000,000;

(viii) in the case of fiscal year 2016, $1,303,000,000;

(ix) in the case of fiscal year 2017, $1,322,000,000; and

(x) for fiscal year 2018 and each fiscal year thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending on the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor; and

(B) any transfers for the fiscal year from section 32 to the Department of Commerce under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).

(c) FRESH FRUIT AND VEGETABLE PROGRAM.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall transfer for use to carry out the fresh fruit and vegetable program under section 19 of the Richard B. Russell National School Lunch Act the amounts specified in subsection (i) of that section.

(d) WHOLE GRAIN PRODUCTS.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall use to carry out section 4305 $4,000,000 for fiscal year 2009.

(e) MAINTENANCE OF FUNDING.—The funding provided under subsections (c) and (d) shall supplement (and not supplant) other Federal funding (including section 32 funding) for programs carried out under—

(1) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except for section 19 of that Act;

(2) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.); and

(3) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036).

**SEC. 14223. TECHNICAL CORRECTION.**

Section 923(1)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2206a(1)(B)) is amended by striking ''as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))'' and inserting ''as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5))''.

## TITLE XV—TRADE AND TAX PROVISIONS

**SEC. 15001. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This title may be cited as the ''Heartland, Habitat, Harvest, and Horticulture Act of 2008''.

(b) AMENDMENTS TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### Subtitle A—Supplemental Agricultural Disaster Assistance From the Agricultural Disaster Relief Trust Fund

**SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) IN GENERAL.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

### ''TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

**''SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

''(a) DEFINITIONS.—In this section:

''(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or the noninsured crop disaster assistance program, respectively.

''(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

''(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(4)(B)), the actual production history for the eligible producer without regard to any yields established under that section;

''(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B) of that Act, the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B) of that Act; and

''(C) in all other cases, the actual production history of the eligible producer on a farm.

''(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

''(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

''(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

''(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

''(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

''(5) DISASTER COUNTY.—

''(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area

*covered by a qualifying natural disaster declaration.*

*''(B) INCLUSION.—The term 'disaster county' includes—*

*''(i) a county contiguous to a county described in subparagraph (A); and*

*''(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.*

*''(6) ELIGIBLE PRODUCER ON A FARM.—*

*''(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.*

*''(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—*

*''(i) a citizen of the United States;*

*''(ii) a resident alien;*

*''(iii) a partnership of citizens of the United States; or*

*''(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.*

*''(7) FARM.—*

*''(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.*

*''(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.*

*''(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.*

*''(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.*

*''(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*

*''(10) LIVESTOCK.—The term 'livestock' includes—*

*''(A) cattle (including dairy cattle);*

*''(B) bison;*

*''(C) poultry;*

*''(D) sheep;*

*''(E) swine;*

*''(F) horses; and*

*''(G) other livestock, as determined by the Secretary.*

*''(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.*

*''(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

*''(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).*

*''(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.*

*''(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).*

*''(16) STATE.—The term 'State' means—*

*''(A) a State;*

*''(B) the District of Columbia;*

*''(C) the Commonwealth of Puerto Rico; and*

*''(D) any other territory or possession of the United States.*

*''(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902.*

*''(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.*

*''(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—*

*''(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.*

*''(2) AMOUNT.—*

*''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—*

*''(i) the disaster assistance program guarantee, as described in paragraph (3); and*

*''(ii) the total farm revenue for a farm, as described in paragraph (4).*

*''(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.*

*''(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—*

*''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—*

*''(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—*

*''(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;*

*''(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;*

*''(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—*

*''(aa) the adjusted actual production history yield; or*

*''(bb) the counter-cyclical program payment yield for each crop; and*

*''(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—*

*''(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;*

*''(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and*

*''(III) the payment yield for the commodity that is equal to the higher of—*

*''(aa) the adjusted noninsured crop assistance program yield guarantee; or*

*''(bb) the counter-cyclical program payment yield for each crop.*

*''(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.*

*''(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.*

*''(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.*

*''(4) FARM REVENUE.—*

*''(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—*

*''(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—*

*''(I) the actual crop acreage harvested by an eligible producer on a farm;*

*''(II) the estimated actual yield of the crop production; and*

*''(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;*

*''(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;*

*''(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;*

*''(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;*

*''(v) the amount of payments for prevented planting on a farm;*

*''(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;*

*''(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and*

*''(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.*

*''(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—*

*''(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and*

*''(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.*

*''(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.*

*''(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—*

*''(A) the product obtained by multiplying—*

*''(i) the greatest of—*

*''(I) the adjusted actual production history yield of the eligible producer on a farm; and*

*''(II) the counter-cyclical program payment yield;*

''(ii) the acreage planted or prevented from being planted for each crop; and

''(iii) 100 percent of the insurance price guarantee; and

''(B) the product obtained by multiplying—

''(i) 100 percent of the adjusted noninsured crop assistance program yield; and

''(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

''(c) LIVESTOCK INDEMNITY PAYMENTS.—

''(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

''(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

''(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED LIVESTOCK.—

''(i) IN GENERAL.—The term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

''(I) owned;

''(II) leased;

''(III) purchased;

''(IV) entered into a contract to purchase;

''(V) is a contract grower; or

''(VI) sold or otherwise disposed of due to qualifying drought conditions during—

''(aa) the current production year; or

''(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

''(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

''(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

''(C) ELIGIBLE LIVESTOCK PRODUCER.—

''(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

''(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

''(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

''(III) certifies grazing loss; and

''(IV) meets all other eligibility requirements established under this subsection.

''(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

''(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

''(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

''(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

''(A) a drought condition, as described in paragraph (3); or

''(B) fire, as described in paragraph (4).

''(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

''(A) ELIGIBLE LOSSES.—

''(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

''(I) is native or improved pastureland with permanent vegetative cover; or

''(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

''(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

''(B) MONTHLY PAYMENT RATE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

''(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

''(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

''(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

''(C) MONTHLY FEED COST.—

''(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

''(I) 30 days;

''(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

''(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

''(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

''(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

''(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

''(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

''(I) the higher of—

''(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

''(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

''(II) 56.

''(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

''(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

''(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

''(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

''(ii) DROUGHT INTENSITY.—

''(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

''(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

''(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

''(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

''(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

''(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

''(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

''(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

''(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

''(C) PAYMENT DURATION.—

''(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

''(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

''(II) ending on the last day of the Federal lease of the eligible livestock producer.

''(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

''(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

''(i) obtained a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the grazing land incurring the losses for which assistance is being requested; or

''(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

''(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

''(i) waive subparagraph (A); and

''(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

''(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

''(D) EQUITABLE RELIEF.—

''(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

''(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

''(6) NO DUPLICATIVE PAYMENTS.—

''(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

''(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

''(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

''(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

''(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

''(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

''(f) TREE ASSISTANCE PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

''(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

''(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

''(D) TREE.—The term 'tree' includes a tree, bush, and vine.

''(2) ELIGIBILITY.—

''(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

''(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

''(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

''(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

''(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

''(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

''(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

''(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

''(4) LIMITATIONS ON ASSISTANCE.—

''(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

''(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

''(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

''(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

''(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

''(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act); or

''(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

''(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

''(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

''(A) waive paragraph (1); and

''(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

''(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

''(5) EQUITABLE RELIEF.—

''(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

''(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

''(h) PAYMENT LIMITATIONS.—

''(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

''(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

''(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

''(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.

''(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

''(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under the Federal Crop Insurance

*Act (7 U.S.C. 1501 et seq.)) and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).*

***"SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.***

*''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Agricultural Disaster Relief Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.*

*''(b) TRANSFER TO TRUST FUND.—*

*''(1) IN GENERAL.—There are appropriated to the Agricultural Disaster Relief Trust Fund amounts equivalent to 3.08 percent of the amounts received in the general fund of the Treasury of the United States during fiscal years 2008 through 2011 attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule of the United States.*

*''(2) AMOUNTS BASED ON ESTIMATES.—The amounts appropriated under this section shall be transferred at least monthly from the general fund of the Treasury of the United States to the Agricultural Disaster Relief Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.*

*''(3) LIMITATION ON TRANSFERS TO AGRICULTURAL DISASTER RELIEF TRUST FUND.—No amount may be appropriated to the Agricultural Disaster Relief Trust Fund on and after the date of any expenditure from the Agricultural Disaster Relief Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—*

*''(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and*

*''(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.*

*''(c) ADMINISTRATION.—*

*''(1) REPORTS.—The Secretary of the Treasury shall be the trustee of the Agricultural Disaster Relief Trust Fund and shall submit an annual report to Congress each year on the financial condition and the results of the operations of such Trust Fund during the preceding fiscal year and on its expected condition and operations during the 4 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of Congress to which the report is made.*

*''(2) INVESTMENT.—*

*''(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Agricultural Disaster Relief Trust Fund as is not in his judgment required to meet current withdrawals. Such investments may be made only in interest bearing obligations of the United States. For such purpose, such obligations may be acquired—*

*''(i) on original issue at the issue price, or*

*''(ii) by purchase of outstanding obligations at the market price.*

*''(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Agricultural Disaster Relief Trust Fund may be sold by the Secretary of the Treasury at the market price.*

*''(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Agricultural Disaster Relief Trust Fund shall be credited to and form a part of such Trust Fund.*

*''(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Agricultural Disaster Relief Trust Fund shall be available for the purposes of making expenditures to meet those obligations of the United States incurred under section 901 or section 531 of the Federal Crop Insurance Act (as such sections are in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008).*

*''(e) AUTHORITY TO BORROW.—*

*''(1) IN GENERAL.—There are authorized to be appropriated, and are appropriated, to the Agricultural Disaster Relief Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.*

*''(2) REPAYMENT OF ADVANCES.—*

*''(A) IN GENERAL.—Advances made to the Agricultural Disaster Relief Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Trust Fund.*

*''(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—*

*''(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and*

*''(ii) compounded annually.*

***"SEC. 903. JURISDICTION.***

*''Legislation in the Senate of the United States amending section 901 or 902 shall be referred to the Committee on Finance of the Senate.''.*

*(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 901 of the Trade Act of 1974 (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.*

*(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:*

*''TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE*

*''Sec. 901. Supplemental agricultural disaster assistance.*

*''Sec. 902. Agricultural Disaster Relief Trust Fund.*

*''Sec. 903. Jurisdiction.''.*

***Subtitle B—Revenue Provisions for Agriculture Programs***

***SEC. 15201. CUSTOMS USER FEES.***

*(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking ''December 27, 2014'' and inserting ''November 14, 2017''.*

*(b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking ''December 27, 2014'' and inserting ''September 30, 2017''.*

*(c) TIME FOR REMITTING CERTAIN COBRA FEES.—Notwithstanding any other provision of law, any fees authorized under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with respect to customs services provided on or after July 1, 2017, and before September 20, 2017, shall be paid not later than September 25, 2017.*

*(d) TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.—*

*(1) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect to processing merchandise entered on or after October 1, 2017, and before November 15, 2017, shall be paid not later than September 25, 2017, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2016, and before November 15, 2016, as determined by the Secretary of the Treasury.*

*(2) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—Not later than December 15, 2017, the Secretary of the Treasury shall reconcile the fees paid pursuant to paragraph (1) with the fees for services actually provided on or after October 1, 2017, and before November 15, 2017, and shall refund with interest any overpayment of such fees and make proper adjustments with respect to any underpayment of such fees. No interest may be assessed with respect to any such underpayment that was based on the amount of fees paid for merchandise entered on or after October 1, 2016, and before November 15, 2016.*

***SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.***

*The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 7.75 percentage points.*

***Subtitle C—Tax Provisions***

***PART I—CONSERVATION***

***Subpart A—Land and Species Preservation Provisions***

***SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SECA TAX FOR CERTAIN INDIVIDUALS.***

*(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) (defining net earnings from self-employment) is amended by inserting '', and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act'' after ''crop shares''.*

*(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting '', and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223'' after ''crop shares''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2007.*

***SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE ENCOURAGING CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY FOR CONSERVATION PURPOSES.***

*(a) IN GENERAL.—*

*(1) INDIVIDUALS.—Section 170(b)(1)(E)(vi) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.*

*(2) CORPORATIONS.—Section 170(b)(2)(B)(iii) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.*

***SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.***

*(a) DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.—*

*(1) IN GENERAL.—Paragraph (1) of section 175(c) (relating to definitions) is amended by inserting after the first sentence the following new sentence: ''Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973.''.*

*(2) CONFORMING AMENDMENTS.—*

*(A) Section 175 is amended by inserting '', or for endangered species recovery'' after ''prevention of erosion of land used in farming'' each place it appears in subsections (a) and (c).*

*(B) The heading of section 175 is amended by inserting "**; ENDANGERED SPECIES RECOVERY EXPENDITURES**" before the period.*

*(C) The item relating to section 175 in the table of sections for part VI of subchapter B of chapter 1 is amended by inserting "; endangered species recovery expenditures" before the period.*

*(b) LIMITATIONS.—Paragraph (3) of section 175(c) (relating to additional limitations) is amended—*

*(1) in the heading of subparagraph (A), by inserting "OR ENDANGERED SPECIES RECOVERY PLAN" after "CONSERVATION PLAN", and*

*(2) in subparagraph (A)(i), by inserting "or the recovery plan approved pursuant to the Endangered Species Act of 1973" after "Department of Agriculture".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2008.*

***Subpart B—Timber Provisions***

***SEC. 15311. TEMPORARY REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.***

*(a) IN GENERAL.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:*

*"(b) SPECIAL RATE FOR QUALIFIED TIMBER GAINS.—*

*"(1) IN GENERAL.—If, for any taxable year ending after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and beginning on or before the date which is 1 year after such date, a corporation has both a net capital gain and qualified timber gain—*

*"(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and*

*"(B) the tax computed under subsection (a)(2) shall be equal to the sum of—*

*"(i) 15 percent of the least of—*

*"(I) qualified timber gain,*

*"(II) net capital gain, or*

*"(III) taxable income, plus*

*"(ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).*

*"(2) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—*

*"(A) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over*

*"(B) the sum of the taxpayer's losses described in such subsections for such year.*

*For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.*

*"(3) COMPUTATION FOR TAXABLE YEARS IN WHICH RATE FIRST APPLIES OR ENDS.—In the case of any taxable year which includes either of the dates set forth in paragraph (1), the qualified timber gain for such year shall not exceed the qualified timber gain properly taken into account for—*

*"(A) in the case of the taxable year including the date of the enactment of the Food, Conservation, and Energy Act of 2008, the portion of the year after such date, and*

*"(B) in the case of the taxable year including the date which is 1 year after such date of enactment, the portion of the year on or before such later date.".*

*(b) MINIMUM TAX.—Subsection (b) of section 55 is amended by adding at the end the following paragraph:*

*"(4) MAXIMUM RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.—In the case of any taxable year to which section 1201(b) applies, the amount determined under clause (i) of subparagraph (B) shall not exceed the sum of—*

*"(A) 20 percent of so much of the taxable excess (if any) as exceeds the qualified timber gain (or, if less, the net capital gain), plus*

*"(B) 15 percent of the taxable excess in excess of the amount on which a tax is determined under subparagraph (A).*

*Any term used in this paragraph which is also used in section 1201 shall have the meaning given such term by such section, except to the extent such term is subject to adjustment under this part.".*

*(c) CONFORMING AMENDMENT.—Section 857(b)(3)(A)(ii) is amended by striking "rate" and inserting "rates".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment.*

***SEC. 15312. TIMBER REIT MODERNIZATION.***

*(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:*

*"(H) TREATMENT OF TIMBER GAINS.—*

*"(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—*

*"(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;*

*"(II) recognized under section 631(b); or*

*"(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.*

*"(ii) SPECIAL RULES.—*

*"(I) For purposes of this subtitle, cut timber, the gain from which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.*

*"(II) For purposes of this subtitle, income described in this subparagraph shall not be treated as gain from the sale of property described in section 1221(a)(1).*

*"(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.".*

*(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:*

*"(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means, with respect to any taxpayer, the last day of the taxpayer's first taxable year beginning after the date of the enactment of this paragraph and before the date that is 1 year after such date of enactment.".*

*(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.*

***SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.***

*(a) IN GENERAL.—Section 856(c)(2) is amended by striking "and" at the end of subparagraph (G), by inserting "and" at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:*

*"(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust and held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;".*

*(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:*

*"(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.".*

*(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.*

***SEC. 15314. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.***

*(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting "(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)" after "REIT subsidiaries".*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.*

***SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.***

*(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:*

*"(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—*

*"(i) IN GENERAL.—In the case of the sale of a real estate asset (as defined in section 856(c)(5)(B)) to a qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—*

*"(I) by substituting '2 years' for '4 years' in clause (i), and*

*"(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).*

*"(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.".*

*(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ", or, in the case of a sale on or before the termination date, a taxable REIT subsidiary" after "any income".*

*(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:*

*"(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through the application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.".*

*(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:*

*"(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' has the meaning given such term by section 856(c)(8).".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.*

***SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.***

*(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:*

***"Subpart I—Qualified Tax Credit Bonds***

*"Sec. 54A. Credit to holders of qualified tax credit bonds.*

*"Sec. 54B. Qualified forestry conservation bonds.*

***"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.***

*"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.*

*"(b) AMOUNT OF CREDIT.—*

*"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax*

*credit bond is 25 percent of the annual credit determined with respect to such bond.*

*''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—*

*''(A) the applicable credit rate, multiplied by*

*''(B) the outstanding face amount of the bond.*

*''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.*

*''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.*

*''(c) LIMITATION BASED ON AMOUNT OF TAX.—*

*''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—*

*''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over*

*''(B) the sum of the credits allowable under this part (other than subpart C and this subpart).*

*''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).*

*''(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—*

*''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).*

*''(2) SPECIAL RULES RELATING TO EXPENDITURES.—*

*''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—*

*''(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and*

*''(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.*

*''(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—*

*''(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.*

*''(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).*

*''(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.*

*''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(e).*

*''(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—*

*''(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,*

*''(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and*

*''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.*

*''(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).*

*''(4) SPECIAL RULES RELATING TO ARBITRAGE.—*

*''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.*

*''(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.*

*''(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—*

*''(i) such fund is funded at a rate not more rapid than equal annual installments,*

*''(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and*

*''(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.*

*''(5) MATURITY LIMITATION.—*

*''(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).*

*''(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.*

*''(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—*

*''(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and*

*''(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.*

*''(e) OTHER DEFINITIONS.—For purposes of this subchapter—*

*''(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—*

*''(A) March 15,*

*''(B) June 15,*

*''(C) September 15, and*

*''(D) December 15.*

*Such term includes the last day on which the bond is outstanding.*

*''(2) BOND.—The term 'bond' includes any obligation.*

*''(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.*

*''(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—*

*''(A) the excess of—*

*''(i) the proceeds from the sale of an issue, over*

*''(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and*

*''(B) the proceeds from any investment of the excess described in subparagraph (A).*

*''(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.*

*''(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.*

*''(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.*

*''(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—*

*''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.*

*''(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.*

***''SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.***

*''(a) QUALIFIED FORESTRY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified forestry conservation bond' means any bond issued as part of an issue if—*

*''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,*

*''(2) the bond is issued by a qualified issuer, and*

*''(3) the issuer designates such bond for purposes of this section.*

*''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).*

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified forestry conservation bond limitation of $500,000,000.

''(d) ALLOCATIONS.—

''(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

''(2) SOLICITATION OF APPLICATIONS.—The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) not later than 90 days after the date of the enactment of this section.

''(e) QUALIFIED FORESTRY CONSERVATION PURPOSE.—For purposes of this section, the term 'qualified forestry conservation purpose' means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

''(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

''(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.

''(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

''(4) The amount of acreage acquired must be at least 40,000 acres.

''(f) QUALIFIED ISSUER.—For purposes of this section, the term 'qualified issuer' means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

''(g) SPECIAL ARBITRAGE RULE.—In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

''(h) ELECTION TO TREAT 50 PERCENT OF BOND ALLOCATION AS PAYMENT OF TAX.—

''(1) IN GENERAL.—If—

''(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

''(B) the qualified issuer elects the application of this subsection with respect to such allocation,

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

''(2) TREATMENT OF DEEMED PAYMENT.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

''(B) NO INTEREST.—Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

''(3) REQUIREMENT FOR, AND EFFECT OF, ELECTION.—

''(A) REQUIREMENT.—No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

''(B) EFFECT OF ELECTION ON ALLOCATION.—If a qualified issuer makes the election under this subsection with respect to any allocation—

''(i) the issuer may issue no bonds pursuant to the allocation, and

''(ii) the Secretary may not reallocate such allocation for any other purpose.''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking ''subpart C'' and inserting ''subparts C and I''.

(2) Section 1397E(c)(2) is amended by striking ''subpart H'' and inserting ''subparts H and I''.

(3) Section 6401(b)(1) is amended by striking ''and H'' and inserting ''H, and I''.

(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking ''**Certain Bonds**'' and inserting ''**Clean Renewable Energy Bonds**''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

''SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

''SUBPART I. QUALIFIED TAX CREDIT BONDS.''.

(6) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by striking ''or 6428 or 53(e)'' and inserting '', 53(e), 54B(h), or 6428''.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

## PART II—ENERGY PROVISIONS

### Subpart A—Cellulosic Biofuel

**SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC BIOFUEL.**

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking ''plus'' at the end of paragraph (1), by striking ''plus'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', plus'', and by adding at the end the following new paragraph:

''(4) the cellulosic biofuel producer credit.''.

(b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

''(6) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

''(A) IN GENERAL.—The cellulosic biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of qualified cellulosic biofuel production.

''(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means $1.01, except that such amount shall, in the case of cellulosic biofuel which is alcohol, be reduced by the sum of—

''(i) the amount of the credit in effect for such alcohol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic biofuel production, plus

''(ii) in the case of ethanol, the amount of the credit in effect under subsection (b)(4) at the time of such production.

''(C) QUALIFIED CELLULOSIC BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic biofuel production' means any cellulosic biofuel which is produced by the taxpayer, and which during the taxable year—

''(i) is sold by the taxpayer to another person—

''(I) for use by such other person in the production of a qualified cellulosic biofuel mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person, or

''(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified cellulosic biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

''(D) QUALIFIED CELLULOSIC BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified cellulosic biofuel mixture' means a mixture of cellulosic biofuel and gasoline or of cellulosic biofuel and a special fuel which—

''(i) is sold by the person producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the person producing such mixture.

''(E) CELLULOSIC BIOFUEL.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'cellulosic biofuel' means any liquid fuel which—

''(I) is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

''(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

''(ii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.

''(F) ALLOCATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph.

''(G) REGISTRATION REQUIREMENT.—No credit shall be determined under this paragraph with respect to any taxpayer unless such taxpayer is registered with the Secretary as a producer of cellulosic biofuel under section 4101.

''(H) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2013.''.

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting ''or subsection (b)(6)(H)'' after ''by reason of paragraph (1)'' in paragraph (2), and

(B) by adding at the end the following new paragraph:

''(3) EXCEPTION FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).''.

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4101(a) is amended—

(i) by striking ''and every person'' and inserting '', every person'', and

(ii) by inserting '', and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))'' after ''section 6426(b)(4)(A))''.

(B) The heading of section 40, and the item relating to such section in the table of sections for subpart D of part IV of subchapter A of chapter 1, are each amended by inserting '', etc.,'' after ''Alcohol''.

(c) BIOFUEL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) CELLULOSIC BIOFUEL PRODUCER CREDIT.—If—

''(i) any credit is allowed under subsection (a)(4), and

''(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C),

then there is hereby imposed on such person a tax equal to the applicable amount (as defined in subsection (b)(6)(B)) for each gallon of such cellulosic biofuel.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 40(d)(3) is amended by striking ''PRODUCER'' in the heading and inserting ''SMALL ETHANOL PRODUCER''.

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking ''or (C)'' and inserting ''(C), or (D)''.

(d) BIOFUEL PRODUCED IN THE UNITED STATES.—Section 40(d) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—No cellulosic biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic biofuel unless such cellulosic biofuel is produced in the United States and used as a fuel in the United States. For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC BIOFUEL PRODUCTION BY SMALL ETHANOL PRODUCERS.—Section 40(b)(4)(C) is amended by inserting ''(determined without regard to any qualified cellulosic biofuel production)'' after ''15,000,000 gallons''.

(f) DENIAL OF DOUBLE BENEFIT.—

(1) BIODIESEL.—Paragraph (1) of section 40A(d) is amended by adding at the end the following new flush sentence:

''Such term shall not include any liquid with respect to which a credit may be determined under section 40.''.

(2) RENEWABLE DIESEL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new flush sentence:

''Such term shall not include any liquid with respect to which a credit may be determined under section 40.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2008.

**SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.**

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable in United States forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels,

(3) the domestic effects of an increase in biofuels production levels, including the effects of such levels on—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage, forest acreage, and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops and forest products,

(G) exports and imports of grains and forest products,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation,

(6) the impact of the tax credit established by this subpart on the regional agricultural and silvicultural capabilities of commercially available forest inventories, and

(7) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The Secretary of the Treasury shall submit an initial report of the findings of the study required under subsection (a) to Congress not later than 6 months after the date of the enactment of this Act (36 months after such date in the case of the information required by subsection (a)(6)), and a final report not later than 12 months after such date (42 months after such date in the case of the information required by subsection (a)(6)).

## Subpart B—Revenue Provisions

**SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.**

(a) INCOME TAX CREDIT.—

(1) IN GENERAL.—The table in paragraph (2) of section 40(h) is amended—

(A) by striking ''through 2010'' in the first column and inserting '', 2006, 2007, or 2008'',

(B) by striking the period at the end of the third row, and

(C) by adding at the end the following new row:

| | | |
|---|---|---|
| ''2009 through 2010 ... | 45 cents ... | 33.33 cents.''. |

(2) EXCEPTION.—Section 40(h) is amended by adding at the end the following new paragraph:

''(3) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in subparagraph (B) with respect to all preceding calendar years beginning after 2007, the last row in the table in paragraph (2) shall be applied by substituting '51 cents' for '45 cents'.

''(B) DETERMINATION.—A determination described in this subparagraph with respect to any calendar year is a determination, in consultation with the Administrator of the Environmental Protection Agency, that an amount less than 7,500,000,000 gallons of ethanol (including cellulosic ethanol) has been produced in or imported into the United States in such year.''.

(b) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 6426(b)(2) (relating to alcohol fuel mixture credit) is amended by striking ''the applicable amount is 51 cents'' and inserting ''the applicable amount is—

''(i) in the case of calendar years beginning before 2009, 51 cents, and

''(ii) in the case of calendar years beginning after 2008, 45 cents.''.

(2) EXCEPTION.—Paragraph (2) of section 6426(b) is amended by adding at the end the following new subparagraph:

''(C) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting '51 cents' for '45 cents'.''

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 6426(b)(2) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR FUEL CREDITS.**

(a) IN GENERAL.—Paragraph (4) of section 40(d) (relating to volume of alcohol) is amended by striking ''5 percent'' and inserting ''2 percent''.

(b) CONFORMING AMENDMENT FOR EXCISE TAX CREDIT.—Section 6426(b) (relating to alcohol fuel mixture credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2008.

**SEC. 15333. ETHANOL TARIFF EXTENSION.**

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking ''1/1/2009'' and inserting ''1/1/2011''.

**SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN IMPORTED ETHANOL.**

(a) IN GENERAL.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULES FOR ETHYL ALCOHOL.—For purposes of this subsection, any duty paid under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to—

(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and

(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.

## PART III—AGRICULTURAL PROVISIONS

**SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL BONDS.**

(a) IN GENERAL.—Subparagraph (A) of section 147(c)(2) (relating to exception for first-time farmers) is amended by striking ''$250,000'' and inserting ''$450,000''.

(b) INFLATION ADJUSTMENT.—Section 147(c)(2) is amended by adding at the end the following new subparagraph:

''(H) ADJUSTMENTS FOR INFLATION.—In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.''.

(c) MODIFICATION OF SUBSTANTIAL FARMLAND DEFINITION.—Section 147(c)(2)(E) (defining substantial farmland) is amended by striking ''unless'' and all that follows through the period and inserting ''unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.''.

(d) CONFORMING AMENDMENT.—Section 147(c)(2)(C)(i)(II) is amended by striking ''$250,000'' and inserting ''the amount in effect under subparagraph (A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR EXCHANGES INVOLVING CERTAIN MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.**

(a) IN GENERAL.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes of subsection (a)(2)(B), the term 'stocks' shall not include shares in a mutual ditch, reservoir, or irrigation company if at the time of the exchange—

''(1) the mutual ditch, reservoir, or irrigation company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses), and

''(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to exchanges completed after the date of the enactment of this Act.

**SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

**''SEC. 45O. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

''(b) FACILITY LIMITATION.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year shall not exceed—

''(1) $100,000, reduced by

''(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

''(c) ANNUAL LIMITATION.—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $2,000,000.

''(d) QUALIFIED CHEMICAL SECURITY EXPENDITURE.—For purposes of this section, the term 'qualified chemical security expenditure' means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

''(1) employee security training and background checks,

''(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

''(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

''(4) protection of the perimeter of specified agricultural chemicals,

''(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,

''(6) implementation of measures to increase computer or computer network security,

''(7) conducting a security vulnerability assessment,

''(8) implementing a site security plan, and

''(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of protecting specified agricultural chemicals.

''(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term 'eligible agricultural business' means any person in the trade or business of—

''(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

''(2) manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals.

''(f) SPECIFIED AGRICULTURAL CHEMICAL.—For purposes of this section, the term 'specified agricultural chemical' means—

''(1) any fertilizer commonly used in agricultural operations which is listed under—

''(A) section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986,

''(B) section 101 of part 172 of title 49, Code of Federal Regulations, or

''(C) part 126, 127, or 154 of title 33, Code of Federal Regulations, and

''(2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act), including all active and inert ingredients thereof, which is customarily used on crops grown for food, feed, or fiber.

''(g) CONTROLLED GROUPS.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

''(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations which—

''(1) provide for the proper treatment of amounts which are paid or incurred for purpose of protecting any specified agricultural chemical and for other purposes, and

''(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

''(i) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2012.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following new paragraph:

''(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45O. Agricultural chemicals security credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

**SEC. 15344. 3-YEAR DEPRECIATION FOR RACE HORSES THAT ARE 2-YEARS OLD OR YOUNGER.**

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(A) (relating to 3-year property) is amended to read as follows:

''(i) any race horse—

''(I) which is placed in service before January 1, 2014, and

''(II) which is placed in service after December 31, 2013, and which is more than 2 years old at the time such horse is placed in service by such purchaser,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2008.

**SEC. 15345. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.**

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to the Kansas disaster area in addition to the areas to which such provisions otherwise apply:

(1) Section 1400N(d) of such Code (relating to special allowance for certain property).

(2) Section 1400N(e) of such Code (relating to increase in expensing under section 179).

(3) Section 1400N(f) of such Code (relating to expensing for certain demolition and clean-up costs).

(4) Section 1400N(k) of such Code (relating to treatment of net operating losses attributable to storm losses).

(5) Section 1400N(n) of such Code (relating to treatment of representations regarding income eligibility for purposes of qualified rental project requirements).

(6) Section 1400N(o) of such Code (relating to treatment of public utility property disaster losses).

(7) Section 1400Q of such Code (relating to special rules for use of retirement funds).

(8) Section 1400R(a) of such Code (relating to employee retention credit for employers).

(9) Section 1400S(b) of such Code (relating to suspension of certain limitations on personal casualty losses).

(10) Section 405 of the Katrina Emergency Tax Relief Act of 2005 (relating to extension of replacement period for nonrecognition of gain).

(b) KANSAS DISASTER AREA.—For purposes of this section, the term ''Kansas disaster area'' means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such storms and tornados.

(c) REFERENCES TO AREA OR LOSS.—

(1) AREA.—Any reference in such provisions to the Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to the Kansas disaster area.

(2) LOSS.—Any reference in such provisions to any loss or damage attributable to Hurricane

*Katrina shall be treated as a reference to any loss or damage attributable to the May 4, 2007, storms and tornados.*

*(d) REFERENCES TO DATES, ETC.—*

*(1) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code—*

*(A) by substituting ''qualified Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' each place it appears,*

*(B) by substituting ''May 5, 2007'' for ''August 28, 2005'' each place it appears,*

*(C) by substituting ''December 31, 2008'' for ''December 31, 2007'' in paragraph (2)(A)(v),*

*(D) by substituting ''December 31, 2009'' for ''December 31, 2008'' in paragraph (2)(A)(v),*

*(E) by substituting ''May 4, 2007'' for ''August 27, 2005'' in paragraph (3)(A),*

*(F) by substituting ''January 1, 2009'' for ''January 1, 2008'' in paragraph (3)(B), and*

*(G) determined without regard to paragraph (6) thereof.*

*(2) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting ''qualified section 179 Recovery Assistance property'' for ''qualified section 179 Gulf Opportunity Zone property'' each place it appears.*

*(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—*

*(A) by substituting ''qualified Recovery Assistance clean-up cost'' for ''qualified Gulf Opportunity Zone clean-up cost'' each place it appears, and*

*(B) by substituting ''beginning on May 4, 2007, and ending on December 31, 2009'' for ''beginning on August 28, 2005, and ending on December 31, 2007'' in paragraph (2) thereof.*

*(4) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—*

*(A) by substituting ''qualified Recovery Assistance loss'' for ''qualified Gulf Opportunity Zone loss'' each place it appears,*

*(B) by substituting ''after May 3, 2007, and before on January 1, 2010'' for ''after August 27, 2005, and before January 1, 2008'' each place it appears,*

*(C) by substituting ''May 4, 2007'' for ''August 28, 2005'' in paragraph (2)(B)(ii)(I) thereof,*

*(D) by substituting ''qualified Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' in paragraph (2)(B)(iv) thereof, and*

*(E) by substituting ''qualified Recovery Assistance casualty loss'' for ''qualified Gulf Opportunity Zone casualty loss'' each place it appears.*

*(5) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code—*

*(A) by substituting ''qualified Recovery Assistance distribution'' for ''qualified hurricane distribution'' each place it appears,*

*(B) by substituting ''on or after May 4, 2007, and before January 1, 2009'' for ''on or after August 25, 2005, and before January 1, 2007'' in subsection (a)(4)(A)(i),*

*(C) by substituting ''May 4, 2007'' for ''August 28, 2005'' in subsections (a)(4)(A)(i) and (c)(3)(B),*

*(D) disregarding clauses (ii) and (iii) of subsection (a)(4)(A),*

*(E) by substituting ''qualified storm distribution'' for ''qualified Katrina distribution'' each place it appears,*

*(F) by substituting ''after November 4, 2006, and before May 5, 2007'' for ''after February 28, 2005, and before August 29, 2005'' in subsection (b)(2)(B)(ii),*

*(G) by substituting ''the Kansas disaster area (as defined in section 15345(b) of the Food, Conservation, and Energy Act of 2008) but which was not so purchased or constructed on account of the May 4, 2007, storms and tornados'' for ''the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina'' in subsection (b)(2)(B)(iii),*

*(H) by substituting ''beginning on May 4, 2007, and ending on the date which is 5 months after the date of the enactment of the Heartland, Habitat, Harvest, and Horticulture Act of 2008'' for ''beginning on August 25, 2005, and ending on February 28, 2006'' in subsection (b)(3)(A),*

*(I) by substituting ''qualified storm individual'' for ''qualified Hurricane Katrina individual'' each place it appears,*

*(J) by substituting ''December 31, 2008'' for ''December 31, 2006'' in subsection (c)(2)(A),*

*(K) by substituting ''beginning on the date of the enactment of the Food, Conservation, and Energy Act of 2008 and ending on December 31, 2008'' for ''beginning on September 24, 2005, and ending on December 31, 2006'' in subsection (c)(4)(A)(i),*

*(L) by substituting ''May 4, 2007'' for ''August 25, 2005'' in subsection (c)(4)(A)(ii), and*

*(M) by substituting ''January 1, 2009'' for ''January 1, 2007'' in subsection (d)(2)(A)(ii).*

*(6) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—*

*(A) by substituting ''May 4, 2007'' for ''August 28, 2005'' each place it appears,*

*(B) by substituting ''January 1, 2008'' for ''January 1, 2006'' both places it appears, and*

*(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.*

*(7) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting ''May 4, 2007'' for ''August 25, 2005''.*

*(8) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting ''on or after May 4, 2007'' for ''on or after August 25, 2005''.*

***SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.***

*(a) IN GENERAL.—Section 48A (relating to qualifying advanced coal project credit) is amended by adding at the end the following new subsection:*

*''(h) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—In implementing this section or section 48B, the Secretary is directed to modify the terms of any competitive certification award and any associated closing agreement where such modification—*

*''(1) is consistent with the objectives of such section,*

*''(2) is requested by the recipient of the competitive certification award, and*

*''(3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base,*

*unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary shall consult with other relevant Federal agencies, including the Department of Energy.''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment.*

***PART IV—OTHER REVENUE PROVISIONS***

***SEC. 15351. LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.***

*(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end the following new subsection:*

*''(j) LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.—*

*''(1) LIMITATION.—If a taxpayer other than a C corporation receives any applicable subsidy for any taxable year, any excess farm loss of the taxpayer for the taxable year shall not be allowed.*

*''(2) DISALLOWED LOSS CARRIED TO NEXT TAXABLE YEAR.—Any loss which is disallowed under paragraph (1) shall be treated as a deduction of the taxpayer attributable to farming businesses in the next taxable year.*

*''(3) APPLICABLE SUBSIDY.—For purposes of this subsection, the term 'applicable subsidy' means—*

*''(A) any direct or counter-cyclical payment under title I of the Food, Conservation, and Energy Act of 2008, or any payment elected to be received in lieu of any such payment, or*

*''(B) any Commodity Credit Corporation loan.*

*''(4) EXCESS FARM LOSS.—For purposes of this subsection—*

*''(A) IN GENERAL.—The term 'excess farm loss' means the excess of—*

*''(i) the aggregate deductions of the taxpayer for the taxable year which are attributable to farming businesses of such taxpayer (determined without regard to whether or not such deductions are disallowed for such taxable year under paragraph (1)), over*

*''(ii) the sum of—*

*''(I) the aggregate gross income or gain of such taxpayer for the taxable year which is attributable to such farming businesses, plus*

*''(II) the threshold amount for the taxable year.*

*''(B) THRESHOLD AMOUNT.—*

*''(i) IN GENERAL.—The term 'threshold amount' means, with respect to any taxable year, the greater of—*

*''(I) $300,000 ($150,000 in the case of married individuals filing separately), or*

*''(II) the excess (if any) of the aggregate amounts described in subparagraph (A)(ii)(I) for the 5-consecutive taxable year period preceding the taxable year over the aggregate amounts described in subparagraph (A)(i) for such period.*

*''(ii) SPECIAL RULES FOR DETERMINING AGGREGATE AMOUNTS.—For purposes of clause (i)(II)—*

*''(I) notwithstanding the disregard in subparagraph (A)(i) of any disallowance under paragraph (1), in the case of any loss which is carried forward under paragraph (2) from any taxable year, such loss (or any portion thereof) shall be taken into account for the first taxable year in which a deduction for such loss (or portion) is not disallowed by reason of this subsection, and*

*''(II) the Secretary shall prescribe rules for the computation of the aggregate amounts described in such clause in cases where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the period described in such clause.*

*''(C) FARMING BUSINESS.—*

*''(i) IN GENERAL.—The term 'farming business' has the meaning given such term in section 263A(e)(4).*

*''(ii) CERTAIN TRADES AND BUSINESSES INCLUDED.—If, without regard to this clause, a taxpayer is engaged in a farming business with respect to any agricultural or horticultural commodity—*

*''(I) the term 'farming business' shall include any trade or business of the taxpayer of the processing of such commodity (without regard to whether the processing is incidental to the growing, raising, or harvesting of such commodity), and*

*''(II) if the taxpayer is a member of a cooperative to which subchapter T applies, any trade or business of the cooperative described in subclause (I) shall be treated as the trade or business of the taxpayer.*

*''(D) CERTAIN LOSSES DISREGARDED.—For purposes of subparagraph (A)(i), there shall not be*

*taken into account any deduction for any loss arising by reason of fire, storm, or other casualty, or by reason of disease or drought, involving any farming business.*

*''(5) APPLICATION OF SUBSECTION IN CASE OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—*

*''(A) this subsection shall be applied at the partner or shareholder level, and*

*''(B) each partner's or shareholder's proportionate share of the items of income, gain, or deduction of the partnership or S corporation for any taxable year from farming businesses attributable to the partnership or S corporation, and of any applicable subsidies received by the partnership or S corporation during the taxable year, shall be taken into account by the partner or shareholder in applying this subsection to the taxable year of such partner or shareholder with or within which the taxable year of the partnership or S corporation ends.*

*The Secretary may provide rules for the application of this paragraph to any other pass-thru entity to the extent necessary to carry out the provisions of this subsection.*

*''(6) ADDITIONAL REPORTING.—The Secretary may prescribe such additional reporting requirements as the Secretary determines appropriate to carry out the purposes of this subsection.*

*''(7) COORDINATION WITH SECTION 469.—This subsection shall be applied before the application of section 469.''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.*

***SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.***

*(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—*

*(1) IN GENERAL.—The matter following paragraph (17) of section 1402(a) is amended—*

*(A) by striking ''$2,400'' each place it appears and inserting ''the upper limit'', and*

*(B) by striking ''$1,600'' each place it appears and inserting ''the lower limit''.*

*(2) DEFINITIONS.—Section 1402 is amended by adding at the end the following new subsection:*

*''(l) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—*

*''(1) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.*

*''(2) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.''.*

*(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—*

*(1) IN GENERAL.—The matter following paragraph (16) of section 211(a) of the Social Security Act is amended—*

*(A) by striking ''$2,400'' each place it appears and inserting ''the upper limit'', and*

*(B) by striking ''$1,600'' each place it appears and inserting ''the lower limit''.*

*(2) DEFINITIONS.—Section 211 of such Act is amended by adding at the end the following new subsection:*

*''(k) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—*

*''(1) The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.*

*''(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.''.*

*(3) CONFORMING AMENDMENT.—Section 212 of such Act is amended—*

*(A) in subsection (b), by striking ''For'' and inserting ''Except as provided in subsection (c), for''; and*

*(B) by adding at the end the following new subsection:*

*''(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in clause (ii) or (iv) in the matter following section 211(a)(16) for any taxable year that does not begin with or during a particular calendar year and end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(k)(1).''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.*

***SEC. 15353. INFORMATION REPORTING FOR COMMODITY CREDIT CORPORATION TRANSACTIONS.***

*(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039I the following new section:*

***''SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO COMMODITY CREDIT CORPORATION TRANSACTIONS.***

*''(a) REQUIREMENT OF REPORTING.—The Commodity Credit Corporation, through the Secretary of Agriculture, shall make a return, according to the forms and regulations prescribed by the Secretary of the Treasury, setting forth any market gain realized by a taxpayer during the taxable year in relation to the repayment of a loan issued by the Commodity Credit Corporation, without regard to the manner in which such loan was repaid.*

*''(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Secretary of Agriculture shall furnish to each person whose name is required to be set forth in a return required under subsection (a) a written statement showing the amount of market gain reported in such return.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039I the following new item:*

*''Sec. 6039J. Information reporting with respect to Commodity Credit Corporation transactions.''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans repaid on or after January 1, 2007.*

## *PART V—PROTECTION OF SOCIAL SECURITY*

***SEC. 15361. PROTECTION OF SOCIAL SECURITY.***

*To ensure that the assets of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401) are not reduced as a result of the enactment of this Act, the Secretary of the Treasury shall transfer annually from the general revenues of the Federal Government to those trust funds the following amounts:*

*(1) For fiscal year 2009, $5,000,000.*
*(2) For fiscal year 2010, $9,000,000.*
*(3) For fiscal year 2011, $8,000,000.*
*(4) For fiscal year 2012, $7,000,000.*
*(5) For fiscal year 2013, $8,000,000.*
*(6) For fiscal year 2014, $8,000,000.*
*(7) For fiscal year 2015, $8,000,000.*
*(8) For fiscal year 2016, $6,000,000.*
*(9) For fiscal year 2017, $7,000,000.*

## *Subtitle D—Trade Provisions*

## *PART I—EXTENSION OF CERTAIN TRADE BENEFITS*

***SEC. 15401. SHORT TITLE.***

*This part may be cited as the ''Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008'' or the ''HOPE II Act''.*

***SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE ARTICLES.***

*(a) VALUE-ADDED RULE.—Section 213A(b) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) is amended as follows:*

*(1) The subsection heading is amended to read as follows: ''APPAREL AND OTHER TEXTILE ARTICLES''.*

*(2) Paragraph (1) is amended to read as follows:*

*''(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—*

*''(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).''.*

*(3) Paragraph (2) is amended—*

*(A) in subparagraph (A)—*

*(i) by moving such subparagraph 2 ems to the right;*

*(ii) in clause (i), by striking ''subparagraph (C)'' and inserting ''clause (iii)'';*

*(iii) in clause (ii), by striking ''subparagraph (C)'' and inserting ''clause (iii)'';*

*(iv) in the matter following clause (ii), by striking ''subparagraph (E)(I)'' and inserting ''clause (v)(I)'';*

*(v) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and*

*(vi) by redesignating subparagraph (A) as clause (i);*

*(B) in subparagraph (B)—*

*(i) by moving such subparagraph 2 ems to the right;*

*(ii) by striking ''subparagraph (A)(i)'' each place it appears and inserting ''clause (i)(I)'';*

*(iii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and*

*(iv) by redesignating subparagraph (B) as clause (ii);*

*(C) in subparagraph (C)—*

*(i) by moving such subparagraph 2 ems to the right;*

*(ii) in the matter preceding clause (i), by striking ''subparagraph (A)'' and inserting ''clause (i)'';*

*(iii) in clause (ii), by striking ''that enters into force'' and all that follows through ''et seq.)'' and inserting ''that enters into force thereafter'';*

*(iv) by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively; and*

*(v) by redesignating subparagraph (C) as clause (iii);*

*(D) in subparagraph (D)—*

*(i) by moving such subparagraph 2 ems to the right;*

*(ii) in clause (i)—*

*(I) in the matter preceding subclause (I), by striking ''subparagraph (A)'' and inserting ''clause (i)'';*

*(II) in subclause (I), by striking ''clause (i) of subparagraph (A)'' and inserting ''subclause (I) of clause (i)'';*

*(III) in subclause (II), by striking ''clause (ii) of subparagraph (A)'' and inserting ''subclause (II) of clause (i)'';*

*(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and*

*(V) by redesignating clause (i) as subclause (I);*

*(iii) in clause (ii)—*

*(I) in the matter preceding subclause (I), by striking ''subparagraph (A)'' and inserting ''clause (i)'';*

*(II) in subclause (I), by striking ''clause (i) of subparagraph (A)'' and inserting ''subclause (I) of clause (i)'';*

*(III) in subclause (II), by striking ''clause (ii) of subparagraph (A)'' and inserting ''subclause (II) of clause (i)'';*

*(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and*

(V) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) by striking ''clause (i)(I) or (ii)(I)'' each place it appears and inserting ''subclause (I)(aa) or (II)(aa)'';

(II) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(III) by redesignating clause (iii) as subclause (III);

(v) by amending clause (iv) to read as follows:

''(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the 'General' column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation.''; and

(vi) by redesignating subparagraph (D) as clause (iv);

(E) in subparagraph (E)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by redesignating subclauses (I) through (III) as items (aa) through (cc), respectively; and

(II) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) by striking ''subparagraph (C)'' and inserting ''clause (iii)''; and

(II) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (E) as clause (v);

(F) in subparagraph (F)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by striking ''The Bureau of Customs and Border Protection'' and inserting ''U.S. Customs and Border Protection'';

(II) by striking ''subparagraphs (A) and (D)'' and inserting ''clauses (i) and (iv)''; and

(III) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking ''the Bureau of Customs and Border Protection'' and inserting ''U.S. Customs and Border Protection'';

(bb) by striking ''subparagraph (A)'' each place it appears and inserting ''clause (i)''; and

(cc) by striking ''subparagraph (D)'' and inserting ''clause (iv)'';

(II) in subclause (I), by striking ''clause (i) of subparagraph (A)'' and inserting ''subclause (I) of clause (i)'';

(III) in subclause (II), by striking ''clause (ii) of subparagraph (A)'' and inserting ''subclause (II) of clause (i)'';

(IV) in the matter following subclause (II), by striking ''subparagraph (E)(i)'' and inserting ''clause (v)(I)'';

(V) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VI) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) in subclause (I)—

(aa) by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(bb) by striking ''subparagraph (A) or (D)'' and inserting ''clause (i) or (iv)'';

(II) in subclause (II), by striking ''clause (ii) of this subparagraph'' and inserting ''subclause (II) of this clause'';

(III) in the matter following subclause (II)—

(aa) by striking ''the Bureau of Customs and Border Protection'' each place it appears and inserting ''U.S. Customs and Border Protection''; and

(bb) by striking ''subclause (II)'' and inserting ''item (bb)''; and

(IV) in item (bb)—

(aa) by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(bb) by striking ''subparagraph (A) or (D)'' and inserting ''clause (i) or (iv)''; and

(V) in the matter following item (bb), by striking ''paragraph (1)'' and inserting ''subparagraph (A)'';

(VI) by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(VII) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VIII) by redesignating clause (iii) as subclause (III); and

(v) by redesignating subparagraph (F) as clause (vi);

(G) in subparagraph (G)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking ''subparagraph (A) or (D)'' and inserting ''clause (i) or (iv)'';

(II) in subclause (II)—

(aa) in item (dd), by striking ''under the Bipartisan Trade Promotion Authority Act of 2002'' and inserting ''with respect to the United States''; and

(bb) by redesignating items (aa) through (dd) as subitems (AA) through (DD), respectively;

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in subclause (I), by striking ''clause (i)(I)'' and inserting ''subclause (I)(aa)'';

(II) in subclause (II), by striking ''clause (i)(II)'' and inserting ''subclause (I)(bb)'';

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (G) as clause (vii); and

(H) by striking ''(2) APPAREL ARTICLES DESCRIBED.—'' and inserting the following:

''(B) APPAREL ARTICLES DESCRIBED.—''.

(4) Paragraph (3) is amended—

(A) by redesignating such paragraph as subparagraph (C) and moving it 2 ems to the right;

(B) by striking ''paragraph (1)'' each place it appears and inserting ''subparagraph (A)''; and

(C) in the table—

(i) by striking ''1.5 percent'' and inserting ''1.25 percent'';

(ii) by striking ''1.75 percent'' and inserting ''1.25 percent''; and

(iii) by striking ''2 percent'' and inserting ''1.25 percent''.

(5) The following is added after subparagraph (C), as redesignated by paragraph (4)(A) of this subsection:

''(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).''.

(b) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by striking paragraph (4) and inserting the following:

''(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

''(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

''(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

''(ii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

''(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

''(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

''(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

''(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

''(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

''(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

''(bb) All white singlets, without pockets, trim, or embroidery.

''(cc) Other T-shirts, but not including thermal undershirts.

''(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

''(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

''(aa) Sweatshirts.

''(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

''(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

''(iii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

''(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).''.

(c) SINGLE TRANSFORMATION RULES NOT SUBJECT TO QUANTITATIVE LIMITATIONS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by striking paragraph (5) and inserting the following:

''(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

''(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric,

*fabric components, components knit-to-shape, or yarns from which the article is made.*

*''(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:*

*''(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference in such chapter rules to '6104.12.00' shall be deemed to be a reference to '6104.19.60'.*

*''(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.*

*''(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.*

*''(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.*

*''(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.*

*''(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:*

*''(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.*

*''(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.''.*

*(d) EARNED IMPORT ALLOWANCE RULES.—Section 231A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following new paragraph:*

*''(4) EARNED IMPORT ALLOWANCE RULE.—*

*''(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, the conversion factors listed in 'Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008', or its successor publications, of the United States Department of Commerce, shall apply.*

*''(B) EARNED IMPORT ALLOWANCE PROGRAM.—*

*''(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).*

*''(ii) ELEMENTS.—The elements referred to in clause (i) are the following:*

*''(I) One credit shall be issued to a producer or an entity controlling production for every three square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (A). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits shall be deposited.*

*''(II) Such producer or entity controlling production may redeem credits issued under subclause (I) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.*

*''(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—*

*''(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and*

*''(bb) identifying such producer or entity controlling production, and the quantity and description of qualifying woven fabric or qualifying knit fabric exported to such producer or entity controlling production.*

*''(IV) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying woven fabric or qualifying knit fabric.*

*''(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or (IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.*

*''(VI) The program under this subparagraph shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subparagraph (A)(i).*

*''(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.*

*''(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—*

*''(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and*

*''(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.*

*''(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying woven fabric' means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—*

*''(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;*

*''(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and*

*''(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).*

*''(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying knit fabric' means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph (1)(B)(iii), from yarns wholly formed in the United States, except that—*

*''(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;*

*''(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and*

*''(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).*

*''(C) REVIEW BY UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.—The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.*

*''(D) ENFORCEMENT PROVISIONS.—*

*''(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code.*

*''(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).''.*

*(e) SHORT SUPPLY RULES.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:*

*''(5) SHORT SUPPLY PROVISION.—*

*''(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-*

*shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:*

*''(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.*

*''(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—*

*''(I) section 213(b)(2)(A)(v) of this Act;*

*''(II) section 112(b)(5) of the African Growth and Opportunity Act;*

*''(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or*

*''(IV) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.*

*''(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—*

*''(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or*

*''(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,*

*on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.''.*

*(f) MISCELLANEOUS PROVISIONS.—*

*(1) RELATIONSHIP TO OTHER PREFERENTIAL PROGRAMS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:*

*''(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.''.*

*(2) DEFINITIONS.—Section 213A(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(a)) is amended by adding at the end the following:*

*''(3) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are 'imported directly from Haiti or the Dominican Republic' if—*

*''(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or*

*''(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—*

*''(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or*

*''(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—*

*''(I) remain under the control of the customs authority in the intermediate country;*

*''(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and*

*''(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.*

*''(4) KNIT-TO-SHAPE.—A good is 'knit-to-shape' if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is 'knit-to-shape.'*

*''(5) WHOLLY ASSEMBLED.—A good is 'wholly assembled' in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is 'wholly assembled' in Haiti.''.*

*(g) TERMINATION.—Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a) is amended by adding at the end the following new subsection:*

*''(g) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2018.''.*

*(h) CONFORMING AMENDMENTS.—Subsection (e)(1) of section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(e)(1)) is amended by striking ''the Bureau of Customs and Border Protection'' each place it appears and inserting ''U.S. Customs and Border Protection''.*

***SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.***

*Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a), as amended by section 15402 of this Act, is amended—*

*(1) in subsection (a)—*

*(A) by redesignating paragraph (5) as paragraph (8):*

*(B) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6), respectively;*

*(C) by inserting after paragraph (1) the following new paragraphs:*

*''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—. The term ''appropriate congressional committees'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.*

*''(3) CORE LABOR STANDARDS.—The term ''core labor standards'' means—*

*''(A) freedom of association;*

*''(B) the effective recognition of the right to bargain collectively;*

*''(C) the elimination of all forms of compulsory or forced labor;*

*''(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and*

*''(E) the elimination of discrimination in respect of employment and occupation.''; and*

*(D) by inserting after paragraph (6) (as redesignated) the following new paragraph:*

*''(7) TAICNAR PROGRAM.—The term 'TAICNAR Program' means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).'';*

*(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and*

*(3) by inserting after subsection (d) the following new subsection:*

*''(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—*

*''(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—*

*''(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that—*

*''(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and*

*''(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).*

*''(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—*

*''(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and*

*''(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps.*

*''(C) CONTINUING COMPLIANCE.—*

*''(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.*

*''(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).*

*''(2) LABOR OMBUDSMAN.—*

*''(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—*

*''(i) reports directly to the President of Haiti;*

*''(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and*

*''(iii) is vested with the authority to perform the functions described in subparagraph (B).*

*''(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—*

*''(i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);*

*''(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);*

*''(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);*

*''(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and*

*''(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as*

*well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.*

*''(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—*

*''(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—*

*''(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and*

*''(ii) to provide assistance to improve the capacity of the Government of Haiti—*

*''(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and*

*''(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).*

*''(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—*

*''(i) compliance with core labor standards; and*

*''(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.*

*''(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—*

*''(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);*

*''(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;*

*''(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—*

*''(I) conducting unannounced site visits to manufacturing facilities of the producer;*

*''(II) conducting confidential interviews separately with workers and management of the facilities of the producer;*

*''(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—*

*''(aa) the results of the assessment carried out under this clause; and*

*''(bb) specific suggestions for remediating any such deficiencies;*

*''(iv) assist the producer in remediating any deficiencies identified under clause (iii);*

*''(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and*

*''(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).*

*''(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:*

*''(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).*

*''(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.*

*''(iii) For each producer listed under clause (ii)—*

*''(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;*

*''(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and*

*''(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.*

*''(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.*

*''(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—*

*''(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;*

*''(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;*

*''(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;*

*''(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;*

*''(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);*

*''(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and*

*''(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.*

*''(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—*

*''(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).*

*''(B) PRODUCER ELIGIBILITY.—*

*''(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.*

*''(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.*

*''(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential treatment under subsection (b) to the articles of the producer.*

*''(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).*

*''(5) REPORTS BY THE PRESIDENT.—*

*''(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.*

*''(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:*

*''(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.*

*''(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.*

*''(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).*

*''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.''.*

***SEC. 15404. PETITION PROCESS.***

*Section 213A(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703A(d)) is amended by adding at the end the following new paragraph:*

*''(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).''.*

***SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.***

*Section 213A(f) of the Caribbean Basin Economic Recovery Act, as redesignated by section 15403(2) of this Act, is amended by adding at the end the following new paragraph:*

*''(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—*

*''(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of 'imported directly from Haiti or the Dominican Republic', articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be 'imported directly from Haiti or the Dominican Republic' until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.*

''(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).''.

**SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.**

The President may exercise the authority under section 604 of the Trade Act of 1974 to proclaim such modifications to the Harmonized Tariff Schedule of the United States as may be necessary to carry out this part and the amendments made by this part.

**SEC. 15407. REGULATIONS AND PROCEDURES.**

The President shall issue such regulations as may be necessary to carry out the amendments made by sections 15402, 15403, and 15404. Regulations to carry out the amendments made by section 15402 shall be issued not later than September 30, 2008. The Secretary of Commerce shall issue such procedures as may be necessary to carry out the amendment made by section 15402(d) not later than September 30, 2008.

**SEC. 15408. EXTENSION OF CBTPA.**

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii)—

(i) in subclause (II)(cc), by striking ''2008'' and inserting ''2010''; and

(ii) in subclause (IV)(dd), by striking ''2008'' and inserting ''2010''; and

(B) in clause (iv)(II), by striking ''6'' and inserting ''8''; and

(2) in paragraph (5)(D)—

(A) in clause (i), by striking ''2008'' and inserting ''2010''; and

(B) in clause (ii), by striking ''108(b)(5)'' and inserting ''section 108(b)(5)''.

**SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.**

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), U.S. Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as amended by section 15402 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of articles eligible for preferential treatment under such section 213A(b).

**SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO HAITI.**

It is the sense of the Congress that the Secretary of Commerce, in coordination with the United States Trade Representative, the Secretary of State, and the Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security, should lead a trade mission to Haiti, within 6 months after the date of the enactment of this Act, to promote trade between the United States and Haiti, to promote new economic opportunities afforded under the amendments made by section 15402 of this Act, and to help educate United States and Haitian business concerns about such opportunities.

**SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.**

It is the sense of the Congress that Haiti, and other countries that receive preferences under trade preference programs of the United States that require effective visa systems to prevent transshipment, should ensure that monetary compensation for such visas is not required beyond the costs of processing the visa, including ensuring that such monetary compensation does not violate an applicable system to combat corruption and bribery.

**SEC. 15412. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this part and the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 15402 shall take effect on October 1, 2008, and shall apply to articles entered, or withdrawn from warehouse for consumption, on or after that date.

## PART II—MISCELLANEOUS TRADE PROVISIONS

**SEC. 15421. UNUSED MERCHANDISE DRAWBACK.**

(a) IN GENERAL.—Section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding at the end the following: ''For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 on or after the date of the enactment of this Act.

**SEC. 15422. REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE.**

(a) REQUIREMENT ON IMPORTERS.—

(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported merchandise is determined on the basis of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act.

(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

(C) the transaction value of such imported merchandise.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM ''SOLD FOR EXPORTATION TO THE UNITED STATES''.—

(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term ''sold for exportation to the United States'', as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection's interpretation of the term ''sold for exportation to the United States'', as described in paragraph (1), only if U.S. Customs and Border Protection—

(A) consults with, and provides notice to, the appropriate congressional committees—

(i) not less than 180 days prior to proposing a change; and

(ii) not less than 90 days prior to publishing a change;

(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

(i) not less than 120 days prior to proposing a change; and

(ii) not less than 60 days prior to publishing a change; and

(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term ''sold for exportation to the United States'', as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the report prepared by the United States International Trade Commission under subsection (c).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term ''Commercial Operations Advisory Committee'' means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) IMPORTER.—The term ''importer'' means one of the parties qualifying as an ''importer of record'' under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term ''transaction value of

*the imported merchandise'' has the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).*

And the Senate agree to the same.

From the Committee on Agriculture, for consideration of the House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

COLLIN C. PETERSON,
TIM HOLDEN,
MIKE MCINTYRE,
BOB ETHERIDGE,
LEONARD L. BOSWELL,
JOE BACA,
DENNIS L. CARDOZA,
DAVID SCOTT,
BOB GOODLATTE,
ROBIN HAYES,
MARILYN MUSGRAVE,
RANDY NEUGEBAUER,

From the Committee on Education and Labor, for consideration of secs. 4303 and 4304 of the House bill, and secs. 4901–4905, 4911, and 4912 of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
CAROLYN MCCARTHY,
TODD PLATTS,

From the Committee on Energy and Commerce, for consideration of secs. 6012, 6023, 6024, 6028, 6029, 9004, 9005, and 9017 of the House bill, and secs. 6006, 6012, 6110–6112, 6202, 6302, 7044, 7049, 7307, 7507, 9001, 11060, 11072, 11087, and 11101–11103 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
FRANK PALLONE,

From the Committee on Financial Services, for consideration of sec. 11310 of the House bill, and secs. 6501–6505, 11068, and 13107 of the Senate amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
MAXINE WATERS,

From the Committee on Foreign Affairs, for consideration of secs. 3001–3008, 3010–3014, and 3016 of the House bill, and secs. 3001–3022, 3101–3107, and 3201–3204 of the Senate amendment, and modifications committed to conference:

HOWARD L. BERMAN,
BRAD SHERMAN,
ILEANA ROS-LEHTINEN,

From the Committee on Judiciary, for consideration of secs. 11102, 11312, and 11314 of the House bill, and secs. 5402, 10103, 10201, 10203, 10205, 11017, 11069, 11076, 13102, and 13104 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS,
BOBBY SCOTT,

From the Committee on Natural Resources, for consideration of secs. 2313, 2331, 2341, 2405, 2607, 2607A, 2611, 5401, 6020, 7033, 7311, 8101, 8112, 8121–8127, 8204, 8205, 11063, and 11075 of the Senate amendment, and modifications committed to conference:

NICK RAHALL,
MADELEINE Z. BORDALLO,
CATHY MCMORRIS RODGERS,

From the Committee on Oversight and Government Reform, for consideration of secs. 1501 and 7109 of the House bill, and secs. 7020, 7313, 7314, 7316, 7502, 8126, 8205, and 10201 of the Senate amendment, and modifications committed to conference:

EDOLPHUS TOWNS,

From the Committee on Science and Technology, for consideration of secs. 4403, 9003, 9006, 9010, 9015, 9019, and 9020 of the House bill, and secs. 7039, 7051, 7315, 7501, and 9001 of the Senate amendment, and modifications committed to conference:

BART GORDON,
MICHAEL T. MCCAUL,

From the Committee on Small Business, for consideration of subtitle D of title XI of the Senate amendment, and modifications committed to conference:

NYDIA M. VELÁZQUEZ,
HEATH SHULER,

From the Committee on Transportation and Infrastructure, for consideration of secs. 2203, 2301, 6019, and 6020 of the House bill, and secs. 2604, 6029, 6030, and 11087 of the Senate amendment, and modifications committed to conference:

JAMES L. OBERSTAR,
ELEANOR H. NORTON,
SAM GRAVES,

From the Committee on Ways and Means, for consideration of sec. 1303 and title XII of the House bill, and secs. 12001–12601, and 12701–12808 of the Senate amendment, and modifications committed to conference:

CHARLES B. RANGEL,
EARL POMEROY,

For consideration of House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

ROSA L. DELAURO,
ADAM H. PUTNAM,
*Managers on the Part of the House.*

TOM HARKIN,
PATRICK LEAHY,
KENT CONRAD,
MAX BAUCUS,
BLANCHE L. LINCOLN,
DEBBIE STABENOW,
SAXBY CHAMBLISS,
THAD COCHRAN,
PAT ROBERTS
(for purposes of title XV only),
CHUCK GRASSLEY,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

## SHORT TITLE; TABLE OF CONTENTS

*(1) Short title*

The House bill refers to this Act as the ''Farm, Nutrition, and Bioenergy Act of 2007''. (Section 1)

The Senate amendment states that this Act may be cited as the ''Food and Energy Security Act of 2007''. (Section 1)

The Conference substitute cites this Act as the ''Food, Conservation, and Energy Act of 2008''. (Section 1)

## TITLE I—COMMODITY PROGRAMS

*(2) Definitions*

The House bill defines various terms used in the bill; most terms are defined as they were in the 2002 farm bill. The definitions of ''Far East price'' and two definitions regarding the cotton quality and premiums, ''United States Premium Factor'' and ''Comparable United States Quality'' are added. (Section 1001)

The Senate amendment defines various terms used in the bill; most terms are defined as they were in the 2002 farm bill. The definitions of average crop revenue payment, medium grain rice, and pulse crop are added. (Section 1001) The definition of Secretary applies to the entire bill. (Section 2) The definitions that are relevant to the peanuts subtitle are found in that part. (Section 1301)

The Conference substitute defines terms necessary for implementation of this Act: Secretary, average crop revenue election payment, base acres, counter-cyclical payment, covered commodity, direct payment, effective price, extra long staple cotton, loan commodity, medium grain rice, other oilseed, payment acres, payment yield, producer, pulse crop, State, target price, United States, and United States premium factor. The Conference substitute adopts the Senate structure for the peanut program. (Sections 2, 1001, and 1301)

*(3) Adjustments to base acres*

The House bill provides that producers are generally not given a choice of updating base acres or payment yields under this bill. However, it requires the Secretary to provide base acre adjustments when a conservation reserve contract ends. Peanut base acres are no longer specified because peanuts are included as a covered commodity. (Section 1101)

The Senate amendment provides for an adjustment in base acres to include pulse crop, camelina, or newly designated oilseed acreage; applies the limit on acreage enrolled in a conservation program only to acreage enrolled in Federal conservation programs; references base acres for peanuts; and requires the Secretary to reduce base acres for land that is no longer used for farming, specifically land that has been developed for commercial or industrial use or has been subdivided and developed for multiple residential units or other nonfarming uses unless the producer demonstrates that the land remains devoted exclusively to agricultural production. Section 1302 applies the base acre provisions for covered commodities under Section 1101 to peanuts. (Sections 1101 and 1301)

The Conference substitute provides for the adjustment of base acres when a conservation reserve contract expires or is terminated; the producer has eligible pulse crop acreage or eligible oilseed acreage as a result of the designation of additional oilseeds; provides for base acres for peanuts in the determination of excess base acres; provides for the reduction of base acres for land that has been subdivided and developed for multiple residential units; provides that direct payments, counter-cyclical payments, or average crop revenue election payments are prohibited if the sum of the base acres of the farm is 10 acres or less unless the farm is owned by a socially disadvantaged or limited resource farmer or rancher; and includes authority for data collection and evaluation. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1101 and 1302)

The Managers intend that the Department accommodate requests for adjustments in base acres for producers on different farms or tracts who have agreed on a voluntary basis to redistribute base acres between tracts, if base acreage was previously transferred to or from a tract because of participation in the Conservation Reserve Program.

The Managers expect Section 1101(b)(1) and Section 1302(b)(1) to be administered in the

same manner as Section 1101(g)(1) and Section 1302(f)(1) of the Farm Security and Rural Investment Act of 2002 as implemented in 7 CFR 1412.204(a).

The Managers recognize the importance of assessing the impact of the suspension of payments for small base acres of covered commodities upon specialty crop producers. For greater efficiency, the Managers expect the Secretary to include the information and evaluations derived from Section 1101(d)(3) and Section 1302(d)(3) into the report required under Section 1107(d)(7)(C) prior to its submission to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

The Managers intend for the Department to allow for aggregation of farms for purposes of determining the suspension of payments on farms with 10 base acres or less. The Managers expect for the Department to review farms in this category on an annual basis rather than prohibiting payments to these farms for the life of the farm bill.

*(3A) Payment yields*

The Senate amendment provides for the establishment of a payment yield for any designated oilseed, camelina, or eligible pulse crop for the purpose of making direct payments and counter-cyclical payments. It also provides a formula for calculating payment yields that is similar to the provisions used in 2002. (Section 1102)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, but deletes all references to camelina. (Section 1102)

*(4) Availability of direct payments*

The House bill reflects current law for the 2008–2012 crop years, except it includes peanuts; terminates advance direct payments starting with the 2012 crop year; and prohibits a direct payment if the payment for all covered commodities would be less than $25. (Section 1102)

The Senate amendment reflects current law for the 2008–2012 crop years, except it terminates advance direct payments starting with the 2012 crop year; specifies separate rates for long grain rice and medium grain rice; and excludes participants in the average crop revenue program. (Sections 1103 and 1303)

The Conference substitute provides direct payments at current rates with an exception for participants in the average crop revenue election program; specifies separate but identical rates for long grain rice and medium grain rice; and terminates advance direct payments starting with the 2012 crop year. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1103 and 1303)

*(5) Availability of counter-cyclical payments*

The House bill extends current provisions to the 2008–2012 crop years with the following exceptions: Includes peanuts as a covered commodity; clarifies that the Secretary shall establish national average loan rates for all rice and all barley for the purpose of calculating counter-cyclical payments; rebalances target prices for wheat, barley, oats, upland cotton, soybeans, and other oilseeds; eliminates partial counter-cyclical payments beginning with the 2011 crop year; and prohibits a counter-cyclical payment if the total counter-cyclical payments for all covered commodities on the farm would be less than $25. (Section 1103)

The Senate amendment extends the counter-cyclical program for the 2008–2012 crop years, except for participants in average crop revenue program, and with the following modifications: For long grain rice and medium grain rice, the effective price is determined using the same calculation, but by the type or class of rice, as determined by the Secretary; rebalances target prices for wheat, grain sorghum, barley, oats, upland cotton, soybeans, and other oilseeds; establishes target prices for dry peas, lentils, small chickpeas, and large chickpeas; eliminates partial counter-cyclical payments beginning with the 2011 crop year; prohibits the Secretary from establishing a target price for a covered commodity that is different from the target price specified. (Sections 1104 and 1304)

The Conference substitute adopts the Senate provision regarding long grain rice and medium grain rice. The Conference substitute provides that the revised target price for upland cotton and counter-cyclical program payment by class of rice will be effective beginning with the 2008 crop year; establishes target prices for pulse crops beginning with the 2009 crop year; and rebalances target prices for wheat, grain sorghum, barley, oats, soybeans and other oilseeds effective for the 2010 crop year; and eliminates partial counter-cyclical payments beginning with the 2011 crop year. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1104 and 1304)

*(6) Availability of revenue-based counter-cyclical payments*

The House bill requires the Secretary to offer producers the option to receive revenue-based counter-cyclical payments for the 2008–2012 crop years, as an alternative to receiving counter-cyclical payments under section 1103. Producers will have only one opportunity to elect to receive revenue-based counter-cyclical payments as soon as practicable after enactment. If a producer fails to make such election in a timely manner, the producer will receive counter-cyclical payments pursuant to section 1103. The Secretary is required to make revenue-based counter-cyclical payments to such producers if the Secretary determines that the national actual revenue per acre for the covered commodity is less than the national target revenue per acre for the covered commodity. The Secretary shall establish a national actual revenue per acre by multiplying the national average yield for the given year by the higher of: the national average market price received by producers during the 12–month marketing year; or the loan rate for the covered commodity under section 1202, except that for rice and barley, the Secretary shall establish national average all rice and all barley loan rates. The House bill establishes the national target revenue per acre as follows: wheat, $149.92; corn, $344.12; grain sorghum, $131.28; barley, $153.30; oats, $92.10; upland cotton, $496.93; rice, $548.06; soybeans, $231.87; other oilseeds, $129.18; and peanuts, $683.83. The House bill establishes the national payment yield for each covered commodity and the formula for the national payment rate. The House bill provides that if revenue-based counter-cyclical payments are required for any of the covered commodities, the amount of the payment shall be equal to the product of: the national payment rate; the payment acres; and the payment yield. (Section 1104)

The Senate amendment contains no comparable provision.

The Conference substitute provides an optional revenue-based counter-cyclical program that will be available beginning with the 2009 crop year. As an alternative to receiving counter-cyclical payments under section 1104, and with an agreement to forgo 20 percent of the direct payment rate and 30 percent of the marketing assistance loan rates for covered commodities and peanuts, producers on a farm can elect to participate in the average crop revenue election (ACRE) program for all covered commodities and peanuts on the farm. Once they elect to participate in ACRE, the producers on the farm will remain in the program for the duration of the farm bill. Participants in ACRE will be eligible for state-based coverage with a revenue guarantee equal to 90 percent of the 5–year state average yield per planted acre (excluding the years with the highest and lowest yields) times the 2–year national average price for the covered commodity. Once the ACRE guarantee is established, it cannot vary by more than 10 percent from the previous year's guarantee. If the actual State revenue (yield per planted acre times the national price) is less than the revenue guarantee, and if the producers suffer a loss on their farm, then they will receive an ACRE payment equal to the difference between the State revenue guarantee and the actual revenue for the crop year up to 25 percent of the revenue guarantee. ACRE revenue payments are made on 85 percent of the acreage planted or considered planted to the covered commodity or peanuts. For the 2009, 2010 and 2011 crop years, ACRE payment acres are reduced to 83.3 percent of planted or considered planted acres. (Section 1105)

*(7) Producer agreement required as condition of provision of direct payments and counter-cyclical payments*

The House bill is similar to current law, except it includes peanuts and omits the reference to noncultivation with regard to the control of noxious weeds. (Section 1105)

The Senate amendment is similar to current law, except it includes an additional provision that land cannot be used for a residential use (including land subdivided and developed into residential units or other nonfarming uses, or that is otherwise no longer intended to be used in conjunction with a farming operation) and provides that no penalty with respect to benefits can be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report. (Section 1105)

The Conference substitute adopts the Senate provision with an amendment that provides that participants in ACRE provide both acreage and production reports and that no penalty with respect to benefits can be assessed against the producers on a farm for an inaccurate report unless the producers on the farm knowingly and willfully falsified the report. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1106 and 1305)

The Managers intend that if a transfer or change in interest of producers on a farm occurs, and the transferee or owner of the acres does not agree to assume all obligations under section 1106(a), then direct payments, counter-cyclical payments, and average crop revenue election payments will be terminated. However, the references to average crop revenue election payments in sections 1106(b)(1)(A) and 1305(b)(1)(A) refer only to the limitation described in section 1105(a)(2), not the actual payment acres for the average crop revenue election program.

*(8) Planting flexibility*

The House bill is the same as current law, but it includes peanuts and establishes a pilot Farm Flex project in Indiana for the 2008–2012 crop years, under which tomatoes for processing may be planted on up to 10,000 base acres. (Section 1106)

The Senate amendment is the same as current law, except provides an exception for mung beans and pulse crops and provides a pilot flexibility project in Indiana for the 2008 and 2009 crop years. (Section 1106)

The Conference substitute provides that mung beans and pulse crops can be planted

on base acres, and provides a pilot project to allow the production of specified fruits or vegetables for processing for the 2009–2012 crop years on up to 9,000 base acre in the State of Illinois; 9,000 base acres in the State of Indiana; 1,000 base acres in the State of Iowa; 9,000 base acres in the State of Michigan; 34,000 base acres in the State of Minnesota; 4,000 base acres in the State of Ohio; and 9,000 base acres in the State of Wisconsin; that base acres will be protected; and that the Secretary will evaluate the effects of the pilot project on the supply and demand of fresh fruits and vegetables and fruits and vegetables for processing. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1107 and 1306)

The Managers expect the Secretary to establish a process to ensure that the quantity of fruits or vegetables delivered for processing under the pilot project does not exceed the quantity reflected in the original contract between the producer and the processor. The Managers further expect the Secretary to seek evidence that the amount of fruits or vegetables planted for processing under this pilot project is delivered to the processing facility or in the case of crop loss is determined by the Secretary to have been destroyed.

In evaluating the effects of the program on the supply of and price of fresh fruits and vegetables and fruits and vegetables for processing, the Managers encourage the Secretary to examine the impact of the program on bonus buys under the authority of Section 46 of the Agricultural Act of 1949 and surplus removal under the authority of Section 32 of the Act of August 24, 1935.

The Managers recognize the importance of assessing the impact of the expansion of the planting flexibility pilot program upon specialty crop producers. For greater efficiency, the Managers expect the Secretary to include the information and evaluations derived from Section 1101(d)(3) and Section 1302(d)(3) into the report required under this Section prior to its submission the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

*(8A) Special rule for long grain and medium grain rice*

The Senate amendment provides that for the purposes of making counter-cyclical payments for long grain and medium grain rice, base acres on the farm shall be apportioned based on acreage planted to long grain rice and medium grain rice during the 2003–2006 crop years. The Senate amendment requires that base acres, payment acres, and payment yields established with respect to rice are maintained. (Section 1107)

The House bill does not contain a comparable provision.

The Conference substitute adopts the Senate provision. (Section 1108)

*(9) Period of effectiveness*

The House bill authorizes Subtitle A of Title I for the 2008–2012 crop years. (Section 1107)

The Senate amendment authorizes Part I of Subtitle A of Title I for each covered commodity for the 2008–2012 crop years. (Section 1108)

The Conference substitute adopts the Senate provision with an amendment. (Section 1109)

*(10) Availability of nonrecourse marketing assistance loans for loan commodities*

The House bill is similar to current law; but authorizes that, for peanuts, a marketing assistance loan or loan deficiency payments may be obtained through a marketing association or marketing cooperative of producers that is approved by the Secretary, or through the Farm Service Agency; stipulates that as a condition for an individual or entity to provide storage for peanuts for which a marketing assistance loan is made, the individual or entity shall agree to provide storage on a non-discriminatory basis and to comply with additional requirements as the Secretary deems appropriate in order to promote fairness in the administration of this section; and authorizes a marketing association or cooperative to market peanuts for which a loan is made under this section, including by separating peanuts by type and quality. (Section 1201)

The Senate amendment is the same as current law; except for participants in average crop revenue program. (Sections 1201 and 1307)

The Conference substitute adopts the Senate provision. (Sections 1201 and 1307)

*(10A) Peanuts storage and handling costs*

The Senate amendment replaces the payment of storage, handling and associated costs under the 2002 farm bill with a mechanism that ensures handling and associated costs are not deducted from a producer's marketing loan. USDA would advance the payment for handling and associate costs for peanuts placed under loan and the advanced costs would be repaid when the peanuts are redeemed. (Section 1307(a)(7))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to begin coverage for handling, and associated costs with the 2008 crop of peanuts. (Section 1307)

In order to provide adequate storage and handling for peanuts in the marketing loan program, FSRIA used funds of the Commodity Credit Corporation (CCC) to provide payments for storage, handling, and associated costs for peanuts in the loan. However, these payments expired before the 2007 crop year for peanuts. The budgetary constraints made it impossible to continue the storage and handling payments established under FSRIA in this bill. In order to continue to ensure the adequate storage and handling for peanuts in the loan program, this bill instructs the Secretary to pay any handling and associated costs incurred at the time the peanuts are placed under loan for the 2008 through 2012 peanut crop years. These payments would be repaid when the loan peanuts are redeemed. The Secretary would pay the storage, handling, and associated costs for peanuts under the loan that are forfeited. The purpose of this provision is to not only ensure proper and adequate storage and handling of peanuts in the loan but also to guarantee that these costs are not taken out of a producer's loan proceeds at the time the peanuts are placed in the loan.

*(11) Loan rates for nonrecourse marketing assistance loans*

The House bill establishes loan rates for marketing assistance loans, including two loan rates for rice (one for long grain rice; one for medium and short grain rice) and two for barley (one for feed barley; one for malt barley), as follows: wheat, $2.94 per bushel; corn, $1.95 per bushel; grain sorghum, $1.95 per bushel; malt barley, $2.50 per bushel; feed barley, $1.90 per bushel; oats, $1.46 per bushel; base quality upland cotton, $0.52 per pound; extra long staple cotton, $0.7977 per pound; long grain rice, $6.50 per hundredweight; medium grain rice and short grain rice, $6.50 per hundredweight; soybeans, $5.00 per bushel; other oilseeds, $0.1070 per pound for each of the following—sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds designated by the Secretary; dry peas, $5.40 per hundredweight; lentils, $11.28 per hundredweight; small chickpeas, $8.54 per hundredweight; peanuts, $355.00 per ton; graded wool, $1.10 per pound; nongraded wool, $0.40 per pound; honey, $0.60 per pound; and mohair, $4.20 per pound. The House bill requires the Secretary to establish a single county loan rate for corn and grain sorghum in each county; and to administer the applicable loan, marketing loan, counter-cyclical and related programs using an identical loan rate for corn and grain sorghum in each county. (Section 1202)

The Senate amendment establishes loan rates for the 2008–2012 crop years; includes similar provisions to the House bill for corn and grain sorghum; and establishes grading basis for marketing loans for pulse crops using a grade not less than grade number 2 or other grade factors, including the fair and average quality of the crop in any year; and may be adjusted by the Secretary to reflect the normal market discounts for grades less than number 2 quality. (Sections 1202, 1210, and 1307)

The Conference substitute establishes loan rates for the 2008–2012 crop years. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1202 and 1307)

The Managers have included in Section 1202 revisions to the marketing loan rates for dry peas, lentils, and small chickpeas and established a marketing loan program for large chickpeas, hereinafter referred to collectively as pulse crops. The Managers intend that the Secretary establish grade factors for pulse crop loan eligibility that reflects the established U.S. grades for #2 or better used in commercial domestic and export sales transactions and that the Secretary establish a commodity marketing loan grade discount schedule that is comparable to, and reflects the prevailing average grade discounts that apply to commercial pulse crop sales transactions.

*(12) Terms of loans*

The House bill provides the same loan term as current law. (Section 1203)

The Senate amendment provides the same loan term as current law, and it establishes the same loan term for peanuts as current law. (Sections 1203 and 1307)

The Conference substitute adopts the House provision and the Senate structure for the peanut program. (Sections 1203 and 1307)

*(13) Repayment of loans*

The House bill provides the same as current law, except it specifies long grain rice, medium grain rice, and short grain rice; includes peanuts; and for upland cotton, it specifies that USDA use price quotes from Far East market to determine the prevailing world market price for upland cotton; provides for adjustments to the prevailing world market price; and requires the prevailing world market price be adjusted to U.S. quality and location; and authorizes further adjustment in the prevailing world market price. The House bill requires repayment rates for dry peas, lentils and small chickpeas to be based on quality grades for those commodities. (Section 1204)

The Senate amendment is similar to current law, except it specifies long grain rice and medium grain rice, provides similar provisions for upland cotton, and requires the loan repayment rate for pulse crops to be based on the specified quality grades for the applicable commodity. (Sections 1204 and 1307)

The Conference substitute provides that the Secretary calculate a loan repayment rate for loan commodities (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other

than oil sunflower seed)) based on the average market prices for the loan commodity during the preceding 30-day period. The Conference substitute adopts the Senate provisions with respect to upland cotton with an amendment to provide an adjustment for average transportation costs and adjustments related to U.S. premium factor. (Section 1204)

The Managers have included section 1204(h) which grants authority to the Secretary to modify repayment rates under the marketing loan program in the event of a severe disruption to marketing, transportation, or related infrastructure. The purpose of this provision is to grant the Secretary the authority to manage the marketing loan program in a manner that protects the taxpayer in the event of a major market disruption similar to the disruption that followed Hurricane Katrina. The Managers intend for the actions taken under this provision to be used on a short-term and temporary basis that should not extend beyond the duration of the disruption that gives rise to the exercise of this authority. Further, the Secretary should not exercise this authority if the disruption can be foreseen, such as, routine or announced maintenance on infrastructure, but rather should reserve this authority for extraordinary circumstances.

The Managers authorize the Department of Agriculture to make significant adjustments in the marketing loan program for upland cotton in sections 1204 and 1210. The Managers recognize that the upland cotton marketing loan program will undergo another significant change in the next marketing year when the Department is expected to modify its determination of the adjusted world price (AWP) in the absence of a North European A index. The Managers understand from the Department that it has the authority to make appropriate adjustments for determining and calculating the AWP for upland cotton. The Managers request that the Department ensure that an accurate world price is discovered in the absence of a North European index and appreciate communication from the Department about any changes that may be made. The Managers encourage the Department to make any changes in a manner that ensures a seamless transition for the program, for the Department, and for the entire cotton industry. The Managers also encourage the Department to ensure that such AWP calculation achieves the statutory goal of allowing upland cotton produced in the United States to be competitive both domestically and internationally.

*(14) Loan deficiency payments*

The House bill provides the same as current law for 2008–2012 crop years and includes peanuts. (Section 1205)

The Senate amendment provides the same as current law for 2009–2012 crop years. For the 2008 crop year, the Senate amendment establishes the effective date for payment rate determination as the date on which the producers on the farm lost beneficial interest and requires the Secretary to establish procedures for consumption on the farm. (Sections 1205 and 1307)

The Conference substitute adopts the House provision and the Senate structure for the peanut program. (Sections 1205 and 1307)

*(15) Payments in lieu of loan deficiency payments for grazed acreage*

The House bill provides the same as current law. (Section 1206)

The Senate bill provides the same as current law. (Section 1206)

The Conference substitute adopts the House provision. (Section 1206)

*(16) Special marketing loan provisions for upland cotton*

The House bill requires the President to carry out a special import quota program for upland cotton whenever the Secretary determines that for a consecutive 4-week period, the price of American cotton exceeds the price of cotton delivered in the Far East markets. The term ''special import quota'' is defined as a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The House bill provides that the amount of cotton that can come into the U.S. under the special import quota during any marketing year is limited to the equivalent of 10 weeks' consumption of upland cotton by domestic mills. (Section 1207(a))

Subsection (b) of the House bill provides the same as current law. (Section 1207(b))

Subsection (c) of the House bill requires the Secretary, beginning on the date of enactment through July 31, 2013, to issue marketing certificates or cash payments to domestic users of upland cotton for uses of all cotton regardless of origin. The payments or certificates will equal 4 cents per pound. Assistance can only be used for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery. No end date is specified. (Section 1207(c))

The Senate amendment provides the same as the House measure except it specifies the price of American cotton delivered to a definable and significant international market. (Section 1207(a))

Subsection (b) of the Senate amendment is the same as current law, except it provides additional discretion on the quantity of quota. (Section 1207(b))

Subsection (c) of the Senate amendment requires the Secretary, beginning August 1, 2008 through June 30, 2013, to provide economic adjustment assistance equal to 4 cents per pound to domestic users of upland cotton for all documented use of cotton during the previous month regardless of the origin of the cotton. The payment rate is reduced to 0 cents per pound on July 1, 2013, terminating the funding for the program. It specifies the same uses for the assistance as in the House bill. (Section 1207(c))

The Conference substitute adopts the Senate provision with an amendment in subsection (c) to provide assistance equal to 4 cents per pound during the period August 1, 2008, through July 31, 2012 and reduced to 3 cents per pound beginning on August 1, 2012. (Section 1207)

*(17) Special competitive provisions for extra long staple cotton*

The House bill provides the same as current law. (Section 1208)

The Senate amendment provides the same as current law, except that it does not specify the form of payments (cash or certificates). (Section 1208)

The Conference substitute adopts the Senate provision. (Section 1208)

*(18) Availability of recourse loans for high moisture feed grains and seed cotton*

The House bill provides the same as current law. (Section 1209)

The Senate amendment provides the same as current law. (Section 1209)

The Conference substitute adopts the Senate provision. (Section 1209)

*(19) Deadline for repayment of marketing assistance loan for peanuts*

The House bill requires that marketing assistance loans for peanuts be redeemed no later than June 30 of the year subsequent to the year in which the peanuts were harvested. Such loans not redeemed by the deadline shall be deemed forfeited to the Commodity Credit Corporation. (Section 1210)

The Senate amendment contains no comparable provision.

The Conference substitute drops this provision.

*(19A) Reimbursable agreements and payments of administrative expenses*

The Senate amendment provides that the Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses for peanuts only in a manner that is consistent with such activities in regard to other commodities. (Section 1307)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1307(g))

*(19B) Adjustments of loans for peanuts*

The Senate amendment provides authority to the Secretary to adjust loan rates for peanuts based on differences in grade, type, quality, location, and other factors. (Section 1308)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1308)

*(20) Commodity quality incentive payments for healthy oilseeds*

The House bill, subject to the availability of funds, requires the Secretary to provide commodity quality incentive payments during the 2009–2013 crop years for the production of oilseeds with specialized traits that enhance human health. Requires the Secretary to issue a request for proposals for payments under this section. (Section 1211)

The Senate amendment is similar to House provision, except it has fewer requirements for proposals; does not specify multi-year contracts; provides protection for proprietary information; and authorizes $400 million for the period of fiscal years 2008–2012 subject to appropriations. (Section 1705)

The Conference substitute adopts the Senate provision with an amendment that provides, subject to the availability of funds, for a quality incentive program for oilseeds demonstrated to improve the health profile of the oilseed for use in human consumption for the period of fiscal years 2009–2012. The provision sets forth the requirements for proposals, protects proprietary information, and provides for program compliance and penalties. (Section 1605)

*(20A) Availability of average crop revenue payments*

The Senate amendment requires the Secretary to give producers the opportunity to make a one-time election to receive average crop revenue payments for the 2010, 2011, and 2012 crop years; the 2011 and 2012 crop years; or the 2012 crop year in lieu of participating in the direct and counter-cyclical program and the marketing assistance loan program. Producers who elect to participate in the average crop revenue program are eligible to receive fixed payments equal to not less than the product of $15 per acre and the quantity of base acres on the farm for all covered commodities and peanuts. The Secretary is required to make revenue payments available if the actual state revenue for a covered commodity or peanuts is less than the average crop revenue guarantee for that commodity. Average crop revenue payments are made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year (compared to direct payments, this provision delays fixed ACR payments by one year with no provision for advance payments). The Senate amendment establishes actual state revenue as the product of the actual state yield (the quantity of the covered commodity or peanuts produced in the State during the crop year divided by the number of planted acres) and the average crop revenue harvest price (the harvest price used to calculate revenue under revenue plans offered by the Federal

Crop Insurance program). The average crop revenue program guarantee equals 90 percent of the product of the expected state yield per planted acre and the pre-planting price (the price used to calculate revenue under revenue coverage plans offered by the Federal Crop Insurance program) for the crop year and the preceding 2 crop years. The pre-planting price cannot decrease or increase more than 15 percent from the pre-planting price for the preceding year. The payment amount, in addition to the amount under section 1401(b)(2) is equal to the product of: the difference between the average crop revenue program guarantee and the actual state revenue; 85 percent of the base acres on the farm for the covered commodity; the ratio of APH on the farm to the expected state yield; and 90 percent. The Secretary is required to make recourse loans available to producers who participate in this program. (Section 1401)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

*(21) Sugar program*

The House bill maintains many provisions of current law as it relates to the sugar program. However, the loan rate for raw cane sugar is increased to 18.5 cents per pound and the loan rate for refined beet sugar is increased to 23.5 cents per pound. The House bill eliminates the authorization of the Secretary to reduce loan rates if there were negotiated reductions in export and domestic subsidies of other major sugar producing countries. (Section 1301)

The House bill extends current law with regard to the term of the loan and the nonrecourse nature of the loan. Processors are to make adequate assurances that payments to growers will be proportional to the loan values, and the Secretary is authorized to set minimums for such payments.

The Secretary is required to operate the sugar program, to the maximum extent practicable, at no cost to the Federal government. If the producer agrees to reduce production under an inventory disposition program, and such reduced production involves sugar beets or sugarcane already planted, the sugar beets or sugarcane produced on diverted acres may not be used for any commercial purpose other than as a bioenergy feedstock.

The House bill requires the Secretary to collect information on the production, consumption, stocks and trade of sugar in Mexico, including United States exports of sugar to Mexico; and publicly available information on Mexican production, consumption, and trade of high fructose corn syrups, including United States exports of high fructose corn syrups to Mexico.

The sugar program is extended through the 2012 crop year, and the program for the 2007 crop will be operated as under current law.

The Senate amendment also maintains many provisions of current law as it relates to the sugar program. However, the loan rate for raw cane sugar is increased to 18.25 cents per pound for 2009, 18.50 cents per pound for 2010, 18.75 cents per pound for 2011, and 19.00 cents per pound for 2012; and the loan rate for refined beet sugar is set at 128.5 percent of the loan rate for raw cane sugar. (Section 1501)

The Senate amendment requires that the Secretary collect information on the production, consumption, stocks and trade of sugar in Mexico, including United States exports of sugar to Mexico; and publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

All other provisions of the Senate amendment are the same as the House bill.

The Conference substitute adopts the Senate provision with a modification to the loan rate. The loan rate for raw cane sugar will increase to 18.25 cents per pound for 2009, 18.50 cents per pound for 2010, 18.75 cents per pound for 2011, and 18.75 cents per pound for 2012. The marketing loan rate for refined beet sugar is set equal to 128.5 percent of the loan rate for raw cane sugar beginning with the 2009 crop year.

The Conference amendment retains a requirement that the Secretary collect information on the production, consumption, stocks and trade of sugar in Mexico, including United States exports of sugar to Mexico; and publicly available information on Mexican production, consumption, and trade of high fructose corn syrups. The Managers expect such information on Mexican trade of high fructose corn syrups to include both imports and exports. (Section 1401)

*(22) United States membership in the International Sugar Organization*

The House bill requires the Secretary of Agriculture to work with the Secretary of State to restore U.S. membership within the International Sugar Organization within one year from date of enactment of this bill. (Section 1302)

The Senate amendment requires the Secretary of Agriculture to work with the Secretary of State to restore, to the maximum extent practicable, U.S. membership within the International Sugar Organization within one year from date of enactment of this bill. (Section 1504(1))

The Conference substitute adopts the House provision. (Section 1402)

*(23) Flexible marketing allotments for sugar*

The House bill extends and amends the provisions of the Agricultural Adjustment Act of 1938 requiring the Secretary to establish marketing allotments for the 2008 through 2012 crops of domestically produced sugar to balance supply and demand and avoid loan forfeitures. (Section 1303)

The House bill adds a definition of ''human consumption'' in the context of sugar for human consumption, as meaning sugar in human food, beverages, or similar products. The House bill defines the term ''market'' as meaning to sell or otherwise dispose of including the forfeiture of sugar under the loan program, the movement of raw cane sugar into the refining process, and the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary.

The Secretary is required to establish at the beginning of each crop year marketing allotments at a level to maintain raw and refined sugar prices above forfeiture levels. The overall allotment quantity is to be not less than 85 percent of the estimated quantity of sugar for domestic human consumption. The marketing allotments are to apply to the marketing by processors of sugar intended for domestic human consumption, with exceptions to facilitate the export of sugar, to enable another processor to fulfill an allocation established for that processor, or for uses other than domestic human consumption. Processors are prohibited from marketing for domestic human consumption a quantity in excess of the allocation, with the same exceptions as current law.

The House bill strikes the provision requiring the Secretary to suspend allotments when the level of imports will exceed 1.532 million short tons and retains the procedures for the Secretary to reassign allotments if processors cannot fulfill the allocations, and specifies that any resulting imports must be in the form of raw cane sugar.

The House bill includes the definition of ''seed'' for purposes of allotments in proportionate share States. The House bill authorizes the Secretary to transfer the acreage base history of a sugarcane farm to any other parcels of land of the applicant, in order to establish proportionate shares. Sugarcane base acreage that has been, or is, converted to non-agricultural use may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State.

The House bill includes transfers of mill allocations under the procedures for appeals to the Secretary regarding allotments, and eliminates an obsolete special appeal procedure regarding beet sugar allocations.

The House bill extends the sugar allotments through the 2012 crop year. Current law shall apply to flexible marketing allotments for the 2007 crop year for sugar.

The Senate amendment is similar to the House bill, with technical changes with regard to definitions and a modification to indicate that the exception for uses other than domestic human consumption does not include the sale of sugar for the production of ethanol or other bioenergy under the Feedstock Flexibility Program. (Section 1504)

The Conference substitute adopts the Senate provision with a modification to clarify that should there be a sale of a factory possessing an allocation of beet sugar, then the Secretary is to transfer to the buyer the allocation that has been agreed upon by the buyer and seller, assuming such an agreement has been reached. Additionally, it clarifies that following a conversion of sugarcane base acreage to a nonagricultural use in a proportionate share state, the Secretary is to notify the affected landowners of the transferability of the applicable base not later than 90 days after the agency becomes aware of the conversion. (Section 1403)

*(23A) Administration of tariff rate quotas*

The House bill provides that the Secretary is to establish at the beginning of the quota year, the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements approved by Congress. The Secretary may take action to increase the supply of sugar on or after April 1 of each fiscal year, with certain constraints on that action. Before April 1, the Secretary is to take action to increase the supply of sugar only if there is an emergency shortage of sugar in the United States market that is caused by war, flood, hurricane, or other natural disaster or other similar event. The House bill would also require the Secretary to establish orderly shipping patterns for sugar imports. (Section 1303)

The Senate amendment is similar to the House bill except the Senate amendment does not contain the provision requiring the Secretary to establish shipping patterns. (Section 1504)

The Conference substitute adopts the Senate provision. (Section 1403)

*(23B) Storage facility loans*

The Senate amendment prohibits penalties for prepayment of sugar storage facility loans. (Section 1502)

The House contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1404)

*(23C) Commodity Credit Corporation storage payments*

The Senate amendment establishes rates for the storage of forfeited sugar for each of the 2008 through 2011 crop years in an amount that is not less than 15 cents per hundredweight of refined sugar per month or 10 cents per hundredweight of raw cane sugar per month. For each of the 2012 and subsequent crop years, establishes storage payments at rates in effect at the time of enactment. (Section 1503)

The House contains no comparable provision.

The Conference substitute [adopts the Senate provision]. (Section 1405)

*(23D) Sense of the Senate regarding NAFTA sugar coordination*

The Senate amendment provides a sense of the Senate that the United States and Mexico should coordinate their respective sugar policies and that the United States should consult with Mexico on policies to maximize benefits for growers, processors and consumers. (Section 1505)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(24) Dairy Product Price Support Program*

The House bill requires the Secretary to support the price of cheddar cheese, butter, and nonfat dry milk by purchasing such products at specified prices: cheddar cheese in blocks at not less than $1.13 per pound; cheddar cheese in barrels at not less than $1.10 per pound; butter at not less than $1.05 per pound; and nonfat dry milk at not less than $0.80 per pound. If net removals of cheese, butter or nonfat dry milk exceed specific limits for 12 consecutive months, the Secretary may reduce the purchase prices of that commodity during the month that immediately follows. The prices that the Secretary pays under this section for the commodities must be uniform across the country. The Secretary may sell cheese, butter, or nonfat dry milk for unrestricted use from inventories of the Commodity Credit Corporation at prevailing market prices, but not less than 110 percent of the prices specified in the Purchase Price subsection. (Section 1401)

The Senate amendment requires the Secretary to support the price of cheddar cheese, butter, and nonfat dry milk by purchasing such products at specified prices: cheddar cheese in blocks at not less than $1.13 per pound; cheddar cheese in barrels at not less than $1.10 per pound; butter at not less than $1.05 per pound; and nonfat dry milk at not less than $0.80 per pound. The prices that the Secretary pays under this section for the commodities must be uniform across the country. The Secretary may sell cheese, butter, or nonfat dry milk for unrestricted use from inventories of the Commodity Credit Corporation at prevailing market prices, but not less than 110 percent of the prices specified in the Purchase Price subsection. (Section 1601)

The Conference substitute adopts the House provision with an amendment to delete an unnecessary reference to Commodity Credit Corporation funding. (Section 1501)

*(25) Dairy Forward Pricing Program*

The House bill requires the Secretary to establish the Dairy Forward Pricing Program, which authorizes milk producers to voluntarily enter into forward price contracts with milk handlers for milk that is not Class I. Under such forward price contracts, prices received by milk producers and cooperatives will be deemed to satisfy all regulated minimum milk price requirements. Milk handlers will be prohibited from requiring participation in a forward price contract, and the Secretary is required to investigate complaints and to take appropriate action if evidence of coercion is found. No forward price contract can be entered into after September 30, 2012, or extend beyond September 30, 2015. (Section 1402)

The Senate amendment amends the former dairy forward pricing pilot program to establish a program that allows milk producers and cooperative associations to voluntarily enter into forward price contracts with milk handlers with protections for producers that are similar to the protections provided in the House bill. (Section 1606)

The Conference substitute adopts the House provision. (Section 1502)

*(26) Dairy Export Incentive Program*

The House bill reauthorizes the dairy export incentive program until December 31, 2012, and authorizes the Secretary to issue rules to ensure that each year the maximum volume of dairy product exports allowable within the United States' obligations under the Uruguay Round Agreements is exported. (Section 1403)

The Senate amendment reauthorizes the dairy export incentive program until December 31, 2012. (Section 1603)

The Conference amendment adopts the House provision.

*(27) Revision of Federal marketing order amendment procedures*

The House bill requires the Secretary, upon receiving a written request for a hearing to amend a milk marketing order, issue a denial of the request or issue a notice of the hearing, and stipulates the timeframe for a hearing. Notice for a hearing on a proposed amendment to a marketing order must be provided not less than three days before the date of the hearing. The Secretary is required to issue a recommended decision on a proposed amendment to a milk marketing order no more than 90 days after the date set for the submission of post-hearing findings, conclusions and written arguments. Further, the House provision requires the final decision to be issued no more than 60 days after the recommended decision was issued. If the Secretary receives a request for a hearing on a proposed amendment to a milk marketing order within 90 days after announcing a decision on a previously proposed amendment to the same order, and the two proposed amendments are essentially the same, the Secretary is not required to call a hearing. (Section 1404)

The Senate amendment requires the Secretary to issue supplemental rules of practice within 60 days of enactment and establishes 5 provisions to be included in the rules of practice. The Secretary, upon receiving a proposal for a hearing regarding a milk marketing order, is required to issue an action plan and expected timeframes for completion of the hearing not more than 180 days after the date of the notice; issue a request for additional information regarding the proposal; or issue a denial of the request. The Senate amendment establishes a time limit of 90 days after the deadline for submitting post-hearing briefs for USDA to issue a recommended decision on proposed amendments to milk marketing orders and to issue a final decision within 60 days after the deadline for submission of comments and exceptions to the recommended decision. The Senate amendment authorizes industry assessments to supplement appropriated funds if necessary to improve or expedite rulemaking; and authorizes the use of informal rulemaking to amend orders, other than provisions of orders that directly affect milk prices. The Secretary is required, as part of any hearing to adjust make allowances, to determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area and to consider those prices in determining whether or not to adjust make allowances. (Section 1605)

The Conference substitute adopts the Senate provision with amendments to reduce the amount of time allowed for completion of a hearing to 120 days, provide a limit of up to 60 days for submission of post-hearing briefs, delete specific requirements related to the content of the hearing action plan; and adopt the House language designed to avoid duplicative hearings for similar petitions received within 90 days of the announcement of a decision on a previously proposed amendment. The conference substitute also sunsets the applicability of the Senate provision related to hearings involving adjustments to make-allowances coincident with the Food, Conservation, and Energy Act of 2008.

*(28) Dairy Indemnity Program*

The House bill reauthorizes the dairy indemnity program through September 30, 2012. (Section 1405)

The Senate amendment reauthorizes the dairy indemnity program through September 30, 2012. (Section 1603)

The Conference substitute adopts the House provision.

*(29) Extension of Milk Income Loss Contract Program*

The House bill reauthorizes the MILC program through 2012, under the same terms as current law. (Section 1406)

The Senate amendment amends the MILC program for the period October 1, 2008 through August 31, 2012 by increasing the payment factor from 34 percent to 45 percent and by increasing the annual eligible payment quantity from 2.4 million pounds to 4.15 million pounds. (Section 1602)

The Conference substitute provides for the continuation of the program. For the period from October 1, 2008 through August 31, 2012, the payment factor is increased to 45 percent, the annual eligible payment quantity is increased to 2,985,000 pounds, and the $16.94 per hundredweight price is adjusted whenever the National Average Dairy Feed Ration Cost for a month is greater than $7.35 per hundredweight by 45 percent of the percentage increase in the feed ration cost. Beginning September 1, 2012, the trigger for the adjustment in the price used to determine the payment rate is set at $9.50 per hundredweight. (Section 1506)

FEED PRICE RATIOS: UNITED STATES, MARCH 2008 WITH COMPARISONS

| Feed Price Ratio [1] | 2007 | 2008 | |
|---|---|---|---|
| | Mar | Feb | Mar |
| Broiler-Feed: Pounds of Broiler Grower Feed equal in value to 1 pound of broiler, live weight [2] | 5.9 | *3.9 | 3.8 |
| Market Egg Feed: Pounds of Laying Feed equal in value to 1 dozen eggs [3] | 9.1 | *11.1 | 11.4 |
| Hog-Corn: Bushels of Corn equal in value to 100 pounds of hog, live weight | 13.1 | *9.3 | 8.5 |
| Milk-Feed: Pounds of 16% Mixed Dairy Feed equal in value to 1 pound of Whole Milk [4] | 2.39 | *2.24 | 2.05 |
| Steer & Heifer-Corn: Bushels of Corn equal in value to 100 pounds of Steer & Heifers, live weight | 28.5 | *20.8 | 19.4 |
| Turkey-Feed: Pounds of Turkey Grower equal in value to 1 pound of Turkey, live weight [5] | 5.5 | *3.6 | 3.8 |

[1] Effective January 1995, prices of commercial prepared feeds are based on current U.S. prices received for corn, soybeans, alfalfa hay, and all wheat.

[2] The price of commercial prepared broiler feed is based on current U.S. prices received for corn and soybeans. The modeled feed uses 58 percent corn and 42 percent soybeans.

[3] The price of commercial prepared layer feed is based on current U.S. prices received for corn and soybeans. The modeled feed uses 75 percent corn and 25 percent soybeans.

[4] The price of commercial prepared dairy feed is based on current U.S. prices received for corn, soybeans, and alfalfa. The modeled feed uses 51 percent corn, 8 percent soybeans, and 41 percent alfalfa.

[5] The price of commercial prepared turkey feed is based on current U.S. prices received for corn, soybeans, and wheat. The modeled feed used 51 percent corn, 28 percent soybeans, and 21 percent wheat.

* Revised.

PRICES USED TO CALCULATE FEED PRICE RATIOS: UNITED STATES, MARCH 2008 WITH COMPARISONS

| Commodity | Unit | Entire Month | | Preliminary |
|---|---|---|---|---|
| | | Mar 2007 | Feb 2008 | Mar 2008 |
| Broilers, Live | Lb | 0.500 | 0.500 | 0.510 |
| Eggs, Market | Doz | 0.681 | 1.220 | 1.300 |
| Hogs, All | Cwt | 44.90 | 42.20 | 41.20 |
| Milk, All | Cwt | 15.60 | 19.10 | 18.30 |
| Steers and Heifers | Cwt | 97.70 | 94.20 | 93.80 |
| Turkeys, Live | Lb | 0.443 | 0.475 | 0.529 |
| Corn | Bu | 3.43 | 4.53 | 4.83 |
| Hay, Alfalfa, Baled | Ton | 121.00 | 138.00 | 143.00 |
| Soybeans | Bu | 6.95 | 11.70 | 11.90 |
| Wheat, All | Bu | 4.75 | 9.98 | 11.70 |

FEEDER LIVESTOCK: PRICES PAID, UNITED STATES, MARCH 2008 WITH COMPARISONS

| Commodity | Unit | 2007 | 2008 | |
|---|---|---|---|---|
| | | Mar | Feb | Mar |
| Feeders and Stockers Cattle and Calves | Cwt | $105.40 | * $103.90 | $101.60 |
| Feeder Pigs | Cwt | 157.00 | 113.00 | 115.00 |

* Revised.

*(30) Dairy Promotion and Research Program*

The House bill extends the authority to expend funds to develop foreign markets through fiscal year 2012; amends the definition of ''United States'' to include Alaska, Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico for both promotion and research programs; and provides for a refund of assessments for importers on contracts in effect prior to July 26, 2007, for a period of one year after the date of enactment. (Section 1407)

The Senate amendment extends the authority to expend funds to develop foreign markets through fiscal year 2012. (Section 1604)

The Conference substitute adopts the House provision with an amendment to reduce the rate of assessment on imported dairy products to 7.5 cents per hundredweight. The substitute also amends the Dairy Promotion Stabilization Act of 1983 to authorize the Secretary to establish by regulation the time and method of importer payments under the Act. (Section 1507)

The Farm Security and Rural Investment Act of 2002 amended Section 112 of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4503(d)) to require that, ''The Secretary, in consultation with the United States Trade Representative, shall ensure that the order is implemented in a manner consistent with the international trade obligations of the Federal Government.'' The Managers expect the Secretary to consult with the United States Trade Representative to ensure that any action taken pursuant to this section is consistent with the bilateral, regional and multilateral trade obligations of the Federal Government.

*(31) Report on Department of Agriculture reporting procedures for nonfat dry milk*

The House bill requires the Secretary to submit a report to Congress within 90 days of enactment of this Act regarding USDA's reporting procedures for nonfat dry milk and the impact of those procedures on Federal milk marketing order minimum prices during the period July 1, 2006, through the date of enactment of this Act. (Section 1408)

The Senate amendment is the same as the House provision except it requires the Secretary to submit the report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. (Section 1607)

The Conference substitute adopts the Senate provision. (Section 1508)

The Managers are encouraged by the corrective action agreed to by the Department in connection with a prior misreporting of nonfat dry milk prices and encourage the Secretary to submit periodic implementation progress reports to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. While the Senate provision to require USDA to formally designate an official to be in charge of coordinating dairy oversight was not included in the conference report, the Managers intend that USDA continue with the steps to improve coordination of dairy oversight within the Department and with other relevant agencies as necessary to ensure accurate price determinations.

*(32) Federal Milk Marketing Order Review Commission*

The House bill, subject to the availability of funds, establishes the Federal Milk Marketing Order Review Commission to conduct a comprehensive review and evaluation of the current Federal milk marketing order system and non-Federal milk marketing order systems. The House bill provides for the appointment of 18 Commission members; requires the commission to issue a report to Congress and the Secretary of Agriculture with the results of the review and evaluation conducted under this section; and stipulates that the commission is wholly advisory in nature, and the recommendations it issues are non-binding. (Section 1608)

The Senate amendment is similar to the House provision except it provides additional areas for the Commission to evaluate and modifies the appointment of Commission members. (Section 1608)

The Conference substitute adopts the House provision except the objectives of the Commission are modified, the number of commission members is reduced to 14 and all Commission members will be appointed by the Secretary.

The Managers are aware of a number of dairy reform proposals being advocated at the State, regional and National level to simplify and improve the Federal milk marketing order system. The Managers intend that the Commission should evaluate as many of these proposals as practicable. Specifically, the Commission should analyze and report on the potential economic benefits of establishing a 2-class system of classified milk consisting of a fluid milk class and a manufacturing grade milk class with the price of both classes determined using similar component prices of butterfat, protein, and other solids. The Commission should also evaluate the economic impacts of proposals to eliminate advance pricing that is currently used to calculate the prices of Class I and Class II skim milk and instead use 4-week component prices that are used to calculate prices for Class III and Class IV milk.

*(32A) Mandatory reporting of dairy commodities*

The Senate amendment amends current law to require corporate officers or officially-designated representatives of each dairy processor (other than those that process less than 1 million pounds of dairy products a year) to report to the Secretary on each daily reporting day such price, quantity, and product characteristics as the Secretary determines appropriate with respect to those package sizes used to establish minimum prices for Class III or Class IV milk under Federal milk marketing orders. The Senate amendment requires the Secretary to make the information reported available to the public on the same day as the information is reported, and requires dairy manufacturers to report, at periodic intervals, the quantities of dairy products in storage. (Section 1609)

The House bill has no comparable provision.

The Conference substitute provides authority for the Secretary to establish an electronic reporting system, subject to the availability of funds; and requires the Secretary to increase the frequency of mandatory reporting of sales of dairy products once the electronic reporting system is in place. (Section 1510)

*(32B) Additional mandatory dairy reporting*

The Senate amendment amends current law as amended by section 1609 to require regular audits and comparisons with other related dairy market statistics on at least a quarterly basis. (Section 1610)

The House bill has no comparable provision.

The Conference substitute provides for quarterly audits of information submitted or reported and comparison of such information with related dairy market statistics, and incorporates this requirement in the previous section. (Section 1510)

*(33) Administration generally*

The House bill authorizes the use of the Commodity Credit Corporation in carrying out the provisions of title I, and, generally, continues other administrative provisions of the 2002 farm bill. (Section 1501)

The Senate amendment includes the same provisions as the House measure, and includes an additional provision to exempt producers who have an option to receive advance direct and partial counter-cyclical payments from constructive receipt of those payments. (Section 1701)

The Conference substitute adopts the Senate provision with an amendment to provide for interim regulations to implement the payment limitations and adjusted gross income provisions. (Section 1601)

Beginning with the 2009 crop, the Conference substitute includes significant reforms to payment limitation and adjusted gross income provisions. This is a complex and long-standing area of the law and regulations, many of which have been in effect for decades. The continuity and predictability of these regulations is important to the economic stability of farm operators, the lenders that finance them, the input suppliers who provide their seed, feed, fertilizer and other inputs, and indeed for the agricultural economy as a whole. In order to avoid undue disruption of all of these sectors of the agricultural economy, the Managers expect USDA to provide adequate notice and opportunity for comment, consistent with the interim rule process, for Sections 1603 and 1604, to ensure these changes are implemented in a manner that is least disruptive to producers and other stakeholders, and that allows the programs to continue to achieve their objectives.

The Managers further expect that in the rulemaking process, USDA will give priority to addressing matters within the scope of these legislative changes and guidance in this Statement in order to minimize program and regulatory disruption, to maximize continuity and predictability, and to focus the scarce resources of the Department of Agriculture on implementing these and other specific regulatory requirements in this bill.

The Managers also expect that during the interim rule process USDA will amend the regulations as necessary or appropriate to implement these statutory changes consistent with the intent and guidance provided by the Managers throughout this Statement. The Managers expect the notice and comment period regarding the implementation of the AGI and payment limitation provisions to include issues such as, family definitions, denial of program benefits, notification of interests in operation, changes in farming operations, actively engaged, schemes and devices, apportionment of income for joint filers, and spousal eligibility. The Managers expect the Secretary to implement the AGI provision in a manner that provides equitable treatment, to the maximum extent practicable, to all producers.

*(34) Suspension of permanent price support authority*

The House bill provides the same as current law for 2008–2012 crops and for milk through December 31, 2012. (Section 1502)

The Senate amendment provides the same as the House measure except does not include peanuts. (Section 1702)

The Conference substitute adopts the House provision. (Section 1602)

*(35) Payment limitations*

The House bill extends payment limitations in the 2002 farm bill, with revisions including the elimination of limitations on marketing loan benefits and loan deficiency payments. It amends the Food Security Act of 1985 to limit the total amount of direct payments that a person or legal entity may receive in a crop year to $60,000, excluding peanuts; and counter-cyclical payments that a person or legal entity may receive in a crop year to $65,000, excluding peanuts. For peanuts, a person or entity may not receive more than $60,000 for direct payments, and no more than $65,000 for counter-cyclical payments. The House bill defines the term ''legal entity'' as an entity that owns land or an agricultural commodity, or produces an agricultural commodity; and the term ''person'' as a natural person, and does not include a legal entity. The House bill provides for direct attribution for payments, by requiring the Secretary to promulgate regulations to ensure that the total amount of payments are attributed to a person, by taking into account the direct and indirect ownership interests of the person in a legal entity. It provides that every payment made directly to a person will be combined with the person's pro rata interests in payments received by a legal entity in which the person has an ownership interest. It further provides that for every payment made to a legal entity, the payment will be attributed to those persons with an ownership interest in the entity traced through four levels of ownership in the entities, and includes a framework for that attribution. (Section 1503)

The Senate amendment is similar to the House measure, except it establishes payment limitations under the new act at $40,000 for a combination of both traditional direct and average crop revenue fixed payments, and $60,000 for counter-cyclical payments and the revenue portion of average crop revenue payments. It strikes the definition of ''loan commodity, thereby also terminating the limitations on marketing loan gains and loan deficiency payments,'' adds definitions for ''family member'', ''legal entity'', and ''person,'' and includes spouses in the definition of family member. The Senate amendment provides similar direct attribution requirements, except payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity that has otherwise exceeded the applicable payment limitation. (Section 1703)

The Conference substitute adopts the Senate provision with an amendment that provides a $65,000 payment limit for counter-cyclical payments, a reduced direct payment limit for participants in the ACRE program to reflect the amount the direct payment is cut as a condition to participate in ACRE, and a limit in the amount of counter-cyclical and ACRE payments that reflects the $65,000 limit plus the amount of that the direct payment limit is reduced. The counter-cyclical limits and ACRE limits are combined for those producers who participate in ACRE because producers would be eligible to participate in the counter-cyclical program on one farm and the average crop revenue election on a separate farm. (Section 1603)

The change in the administration of the payment limit provisions from one based on separate ''person'' determinations to one that attributes income among persons and entities, based upon their share of participation, is, by design, less susceptible to manipulation by changing the farming structure to introduce multiple farming entities. With this change, many farming operations that had been approved under current law, may wish to reorganize such operations for estate or tax purposes or for other reasons. It is the intent of the Managers that, consistent with the action taken by the Congress with the passage of the significant changes in farm program participation in 1987, that during the 2008 and 2009 program years, persons should not be penalized for changing their farming operation structure given such a significant change in the law administering payment limitations.

*(35A) Special rules*

The House bill amends section 1001 of the Food Security Act of 1985 by inserting a new subsection (e) to essentially continue current rules for minor children, marketing cooperatives, trusts and estates, cash rent tenants, and federal agencies. For state, local governments, and their political subdivisions, it prohibits them from receiving direct and counter-cyclical payments unless they are the producer of all crops on the farm and the proceeds of the production benefits a public school or they have an existing share crop lease. If the state, local government, or political subdivision is the producer, all such qualified entities in a state have a combined limit of one entity for the payments they receive. For share crop leases, if the land is used to maintain a public school, the state, local government, or political subdivision may continue to receive payments under current law until the lease expires. It provides for a 2–5 year denial of benefits for evasion of payment limits, including the failure to disclose material information, and that benefits be denied on a pro-rata basis according to ownership. In addition, the language provides that the addition of a family member under the provisions of section 1001A will be considered to be a bona fide and substantive change. This language encompasses the addition of a spouse to a farming operation, given the new provisions in section 1001A concerning spouses. (Section 1503)

The Senate amendment provides the same as the House measure, except it maintained current law with regard to production on land owned by state and local governments when the proceeds are used to maintain a public school. The Senate amendment expands the enforcement capability of the Secretary and provides for extended penalties for individuals or entities that perpetuate a fraud or a scheme or device in order to exceed the applicable limit on payments. Persons or entities that commit fraud or equally serious actions can be subjected to a five-year denial of program benefits. Any member of a legal entity that participates in a scheme or device to evade the limitations shall be jointly and severally liable for any amounts determined to be payable to the Secretary. The Secretary may partially or fully release from liability any person who cooperates with the Secretary in enforcing payment limitation provisions. (Section 1703)

The Conference amendment adopts the Senate provision with an amendment to provide a single, combined statewide payment limit of $500,000 upon all state and local governments and political subdivisions that receive farm program payments. This limit would not apply to states with populations less than 1.5 million. (Section 1603)

It is the intent of the Managers that the addition of a spouse (also a family member) will be considered to be bona fide and substantive—just as with the addition of any family member.

*(35B) Three-entity rule; actively engaged in farming; denial of program benefits*

The House bill amends the Food Security Act of 1985 to repeal the three-entity rule and to require notification of interests. Each entity or person receiving payments is to provide the Secretary the name and social security number of each individual, or the name and tax ID number of each entity, that holds or acquires an ownership interest; and for each person, provide such information for each entity in which the person holds an ownership interest. (Section 1503)

The Senate amendment provides the same as the House measure. (Section 1703)

The Conference amendment adopts the Senate provision with an amendment to replace ''presented false information that was material'' with ''failed to disclose material information'' and to specify that the provisions apply to any legal entity and any member of any legal entity. (Section 1603)

*(35C) Actively engaged in farming*

The House bill amends the Food Security Act of 1985 to essentially continue the provisions that recipients be ''actively engaged'' in farming. Existing special classes of actively engaged participants are continued, with the exception that as long as one spouse is determined to be actively engaged, the

other spouse shall be determined to have met the requirements of personal labor or active personal management. (Section 1503)

The Senate amendment provides the same as the House measure. (Section 1703)

The Conference substitute adopts the Senate provision. (Section 1603)

Current law concerning spouses made it very difficult for a spouse to be considered to be a separate person for the purpose of the application of the payment limits. In adopting the provision that if one spouse has been determined to be ''actively engaged,'' then the other spouse will be deemed to have made a significant contribution of active labor or active personal management to the operation as required by section 1001A(b)(2)(A)(i)(II), it is the intent of the Managers that this provision recognize the valuable contributions made by the spouse in a family farming operation as well as the significant value of these contributions to the overall success of family farming operations in America. It is further the intent of the Managers that in implementing this section, the Secretary shall consider such automatic ''significant'' contribution of active labor or active personal management to be commensurate with at least a 50% share in the profits and losses of the farming operation and to be at risk. It is the intent of the Managers to end the discrimination against spouses of farming families and reflect their true value to the farming operation. By assigning a ''significant'' level of contribution of labor or active management, the Conference Substitute requires the spouse only to make a significant contribution of capital, equipment, or land in order to be considered actively engaged.

*(35D) Transition*

The House bill provides that the current provisions of Section 1001 of the Food Security Act of 1985 will remain applicable to the 2007 crop. (Section 1503)

The Senate amendment provides the same as the House measure. (Section 1703)

The Conference substitute provides that the current provisions of sections 1001, 1001A, and 1001B of the Food Security Act of 1985 will remain applicable to the 2007 and 2008 crops. (Section 1603)

*(36) Adjusted gross income limitation*

The House bill extends the adjusted gross income limitation to programs under this Act and extends the effective period through the 2012 crop year. (Section 1504(a))

It also amends section 1001D of the Food Security Act of 1985, beginning with the 2008 crop year, to require that individuals or entities have an average adjusted gross income (AGI) not exceeding $1 million in order to receive program payments. Further provides that an individual or entity with an AGI in excess of $500,000 shall not be eligible for benefits, unless at least 66.66 percent of the AGI is derived from farming, ranching, or forestry operations, as determined by the Secretary. (Section 1504(b))

Modified AGI limits applicable to the 2008 through 2012 crop years. (Section 1504)

The Senate amendment extends the effective period through the 2012 crop year. (Section 1704(a))

It amends section 1001D of the Food Security Act of 1985 to lower the applicable average adjusted gross income (AGI) limit for recipients of direct or counter-cyclical payments, marketing loan gain or loan deficiency payments and average crop revenue payments from the current level of $2.5 million to $1,000,000 for the 2009 crop year and to $750,000 for the 2010 and subsequent crop years. Individuals or entities that receive 66.66% of their income from farming, ranching or forestry operations are exempted from this restriction. The Senate amendment establishes the income limitation for conservation programs at the current level of $2.5 million, unless not less than 75 percent of the AGI is derived from farming, ranching, or forestry operations. (Section 1704(c))

The Senate Amendment provides that existing adjusted gross income provisions of the Food Security Act shall continue to apply with respect to the 2007 and 2008 crops. (Section 1704(d))

Authorizes the allocation of adjusted gross income among the individuals filing joint returns provided the allocation is supported by a certified public accountant or attorney. (Section 1704(b))

The Conference substitute provides an average adjusted gross nonfarm income cap of $500,000. If the average AGI for nonfarm income of a person or legal entity exceeds $500,000, they become ineligible for a host of farm programs, including the non-insured assistance program and the new disaster program. The Substitute also provides for an average adjusted gross farm income cap of $750,000. If a person's or legal entity's average farm AGI exceeds $750,000, then they become ineligible for direct payments.

The Conference substitute provides an average adjusted gross nonfarm income cap of $1,000,000 for conservation programs unless two-thirds or more of the income of the person or legal entity is average adjusted gross farm income. The Secretary is authorized to waive the limitation on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected. (Section 1604)

New section 1001D(a)(3) provides that married couples filing joint returns may allocate appropriately their income among themselves for the purposes of applying both the new $750,000 adjusted gross farm income test and the new $500,000 nonfarm income test to each individual spouse. The section requires that to secure this allocation married couples must provide a professional third party certification of the method used to apportion the income, and the Secretary must determine that the submission is appropriate. The Managers expect the Secretary to apply this provision carefully and that its impact should be limited to the unique and special circumstances of each individual case.

The new provisions under section 1001D will take effect in 2009 and will be based on the 3 tax years preceding the most immediate preceding tax year. Since these tax years occur in the past and income decisions regarding them were based on past circumstances the Managers expect the Secretary to allow modifications to the allocation of income in these past years in order to implement the new income requirements in as least disruptive manner possible.

The Conference Substitute strengthens the certification requirements and ensures the Secretary can take appropriate action against a person or legal entity that fails to provide certifications concerning their average adjusted gross income, average adjusted gross farm income and average adjusted gross nonfarm income. Certifications are required to be provided at least once every 3 years. The Managers intend for the Secretary to deny program benefits to a person or legal entity that does not provide the certifications required in section 1001D, as amended, until such time as the certifications are actually provided. The Secretary is also to establish audit procedures that are designed to ensure that audits are directed toward those persons or legal entities that are most likely to exceed the adjusted gross income ceilings set out in section 1001D, but is not designed to authorize the Secretary to conduct repeated audits of operations based upon size alone.

*(36A) Income derived from farming, ranching or forestry*

The House bill amends section 1001D of the FSA by adding a new paragraph (3) to delineate income that is to be included in the portion of average adjusted gross income derived from farming, ranching, or forestry to include the following: The production of crops, livestock, or unfinished raw forestry products; the sale, including the sale of easements and development rights, of farm, ranch, or forestry land or water rights; the sale, but not as a dealer, of equipment purchased to conduct farm, ranch, or forestry operations when the equipment is otherwise subject to depreciation expense; the rental of land used for farming, ranching, or forestry operations; the provision of production inputs and services to farmers, ranchers, and foresters; the processing, storing, and transporting of farm, ranch, and forestry commodities; and the sale of land that has been used for agriculture. (Section 1504(b)(3))

The Senate amendment provides the same as the House measure, except the Senate does not limit the sale of equipment to those other than dealers and does not include the provision regarding equipment subject to depreciation; includes income from water or hunting rights; includes packing in processing and shedding in storage; and includes payment or other income attributable to benefits received under any Title I or Title II program. (Section 1704(c))

The Conference amendment adopts the Senate provision with an amendment to clarify and expand upon the items included in the Senate amendment. Newly specified categories of farm income include the feeding, rearing or finishing of livestock and payments received under the noninsured assistance program (NAP), and under the Federal Crop Insurance Act. Income received from the sale of farm equipment or production inputs or services to farmers can be considered farm income if two-thirds of a person's or legal entity's average adjusted gross income comes from the other sources of farm income. (Section 1604)

The Managers intend for the Secretary to create a method for determining a person's average adjusted gross farm income by including all income reported on IRS Schedule F (or other schedule for reporting farm or farm-related income), farming, ranching, or forestry related income specifically listed in the statute, and other income as determined by the Secretary to be income related to farming, ranching, or forestry activities. The items described in section 1001D(c) to be included in average adjusted gross farm income are intended to be illustrative and by no means an exclusive list. The Managers expect the Secretary to interpret, implement, and expand the sources of income derived from farming, ranching, or forestry to include the income or benefits from farming and farm-related activities and other activities that the Secretary determines are derived directly or indirectly from farm or farm-related activities. Many of these activities may be in addition to those items reported on IRS Schedule F, Form 4853 (farm rental income), farm partnership returns, or other schedules or forms. As farming practices, farming enterprises, and farm-related activities continue to evolve and modernize, the Managers intend that the Secretary will expand the sources of income derived from farming, ranching, or forestry for these purposes to reflect these developments.

*(37) Adjustments of loans*

The House bill amends section 162 of the 1996 farm bill by inserting ''except for cotton and long grain, medium grain, and short grain rice'' after ''commodity''; extending the provisions; and adding provisions for cotton and rice.

The House bill authorizes the Secretary to make adjustments in the loan rate for cotton for differences in quality factors, and requires the Secretary to revise the marketing assistance loan program for cotton to better reflect market values for cotton. The House bill requires revisions, including: Eliminating or revising warehouse location differentials to reflect market conditions; changing the way premiums and discounts are calculated by using a 3-year weighted moving average of spot market data, weighted by each region's share of production; eliminating gaps between premium and discount differentials based on certain fiber lengths; and further capping premiums based on leaf and color considerations.

The House bill provides for discretionary revisions in—adjusting the loan rates schedule using non-spot market price data in addition to spot market data for cotton; and eliminating gaps between premium and discount differentials based on certain longer fiber lengths.

The House bill encourages USDA consultation with the private cotton industry when making the mandatory and discretionary adjustments.

The House bill amends section 162(e) of the 1996 farm bill to provide that ''with respect to long grain rice and medium and short grain rice, the Secretary shall not make adjustments in the loan rates for such commodities, except for differences in grade and quality (including milling yields)''.

The House bill provides the same as section 162(c) of the 1996 farm bill, which allows the Secretary to establish county loan rates in a manner that results in the lowest loan rate being 95% of the national average loan rate, if those loan rates do not result in an increase in outlays. Prohibits any adjustment resulting in an increase in the national average loan rate for any year.

The House bill provides the same as section 162 of the 1996 farm bill. (Section 1505)

The Senate amendment provides for adjustments in loan rates for loan commodities other than cotton for differences in grade, type, location, and other factors. (Section 1210(a))

Subsection (b) of the Senate amendment provides the same as current law. (Section 1210(b))

Subsection (d) of the Senate amendment provides the same as the House measure, except with respect to mandatory revisions, the Senate amendment eliminates warehouse location differentials.

With respect to discretionary revisions, the Senate amendment provides the same as the House measure.

With respect to consultation, the Senate amendment provides the same as the House provision, except that it requires consultation with the private cotton industry. (Section 1210(d))

With respect to rice, the Senate amendment prohibits the Secretary from making adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields). (Section 1210(f))

Subsection (c) of the Senate amendment provides the same as current law. (Section 1210(c))

The Senate amendment provides the same as current law specifically for peanuts. (Section 1308)

The Conference substitute adopts the Senate provision with an amendment to simplify language related to the requirement to consult with the cotton industry. (Section 1210)

*(38) Personal liability of producers for deficiencies*

The House bill provides the same as current law. (Section 1506)

The Senate amendment provides the same as current law. (Section 1709)

The Conference substitute adopts the Senate provision. (Section 1606)

*(39) Extension of existing administrative authority regarding loans*

The House bill provides the same as current law. (Section 1507)

The Senate amendment provides the same as current law. (Section 1710).

The Conference adopts the Senate provision with an amendment. (Section 1607)

*(40) Assignment of payments*

The House bill provides the same as current law. (Section 1508)

The Senate amendment provides the same as current law. (Section 1711)

The Conference substitute adopts the House provision with an amendment. (Section 1608)

*(41) Tracking of benefits*

The House bill requires the Secretary to track the benefits provided under titles I and II directly or indirectly to individuals and entities. (Section 1509)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to give the Secretary discretionary authority to track benefits. (Section 1609)

*(42) Upland cotton storage payments*

The House bill ends the practice of paying for upland cotton storage, handling and other costs associated with cotton going into the loan starting with the 2011 crop. (Section 1510)

The Senate amendment requires payment of cotton storage costs in the same manner and at the same rates as the Secretary provided for the 2006 crop of cotton effective for the 2008–2012 crop years. (Section 1204(h))

The Conference substitute adopts the Senate provision with an amendment to limit the payments to a percentage of the actual storage rates. (Section 1204(g))

*(43) Government publication of cotton price forecasts*

The House bill strikes the current prohibition on the publication of cotton price forecasts. (Section 1511)

The Senate amendment provides the same as the House measure. (Section 1714)

The Conference substitute adopts the Senate provision. (Section 1610)

*(44) Prevention of deceased persons receiving payments under farm commodity programs*

The House bill requires the Secretary to submit a report to Congress which identifies any estate of a deceased person that received payments under this title for more than two crop years following the death of the person. The Secretary is required to promulgate regulations specifying deadlines by which a legal entity that receives payments or other benefits under this title must notify the Secretary of any change in ownership of the entity, including the death of a person with direct ownership interest. Any entity that fails to comply may be denied such payments or benefits. The Secretary is required to recoup erroneous payments made on behalf of a deceased person, and to withhold payments that otherwise would be made to farming operations in which the deceased person was actively engaged until the funds have been recouped. The Secretary is required to biannually reconcile individual tax identification numbers with the Internal Revenue Service for recipients of payments under this title to determine recipients? living status. (Section 1512)

The Senate amendment prohibits the Secretary from providing any agricultural payment under this Act or Act amended by this Act to any deceased individual or estate of such individual after 2 program years after the date of death of the individual. The Secretary is required to submit reports to the respective committees on agriculture that describes the number of payments and the aggregate amount of payments to deceased individuals and estates of deceased individuals; and to specify for each such payment, the length of time the estate of the deceased individual has been open. (Section 11073)

The Conference substitute adopts the House provision with an amendment that provides for the Secretary to issue regulations to allow for the settlement of estates and to preclude payments on behalf of deceased individuals that were not eligible for payment. The Secretary is directed to reconcile Social Security numbers of program participants with the Social Security Administration at least twice annually. (Section 1611)

*(45) Hard White Wheat Development Program*

The Senate amendment creates a program to compensate producers of hard white wheat. It establishes acreage limitation and payment rates and provides $35 million for the period of fiscal years 2008–2012. (Section 1706)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make the program subject to appropriations and to modify the period of effectiveness to fiscal years 2009–2012. (Section 1612)

*(46) Durum Wheat Quality Program*

The Senate amendment authorizes compensation to producers of durum wheat in an amount not to exceed 50% of the actual cost of fungicides applied to a crop of durum wheat of the producers to control wheat scab. It provides $10 million for each of fiscal years 2008 through 2012 subject to appropriations. (Section 1707)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the period of effectiveness to fiscal years 2009–2012. (Section 1613)

*(47) Storage facility loans*

The Senate amendment establishes a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar) to construct or upgrade storage and handling facilities for the commodities. It provides the terms of loans, amounts, and security requirements. (Section 1708)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. (Section 1614)

*(48) State, county, and area committees*

The Senate amendment provides for producer representation on county or area committees that are combined or consolidated. The provision requires that minority representation of socially disadvantaged farmers and ranchers is maintained. The Senate amendment provides that the producer is eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer. (Section 1715)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the Secretary to develop procedures for the purpose of maintaining representation of socially disadvantaged farmers and ranchers on combined or consolidated committees. (Section 1615)

*(49) Prohibition on charging certain fees*

The Senate amendment prohibits the Secretary from charging fees or related costs for the collection of commodity assessments. (Section 1716)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1616)

*(50) Signature authority*

The Senate amendment provides that if the Secretary approves a document containing signatures of program applicants, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any applicant signing the document on behalf of the applicant unless the applicant knowingly and willfully falsified the evidence of signature authority or a signature. (Section 1717)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment ensuring that the Secretary can still seek proper documentation despite the Senate provision and that third party producers who relied upon the prior approval of documents by the Secretary in good faith and substantially complied with farm program requirements are not denied benefits due to erroneous representations of authority. (Section 1617)

The Managers intend for the Secretary to continue to seek proper affirmation of signature authority from appropriate parties even as this section upholds prior document approval by the Secretary despite inadequate or invalid signature authority.

*(51) Modernization of Farm Service Agency*

The Senate amendment requires the Secretary to modernize the Farm Service Agency information technology and communication systems to ensure timely and efficient program delivery at national, state, and county offices. (Section 1718)

The House bill contains no comparable provision.

The Conference substitute provides for a report addressing the needs of the Department and a detailed plan to fulfill the Department's needs. (Section 1618)

*(52) Geospatial systems*

The Senate amendment requires the Secretary to ensure that all agencies of the Department of Agriculture consolidate the geospatial systems of the agencies into a single enterprise system that ensures that geospatial data are shareable, portable, and standardized. (Section 1719)

The House bill contains no comparable provision.

The Conference substitute provides that the Secretary shall ensure that all geospatial data of the agencies of the Department of Agriculture are portable and standardized. (Section 1619)

*(53) Leasing of office space*

The Senate amendment allows the Secretary to use Commodity Credit Corporation funds to lease space for use by agencies of the Department of Agriculture use provided the space is jointly occupied by the agencies. (Section 1720)

The House bill contains no comparable provision.

The Conference substitute provides for a report on the costs and time associated with complying with U.S. General Services Administration (GSA) leasing procedures. (Section 1620)

*(53A) Geographically disadvantaged farmers and ranchers*

The Senate amendment establishes a new program to provide geographically disadvantaged farmers and ranchers direct reimbursement payments to cover the cost to transport agricultural commodities or inputs used to produce agricultural commodities. The Secretary may spend up to $15,000,000 per fiscal year from funds appropriated to carry out this program. (Section 6021)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. (Section 1621)

The Managers recognize the barriers to competition associated with the high transportation costs incurred by geographically disadvantaged farmers and ranchers. The Managers expect the Secretary to develop, in consultation with the eligible areas, an equitable allocation of the funds for such areas. The Managers also expect the Secretary to consult with eligible areas on administration of the program.

*(53B) Implementation*

The conference substitute provides $50,000,000 to the Farm Service Agency to implement title I. (Section 1622)

*(54) Repeals*

The Senate amendment repeals section 1605 of the 2002 farm bill authorizing a Commission on Application of Payment Limitations; repeals section 1617 of the 2002 farm bill renewing availability of market loss assistance and certain emergency assistance to persons that failed to receive assistance under earlier authorities. (Section 1721)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1623)

TITLE II—CONSERVATION

*(1) Definitions (Section 1201 of 1985 Food Security Act (FSA))*

The Senate amendment adds definitions in the 1985 FSA for ''beginning farmer or rancher'', ''Indian tribe'', ''socially disadvantaged farmer or rancher'', ''nonindustrial private forest land'', and ''technical assistance''. The amendment authorizes the Secretary to employ a reasonable test of net worth or other measure to further qualify a beginning farmer or rancher. (Section 2001 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that removes the test of net worth for a beginning farmer or rancher. The Conference substitute further adopts the definition of a socially disadvantaged farmer or rancher as defined in Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) and adds a definition of farm, integrated pest management, person and legal entity, and livestock. The definition of livestock is intended to include alpaca and bison. (Section 2001 of Conference substitute)

*(2) Review of good faith determinations (Section 1212 of FSA)*

The Senate amendment maintains the good faith exemption and provides for a second level review of highly erodible land compliance decisions by the Farm Service Agency State Executive Director with the technical concurrence of the Natural Resources Conservation Service State Conservationist or the Farm Service Agency District Director with the technical concurrence of the Natural Resources Conservation Service Area Conservationist or his or her equivalent. The amendment allows for graduated penalties for compliance violations. (Section 2101 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. Conservation compliance was created in the 1985 FSA. It requires that individuals who farm highly erodible land to develop and apply a conservation plan or lose eligibility for farm program benefits. It has resulted in reductions in soil erosion but has often been inconsistently applied. Under current law, even a small compliance infraction requires the complete denial of farm program benefits.

The Conference substitute creates a system of graduated penalties, to be based on the severity of the violation. The amendment also creates a process to ensure that the Farm Service Agency Area Director or the Farm Service Agency State Director will review local compliance decisions. The Natural Resources Conservation Service will be involved to provide concurrence on technical issues.

The Managers believe this approach resolves a long-standing problem and provides for increased oversight of the violation process. The Managers are aware however, that current market conditions are encouraging commodity production on additional land and also changing cropping patterns. In light of the increase in new crop production, as well as changes in cropping systems, the Managers expect that the Secretary will increase whatever technical assistance, planning, monitoring, investigation, and enforcement activities may prove necessary to ensure that producers receiving farm program benefits continue to meet the applicable conservation compliance requirements. (Section 2002 of Conference substitute)

*(3) Review of good faith determinations (Section 1222 of FSA)*

The Senate amendment maintains the good faith exemption and provides for a second level review of wetland compliance by the Farm Service Agency State Executive Director (with the technical concurrence of the NRCS State Conservationist) or the Farm Service Agency district director (with the technical concurrence of the Natural Resources Conservation Service area conservationist or his/her equivalent). (Section 2201 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers intend for this provision to provide for better review and enforcement of wetlands compliance provisions. It requires a second level of review of wetlands violations by the Farm Service Agency with the concurrence of the Natural Resources Conservation Service on technical issues. The Managers intend for the Farm Service Agency to continue its primary role in compliance determinations. (Section 2003 of Conference substitute)

*(4) Comprehensive Conservation Enhancement Program (Section 1230 of FSA)*

The Senate amendment extends the program through 2012 and adds the Healthy Forests Reserve Program. The Environmental Quality Incentives Program (EQIP) is moved to the Comprehensive Stewardship Incentives Program (CSIP). (Section 2341) It exempts land enrolled in the Conservation Reserve Enhancement Program (CREP), land affected by State or local regulations that prohibit water use for agricultural production, and land in the State of Washington where enrollment is essential to Federal or State plans for sustainable wildlife habitat from the 25 percent county acreage cap. (Section 2301 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute does not reauthorize the program. The Healthy Forest Reserve Program is retained in the Forestry Title, and the county acreage cap is addressed in ''Administrative Requirements for

Conservation Programs''. (Section 1244 of the FSA). The Conference adopts a provision to exclude CREP acreage and continuous Conservation Reserve Program (CRP) acreage from the 25 percent cap if the county government concurs. This provision is separate and distinct from the existing waiver authority. As such, the Managers do not intend for the Secretary to survey producers, businesses, and other entities as is required by the existing waiver authority to implement this new provision.

The Managers recognize that a loss of access to water by agricultural producers can significantly impact conservation needs and local economies, and that producers need access to a wide range of conservation programs to help comply with a State or local law, order, or regulation prohibiting water use for agricultural production.

In making any determination on the applicability of the 25 percent county cropland CRP enrollment limitation, the Managers encourage the Secretary to maintain maximum flexibility for the enrollment of acreage in CRP that cannot be used for an agricultural purpose or is precluded from planting as a result of a State or local law, order, or regulation prohibiting water use for agricultural production.

*(5) Conservation Reserve Program (Sections 1231, 1232, 1234, and 1235 of FSA)*

*(a) Conservation reserve (Section 1231 of FSA)*

The House bill extends CRP until 2012 and gives the Secretary authority to address issues raised by State, regional, and national conservation initiatives. It amends the land eligibility provision to include land the Secretary determines had been planted for 4 of the 6 years preceding the enactment of the Farm, Nutrition, and Bio-energy Act of 2007 (except for land enrolled in CRP as of that date). It maintains the existing maximum enrollment of 39,200,000 acres. It strikes specific enumeration of Pennsylvania, Maryland and Virginia, but maintains the Chesapeake Bay Region as a Conservation Priority Area. The House bill also provides that alfalfa grown as part of a rotation practice is a commodity for cropping history criteria in determining whether land is eligible to be enrolled. It extends the Pilot Program for Enrollment of Wetland and Buffer Acreage in CRP to 2012. (Section 2101 of the House bill)

The Senate amendment extends CRP until 2012 and adds pollinator habitat to the resources to be conserved and improved through the program. The Senate amendment also expands eligible land to include marginal pastureland if native vegetation is grown and the land contributes to the restoration of the long-leaf pine forest or similar rare and declining forest ecosystem. The Senate amendment modifies eligibility of land that would facilitate a net savings in groundwater or surface water to apply only to alfalfa and other forage crops. The section expands eligible land to include land enrolled in the flooded farmland program. The Senate amendment maintains the existing maximum enrollment of 39,200,000 acres. The Senate amendment expands the Chesapeake Bay Priority Area to include all parts in the Chesapeake Bay Watershed and adds the Prairie Pothole Region, Grand Lake St. Mary's Watershed, and Eastern Snake Plain Aquifer region as Conservation Priority Areas.

The Senate amendment expands the lands eligible for the Pilot Program for Enrollment of Wetland and Buffer Acreage to include shallow water areas that were devoted to a commercial pond-raised aquaculture and agricultural drainage water treatment areas that provide nitrogen removal and other wetland functions. The Secretary, in consultation with the State technical committee, shall establish the maximum size of the buffer acreage to be enrolled along with eligible lands, taking into consideration the farming practices used with respect to the cropland that surrounds the wetland or shallow water area. The section increases the maximum wetland size to 40 contiguous acres and makes all acres eligible for payment. (Section 2311 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment. The substitute extends CRP until 2012 and provides the Secretary authority to address issues raised by State, regional, and national conservation initiatives. These ''State, regional and national conservation initiatives'' may include such things as the North American Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies. The Managers intend for the Secretary to consider the goals and objectives identified in relevant fish and wildlife conservation initiatives when establishing State and national program priorities, scoring criteria, focus areas, or other special initiatives. The Managers expect the Department to work with conservation partners and State and Federal agencies, to the extent practicable, to complement the goals and objectives of these additional plans through its programs.

Regarding pollinators, the Managers have placed a provision in ''Administrative Requirements for Conservation Programs'' (Section 1244 of the FSA), which applies to all applicable conservation programs and encourages the Secretary to give priority to applications that provide pollinator habitat.

The Conference substitute adopts the House provision on land eligibility and updates the provision to include land the Secretary determines has been planted for 4 of the 6 years preceding the enactment of the Food, Conservation, and Energy Act of 2008.

While the Managers agreed to an overall reduction in CRP enrollment to 32,000,000 acres, this should not serve as an indicator of declining or reduced support for CRP. The Managers intend that CRP be implemented at authorized levels, and that the program continue as one of USDA's key conservation programs. USDA shall update rental rates and use incentive payments for continuous CRP practices to make the program competitive with other programs and more economically viable for producers. The Managers support the use of partnership agreements with State wildlife agencies and nongovernmental organizations to assist in program promotion and implementation. Additionally, as general CRP contracts expire, the Managers encourage the enrollment of those acres in the Conservation Stewardship Program (CSP), Grassland Reserve Program (GRP) and the continuous CRP. The Managers expect that the Department will use incentive payments, promotional efforts, and agreements with the third parties mentioned above to ensure that the portions of general signup acreages that can be maintained in the program will be enrolled through continuous CRP.

The Conference substitute adopts the House language and makes a technical correction to include all States that make up the Chesapeake Bay Region as the Conservation Priority Area.

The substitute clarifies that alfalfa grown as part of a rotation practice is a commodity for cropping history purposes. The Managers encourage the Secretary to enroll irrigated alfalfa lands into ongoing CREP projects that address water quantity and quality issues. (Section 2101 of Conference substitute)

*(b) Duties of owner and operators (Section 1232 of FSA)*

The House bill maintains current law regarding managed haying and grazing outside of nesting seasons and expands the provision to allow a producer to conduct prescribed grazing for the control of invasive species on CRP lands. It allows for managed grazing and requires the Secretary to reduce the rental payment and require a management plan. It allows dryland crop production and grazing on CREP acres where CREP is initiated to address declining water resources. The Secretary is required to develop a conservation plan, determine eligibility of dryland crop production and grazing for crop insurance, reduce the rental payment, and renegotiate the agreement to allow for dryland crop production and grazing at the request of the State. Such lands shall be considered ''noncropland'' for crop insurance purposes. (Section 2101 of the House bill)

The Senate amendment adds that approved vegetative cover shall encourage the planting of native species and the restoration of biodiversity. It requires contract holders to actively manage the land throughout the term of the contract and clarifies that managed harvesting and grazing outside of nesting and brood rearing season is permitted if it is part of the conservation plan. The Senate amendment allows prescribed grazing for control of invasive species. The Senate amendment requires that the practices in the conservation plan be compatible with wildlife and wildlife habitat, clearly described and applicable through the duration of the contract, consistent with the Secretary's priorities for local conservation management priorities, and actively managed. (Section 2311 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The substitute allows routine grazing, including prescribed grazing for the control of invasive species, with appropriate restrictions. The Managers expect that routine grazing will be performed in a manner that is consistent with the underlying purposes of the program and conducted under a site-specific vegetation plan that provides for grazing frequency (duration of time throughout the year, when authorized, and the number of years during the life of the CRP contract). The Managers further expect that guidelines for the vegetation plan and grazing use be developed in consultation with the State technical committee.

The Managers understand that there has been some concern over the current rules related to haying and grazing on CRP land and insufficient flexibility for forage use across varied landscapes while still achieving the purposes of the program. The Managers expect USDA to review rules developed to implement routine grazing and to provide for appropriate flexibility in grazing periods consistent with the conservation goals of the program based on site-specific natural resource conditions.

The Managers understand that there has been some complication in local areas with restricting access to buffers while gleaning the crop residue in a field. The Managers intend that short-term access to buffers that are adjacent to fields be allowed post-harvest without a reduction in payment. While grazing of the buffer is not intended in this action, the proximity to the field crop residue makes restricting access difficult. Due to the short term nature of this activity (60 days maximum), it should not result in a reduced payment and should be done in accordance

with the contract. (Section 2107 of Conference substitute)

*(b) Payments (Section 1234 of FSA)*

The House bill requires the National Agricultural Statistics Service to survey annually the per-acre estimates of county average market dryland and irrigated cash rental rates for all counties with 20,000 acres or more of crop and pastureland. These surveys will be kept on the Department?s website and made available to the public. (Section 2101 of the House bill)

The Senate amendment contains a similar provision. In accepting new enrollments, the section requires that if land provides equivalent environmental benefit to a competing offer then the Secretary shall, to the maximum extent practicable, accept an offer from an owner or operator who is a local resident. (Section 2311 of the Senate amendment)

The Conference substitute adopts the Senate provision regarding the NASS survey. In accepting contract offers (Section 1234(c)), the substitute adds a new requirement that the Secretary provide priority to offers from local residents if the offer provides equivalent conservation benefits when compared to other offers. (Section 2110 of Conference substitute)

*(c) Contracts (Section 1235 of FSA)*

The House bill allows the Secretary to modify a CRP contract to facilitate the transition of CRP land from a retiring owner to a beginning, socially disadvantaged, limited resource farmer or rancher in order to return some or all of the land to sustainable grazing or crop production. It allows the beginning, socially disadvantaged, or limited resource farmer or rancher to make land improvements and to begin the organic certification process one year before the CRP contract expires. The House bill: requires the retiring landowner to sell or lease the CRP land to the beginning, socially disadvantaged, or limited resource farmer for production purposes; requires a conservation plan; allows the farmer to enroll in the Conservation Security Program or EQIP upon taking ownership of the land; and provides CRP payments to the retiring owner/operator for an additional two years after the contract terminates. The House bill allows the beginning, socially disadvantaged, or limited resource farmer or rancher purchasing the CRP land to reenroll a partial field that is eligible for continuous sign-up and is part of a conservation plan.

The House bill requires the Secretary to allow an operator to terminate a contract that has been in effect for 5 years at any time. The section also provides that land enrolled in continuous sign-up is ineligible for early termination. (Section 2101 of the House bill)

The Senate amendment has no comparable provision to the House language on CRP transition options for beginning, socially disadvantaged, or limited resource farmers. The Senate amendment retains current language on early termination by an owner or operator but expands current law to permit contract termination if the participant is disabled or retired from farming and has endured financial hardship as a result of taxation from rental payments received. (Section 2311 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment regarding the transition of CRP land from a retiring farmer or rancher to a beginning or socially disadvantaged farmer or rancher. In implementing the CRP transition option, the Managers encourage the Department to publicize the availability of the transition option widely, including publicity aimed at CRP landowners who are not extending contracts or re-enrolling in the program and at beginning and socially disadvantaged farmers or ranchers. (Section 2111 of Conference substitute)

*(6) Flooded Farmland Program (Section 1235B of FSA)*

The Senate amendment adds a new flooded farmland program within CRP, which allows for the enrollment of flooded crop and grazing land or land rendered inaccessible because of flooding caused by the natural overflow of a closed basin in the Northern Great Plains region. The section requires that land enrolled must be at least 5 acres in size, flooded, and rendered incapable of production during the preceding three crop years and have no natural outlet. It provides for enrollment through the continuous sign-up process and requires that land enrolled have a consistent history of being used for the production of crops or used as grazing lands.

The Senate amendment allows enrollment of adjoining land that would enhance the conservation or wildlife value of the tract with reduction in rental payment. During participation in the program, owners are not eligible to participate in or receive federal crop insurance, noninsured crop disaster assistance, or any other federal agricultural crop disaster assistance program benefits for land included in the contract. The section also directs the Secretary to preserve the cropland base, allotment history, and payment yields applicable to the enrolled land and to adjust these values upon contract termination to ensure equitable treatment of the enrolled land relative to comparable land remaining in production in the county. The owner shall take actions as necessary to avoid degrading any wildlife habitat that has developed as a result of the natural overflow on the land covered by the contract. (Section 2312 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute deletes this section and makes modifications to CRP and the Wetlands Reserve Program (WRP) to accomplish the intent of the Senate amendment.

The pilot program for enrollment of wetland and buffer acreage in CRP is expanded to include land that had been cropped during 3 of 10 crop years prior to 2002 and after 1990 and is subject to a natural overflow of a prairie wetland. Wetlands and adjacent buffer areas are enrolled under the continuous sign-up process and are limited to no more than 40 acre tracts. The Managers expect the Secretary to require these enrollments in the CRP wetland pilot program to have ratios of at least two-to-one in upland buffer areas, or greater where practicable, in order to maximize wildlife benefits. Participants must agree to restore wetland hydrology, establish appropriate vegetation, and refrain from commercial use of the land, among other duties during the term of the contract. (Section 2101 of the Conference substitute)

Eligible land in WRP is expanded to include cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole. These wetland areas along with functionally dependent uplands, as practicable, are to be enrolled in 30–year easements. In determining the compensation, the Secretary is expected to base the value on the use of the land prior to flooding and the corresponding value of such land in the county where the eligible land is located. The Managers expect that enrolling these permanently and temporarily flooded lands in the program will provide long term benefits for wildlife habitat and water management. To ensure that enrollment opportunity exists for these lands, the Secretary is directed to conduct an annual survey of the demand for enrollment in the Prairie Pothole Region and adjust annual allocation of program funds in these interested States. The Managers intend the allocations made available through this adjustment process to be subject to any annual pooling and reallocation of funds that the Secretary applies to the entire program. (Section 2201 of the Conference substitute)

*(7) Wildlife Habitat Program (Sec 1235C of FSA)*

The Senate amendment creates, for the years 2008 through 2012, a Wildlife Habitat Program within the CRP. The program would be available to CRP contract holders who have established softwood pine stands. It provides for agreements that shall have management strategies and practices that benefit wildlife, such as thinning, establishing wildlife food plots, burning, and seeding. Contracts are up to 5–years in term. The Secretary shall encourage cooperative arrangements among program participants, State and local government entities, and nongovernmental organizations to achieve the purposes of the program. The section provides cost-sharing and technical assistance to carry out the program. The program terminates on September 30, 2011. (Section 2313 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute deletes this section and makes modification in CRP to accommodate the intent of the Senate amendment. In providing funding and clarifying the availability of cost-sharing payments related to trees, the Managers encourage the Department to take this opportunity to improve the condition of resources on land enrolled in CRP and planted to trees. The Managers are especially interested in improving wildlife habitat on land in the Southeast in CRP planted to softwood pines. The Managers expect the Department to work with partners to identify areas with the greatest need and potential for improvement. The Managers encourage the use of all appropriate forest-management practices, including thinning and prescribed fire, to achieve the purposes of the program.

*(8) Wetland Reserve Program (Section 1237 of FSA)*

*(a) Establishment (Section 1237(a–f) of FSA)*

The House bill authorizes WRP through fiscal year 2012. The section adds wetland creation to the purposes of WRP and authorizes the Secretary to purchase floodplain easements. The section increases the maximum enrollment to 3,605,000 acres; provides for an annual enrollment goal of 250,000 acres, of which up to 10,000 acres may be enrolled as floodplain easements; and changes the program to operate on fiscal year basis. The section amends eligible lands to include riparian areas and floodplains. Flood plain lands are eligible if the land has been damaged by flooding at least once in the preceding calendar year or has been damaged by flooding at least twice in the past 10 years or if the enrollment of other land within the floodplain would aid in flood storage, flow, or erosion control. (Section 2401(a) and Section 2102(a–c) of the House bill)

The Senate amendment authorizes WRP through fiscal year 2012. The section allows enrollment of 250,000 acres per fiscal year with no enrollments beginning in fiscal year 2013. Indian Tribes may enroll land through 30–year contracts, which shall be equivalent in value to a 30–year easement. The section includes riparian areas and riparian and adjacent areas that are linked to other parcels of wetlands protected under a wetlands reserve agreement or similar device. (Section 2321(1–3) of the Senate amendment)

The Conference substitute adopts the House language with an amendment. The substitute extends WRP to 2012, adds purposes to the establishment section, caps enrollment at 3,041,200, and focuses the program on private land. The substitute changes the program to a fiscal year basis. Enrollment conditions are modified to allow 30–year Tribal contracts. The substitute stipulates that values of such contracts shall be equivalent to 30–year easements.

The substitute does not include the expansion of riparian areas. The Managers recognize that riparian areas often provide extremely important habitat for wildlife, and that restored and protected riparian areas also help improve water quality, reduce sedimentation, and help manage floodwaters. Riparian areas are already eligible lands under WRP and may be enrolled either as uplands that are functionally dependent on a wetland or where they link wetlands that are otherwise protected by easements or a similar mechanism. (Section 2201 of Conference substitute)

*(b) Easements and Agreements (Section 1237A of FSA)*

The House bill states that compensation for easements shall be based on compensation formulas resulting in the lowest cost: percentage of fair market value according to the USPAP or a percentage of the market value determined by an area-wide survey; a geographic cap; or the landowners offer. Nonfederal funds may be accepted to administer this program. (Section 2102(e) of the House bill)

The Senate amendment adds a requirement that spraying or mowing is allowed if necessary to meet habitat needs of specific wildlife species. The amendment requires that the Secretary pay the lowest compensation for an easement among several alternative valuation methods. The compensation for easements may be provided to landowners in up to 30 payments of equal or unequal size. The section also adds a Wetlands Reserve Enhancement Program with the authority to enter into unique wetlands reserve agreements that may include compatible uses as reserved rights in the warranty easement deed restriction. (Section 2322(a–c) of the Senate amendment)

The substitute adopts the House provision with an amendment. It revises the process for determining the value of easements and contracts by requiring the Secretary to provide the lowest amount of compensation based on a comparison of the fair market value of the land (as determined by either an appraisal based on the Uniform Standards for Professional Appraisals or an area-wide market survey), a geographic cap, or an offer made by the landowner.

The Managers intend for the Department to develop guidelines and provide direction for States regarding the method for determining the value of easements. The Managers do not intend for the Department to require States to use a specific appraisal process, such as the ''Yellow Book'' process or an appraisal rather than a market wide survey or analysis. The Department should grant flexibility to State conservationists who, in consultation with State technical committees, should determine the method that best fits the needs of their State.

The substitute provides the Secretary authority to accept non-Federal funds to assist in implementing the program but places this new authority in ''Administrative Requirements for Conservation Programs'' (Section 1244 of the FSA) so it applies to all conservation programs.

The substitute includes authority for a Wetlands Reserve Enhancement Program (WREP). The WREP authority is intended to allow the Secretary to enter into agreements with States similar to what is done under CREP. It is not intended as a way to enroll State-owned lands in the program. It is the intent of the Managers that the Secretary will implement WREP projects in order to provide focused, targeted resource benefits and to leverage federal funds.

The substitute provides authority for a Reserved Rights Pilot. The Managers intend for the Secretary to explore different warranty easement deeds consistent with the purposes of the program, while allowing a landowner to retain the right to use the land for grazing purposes. The Managers intend that any activities occurring under a reserved right easement be covered by a conservation plan developed and approved by the Secretary.

The substitute provides that easements with values less than $500,000 be paid out over 1 to 30 years. Easements with values greater than $500,000 are to be paid out over 5 to 30 years. The Secretary is granted authority to waive that requirement and make lump sum payments if necessary to carry out the purposes of the program. For land to be eligible for the WRP, the land must have remained under the same ownership for a minimum of 7 years. (Section 2208 of Conference substitute)

*(c) Duties of Secretary (Section 1237C of FSA)*

The House bill adds criteria for the Secretary to use when evaluating easement offers from landowners for wetlands or floodplains. The Secretary may consider the conservation benefits, the cost effectiveness, and whether the landowner or someone else is offering to contribute to the cost of the easement or other interest in the land to leverage Federal funds. In determining the acceptability of easement offers for flood plains, the Secretary may take into consideration the extent to which the purpose of the program would be achieved on the land, whether the land has flooded repeatedly in the past 10 years, whether the easement would contribute to restoration of surrounding lands, and other factors. (Section 2102(f) of the House bill)

The Senate has no comparable provision.

The Conference substitute adopts the House language for evaluating wetlands. (Section 2207 of Conference substitute)

*(d) Payments (Section 1237D of FSA)*

The House bill is the same as current law with technical changes. It also changes the paragraph heading ''State wetland and environmental enhancement'' to ''Wetlands Reserve Enhancement''. (Section 2102(g) of the House bill)

The Senate amendment makes a conforming change to allow payments for 30–year contracts. (Section 2323 of the Senate amendment)

The Conference substitute adopts the Senate amendment. (Section 2205 of Conference substitute)

*(3) Reports (Section 1237G of FSA)*

The Senate amendment directs the Secretary to evaluate and report to Congress on the implications of long-term easements on Department of Agriculture resources by January 1, 2010. (Section 2322(d))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers are concerned with the long-term implications of managing and monitoring wetland easements. The substitute requires the Secretary to provide a report on the number and location of conservation easements acquired under the WRP and an assessment of the extent to which the oversight of conservation easement agreements impacts the availability of USDA resources, including technical assistance. (Section 2210 of Conference substitute)

*(9) Comprehensive Stewardship Incentives Program*

The Senate amendment creates a new CSIP to coordinate the two primary working lands programs: EQIP and the Conservation Stewardship Program (CSP). The section defines resources of concern and requires the Secretary to manage EQIP and CSP in a coordinated manner. The Secretary shall ensure that resources of concern are identified at the State level and shall identify not more than 5 resources of concern within a watershed or region within a State. The section directs the Secretary to issue regulations to implement the CSIP, CSP, and EQIP no later than 180 days after the date of enactment of the 2007 Farm bill. (Section 2341 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute does not include CSIP. The substitute includes a provision in ''Administrative Requirements for Conservation Programs'' (Section 1244 of the FSA) that requires the Secretary to ensure that there is a streamlined application process for all conservation programs.

*(10) Conservation Security Program*

*(a) Conservation Security Program (Section 1238 FSA)*

The House bill states that no new contracts may be entered into under the Conservation Security Program after October 1, 2007. However, payments and modifications to existing contracts may be continued to be made until those contracts expire. (Section 2103(b) of the House bill)

The Senate amendment reauthorizes the Conservation Security Program for existing contracts only. The section provides $2,317,000,000 for current contracts to remain available until expended and prohibits new contracts or renewals after enactment of the Farm Bill. (Section 2391 of the Senate amendment)

The Conference substitute adopts the Senate provision and provides such sums as necessary to carry out existing contracts.

*(a) Definitions*

The House bill defines conservation plan, conservation practice, management intensity, nondegradation standard, priority resource of concern, resource specific index, and socially disadvantaged farmer or rancher. (Section 2103(a) of the House bill)

The Senate amendment defines comprehensive conservation plan, stewardship contract, contract offer, enhancement payment, eligible land, livestock, management intensity, payment, practice, producer, program, resource conserving crop, resource conserving crop rotation, stewardship contract, and stewardship threshold. (Section 2391 of the Senate amendment)

The Conference substitute renames the program as the Conservation Stewardship Program (CSP) and defines conservation activities, conservation measurement tools, conservation stewardship plan, priority resource concern, resource concern, and stewardship threshold. (Section 1238D of the Conference substitute)

The Managers recognize that agricultural drainage systems are valuable conservation practices that can be carried out under the CSP and, in particular, that the installation of drainage management systems can provide benefits to water quality by reducing nitrogen loading from subsurface drainage as well as managing wildlife habitat. Thus, these practices are included as conservation activities.

The Conference substitute includes planning needed to address a resource concern as a conservation activity. Since CSP is intended to address multiple resource concerns

in a coordinated manner, the Managers encourage the Secretary to implement the program in a manner that encourages comprehensive conservation planning through technical and financial assistance under this program. The Managers encourage the Secretary to use site-specific conservation planning as outlined in the National Planning Procedures Handbook and implement the program in a manner that encourages comprehensive conservation planning on all applicable resources through technical and financial assistance under the program.

The Managers are aware of the effort made by NRCS to develop resource-specific indices for implementing CSP and other conservation assistance programs and encourage this development. Where such indices are not available or practical, the Managers urge the Secretary to use substitute tools that measure the degree, scope, and range of conservation activities adopted by a producer to improve and sustain the condition of a resource.

The term stewardship threshold refers to the level of conservation and environmental management required to improve and conserve a resource. The Managers intend the Secretary to set the threshold at a level that ensures substantial and lasting conservation benefits.

*(b) Conservation Security Program/Conservation Stewardship Program and duties of the producer*

The House bill states that a new Conservation Security Program shall go into effect for fiscal years 2012 through 2017, and that the purpose of the Conservation Security Program is to assist producers in improving environmental quality by addressing priority resources of concern. To be eligible, a producer must already be addressing at least one priority resource of concern to the minimum level of management intensity and have an approved conservation offer. Eligible land includes private agricultural land, forest land, and land owned by Tribes. (Section 2103 of the House bill)

The Senate amendment identifies the purposes of the program as promoting agricultural production and environmental quality as compatible goals and to optimize environmental benefits by assisting producers to promote natural resource conservation. To be eligible, a producer must address priority resources of concern relating to both soil and water to at least the stewardship threshold, adequately address other resources of concern applicable to the operation, and meet or exceed the stewardship threshold for at least 1 additional priority resource of concern by the end of the contract.

The Senate amendment clarifies that eligible land includes cropland, pasture land, rangeland, other agricultural land used for the production of livestock, land used for agroforestry, land used for aquaculture, riparian areas adjacent to eligible land, Tribal lands, public land (if failure to enroll would defeat the purposes of the program), and State and school owned land. The Senate amendment states that all acres of all agricultural operations within a watershed or region that constitute a cohesive management unit shall be covered by the contract.

The Senate amendment includes provisions on contract offers, contract renewal, contract termination, and optimal crop rotations. (Section 2391 of the Senate amendment)

The Conference substitute establishes the program purpose of encouraging producers to address resource concerns in a comprehensive manner by installing and adopting new conservation activities, and by improving, maintaining and managing conservation activities in place at the operation. The Managers encourage the Secretary to place emphasis on improving and adding conservation activities.

The Conference substitute allows nonindustrial private forest land to be eligible with the limitation that not more than 10 percent of annual acres made available under the program can be forest land.

Under the program, land used for cropland that had not been planted, considered to be planted, or devoted to crop production for 4 of the 6 years prior to the date of enactment of this act shall not be the basis of any payment under the program, unless the reason the land did not meet the requirement is that: it had previously been enrolled in CRP; had been maintained in a long term crop rotation; or was incidental land needed for efficient operation, such as an area of a farm or ranch that had been used for structures that had been subsequently removed. The exceptions only apply if they were the direct cause of the producer's inability to meet the 4–of–6 year requirement.

The Managers want to clarify that the ''additional criteria'' authority provided in Section 1238F(b)(3) may not supersede or be more heavily weighted than the five required evaluation criteria in section 1238F(b)(1). Instead, the additional criteria may provide extra ranking points to help address specific priorities. Contracts shall permit all economic uses of the land that maintain the agricultural nature of the land and are consistent with the conservation purposes of the program. The Managers intend for this to apply to conservation buffers or any other partial field conservation practice that may be included in the contract.

A producer may renew a CSP contract for an additional five-year period, provided the terms of the existing contract have been achieved to the satisfaction of the Secretary and the producer agrees to adopt new conservation activities. The Secretary is provided authority to require new conservation activities as part of the contract renewal process. It is the intent of the Managers that this could include expanding the degree, scope, and comprehensiveness of conservation activities adopted by a producer to address the original priority resource concerns or addressing one or more additional priority resource concerns.

The Secretary may allow for contract modification if the Secretary determines that a modification is consistent with achieving the purposes of the program. Modifications envisioned by the Managers include instances in which a producer enrolls a portion of the farm in a land retirement or easement program, gains or loses a lease, or has a change in production due to market or weather conditions. The Managers also intend for the Secretary to issue guidance for cases in which a producer has a change in production that requires a change to scheduled conservation practices and activities. The Managers expect the Secretary to approve the contract modification only as long as net conservation benefits will be maintained or improved as a result.

Supplemental payments are authorized for producers who adopt a beneficial crop rotation. The Managers intend for the supplemental payment to encourage producers to adopt new, additional beneficial crop rotations that provide significant conservation benefits. The payments are to be available to producers across the country and should not be limited to a particular crop, cropping system, or region of the country. In the Southeast, peanuts are an example of a crop that responds well to increased rotation lengths. Increased rotation lengths help peanut producers conserve water, more effectively control disease, reduce inputs to control disease and increase productivity.

On-farm conservation research and demonstration activities and pilot-testing projects can be approved as part of contract offers under the program. The Managers expect the Secretary to establish and publicize design protocols and application and contract offer procedures for individual producer and collaborative on-farm research and demonstration activities and for pilot testing projects so producers have a clear understanding of how to participate in either of these two options.

The substitute requires the Secretary to provide a transparent means by which producer may initiate organic certification under the National Organic Program while also participating in CSP. The Managers expect the Secretary to coordinate this program and the organic certification process to the maximum extent practicable.

*(c) Duties of the Secretary*

Under the House bill, the Secretary shall identify not more than 5 priority resources of concern for a watershed or area within a State. The House bill states that the payment amount shall be based on a portion of the actual costs, income forgone, and resource specific indices. The payment limitation on the Conservation Security Program is $150,000 for the 5–year term of the contract.

Under the Senate amendment, an acreage allocation is specified, and contracts are limited to $240,000 for all contracts entered into during any 6-year period. The Senate amendment enrolls 13,273,000 acres annually at a national average cost of $19 per acre. (Section 2391 and 2341 of the Senate amendment)

The conference substitute provides that the allocation of acres to each State shall be based primarily on each State's proportion of eligible acres to the total number of eligible acres in all States. The Secretary shall also consider the extent and magnitude of conservation needs associated with agricultural production in each State, the degree to which implementation of the program is or will be effective in helping producers address those needs and other considerations in order to achieve equitable geographic distribution of funds.

In carrying out the program on a continuing enrollment basis, a producer can apply at any time during the year for the program, but the application will only be ranked at the time determined by the Secretary. The Managers intend for the program to be available nationwide to all agricultural producers, not only in specific watersheds or geographic regions within a State. The Managers specifically intend that the program not be restricted to particular watershed enrollments.

The Conference substitute requires the Secretary to undertake outreach activities and provide appropriate technical assistance to specialty crop and organic producers and to ensure they can effectively compete in the program. In providing outreach and technical assistance, the Managers encourage the Secretary to provide appropriate training to field staff to enable them to work with these producers and to utilize cooperative agreements and contracts with nongovernmental organizations with expertise in delivering organic educational and technical assistance to these producers.

Payments under the program are limited to $200,000 for all contracts entered into by a producer in any 5-year period. This provision requires direct attribution to real persons. The Managers emphasize that direct attribution is a mandatory requirement. The Managers do not intend for the Secretary to pay for no-till or other common practices that have no cost to the producer.

The Managers encourage the Secretary to conduct outreach to encourage producers

who are transitioning land out of the conservation reserve program to protect conservation values by enrolling in CSP. As part of this transition from land retirement to working lands conservation, the Managers urge the Secretary to encourage producers to maintain the land in a grass-based production system with appropriate wildlife protections through CSP or to adopt advanced resource-conserving cropping systems through CSP in tandem with placing conservation buffers and other appropriate partial field conservation practices, farmed wetlands, or special wildlife habitat practices in the continuous CRP. (Section 2301 of Conference substitute)

*(11) Grassland Reserve Program (Section 1238N–1238Q of FSA)*

*(a) Establishment and purpose (Section 1238N)*

The House bill establishes an enrollment goal of 1,340,000 acres by 2012. It revises the enrollment process to be based on acreage rather than funding and requires that at least 60 percent of program acreage be in long term easements and agreements. It adds a priority for enrolling CRP acres, except that no more than 10 percent of the acreage enrolled in any year maybe from CRP; and prohibits duplicate payments for such land enrolled in GRP. It establishes that the method for determining the fair market value of enrolled land will be an appraisal, a market survey, a geographic cap, or the landowner offer; whichever results in the lowest amount of compensation to be paid. It authorizes the Secretary to enter into agreements with States and their subdivisions to advance the purposes of the program through a grassland reserve enhancement option. (Section 2104 of the House bill)

The Senate amendment eliminates short-term rental agreements and the requirement for enrollment of at least 40 contiguous acres. It provides for enrollment of land through 30-year contracts and easements and permanent easements. The 30-year contract option is included to encourage tribal participation in the program. A new authority is added for the Secretary to enter into cooperative agreements with eligible entities for the purpose of purchasing, holding, monitoring, and enforcing easements. The Senate amendment adds a definition of eligible entity, expands eligible land to include land that contains historical or archeological resources or would further goals of certain fish and wildlife plans or initiatives, and specifies that easements of the maximum duration by State law are equivalent to permanent easements. (Section 2381 of the Senate amendment)

The Conference substitute adopts an acreage enrollment goal of an additional 1,220,000 acres by 2012. The Conference substitute includes 10-, 15-, and 20-year rental contracts and permanent easements. Easements of the maximum duration allowed by State law are considered as permanent easements. The Managers expect that the 20-year rental contracts will be used to encourage tribal group participation in the program.

The Conference substitute strikes the House priority for 60 percent of acreage in long term contracts and retains current law that 60 percent of the funds would be dedicated to easements, while 40 percent of the funds would be dedicated to short term contracts. In addition, the Conference substitute adopts a priority for enrollment of CRP land with a modification to clarify that the priority applies upon expiration of the CRP contract.

The Conference substitute adopts the Senate additions to eligible land with technical corrections. It does not include a Grassland Reserve Enhancement provision. It adopts the Senate definition of eligible entity and authority for the Secretary to enter cooperative agreements with entities to purchase easements. It also adopts the House bill provision in regard to the method for determining fair market value with a technical correction.

*(b) Requirements relating to easements and contracts (Section 1238O)*

The Senate amendment modifies terms and conditions of easements and agreements to permit fire presuppression and addition of grazing-related activities, such as fencing and livestock watering. Criteria for evaluating applications for enrollment are expanded to provide additional flexibility to the Secretary, and in the case of agreements with eligible entities, to provide a priority to applications that include a cash contribution or leverage other resources toward the purchase price of easements.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. The Managers expect these additions to encourage improved management of enrolled acreage, particularly where breaking of the soil surface may be required to manage invasive species or improve grazing systems, and to leverage additional resources for the protection of grasslands.

The Conference substitute adds implementation of a grazing management plan as a new general requirement of landowners enrolling in the program. With the inclusion of a grazing management plan, the Managers emphasize the conservation purpose of the program, but further clarify that once established these plans are modified only by mutual agreement of the involved parties.

*(c) Payments (Section 1238P)*

The Senate amendment strikes rental agreement payments and modifies the rate of compensation for restoration agreements. Permanent easements will be paid at a rate of not less than 90 nor more than 100 percent of the eligible restoration costs. Thirty-year easements and contracts will be at the rate of not less than 50 nor more than 75 percent of the eligible restoration costs. The compensation schedule is lengthened to allow for up to 30 annual payments, corresponding to the newly established 30-year contract agreement.

The House bill has no comparable provision.

The Conference substitute adopts the cost-share rate for restoration agreements of not more than 50 percent of the costs of carrying out restoration activities.

*(d) Delegation to private organizations (1238Q)*

The House bill expands on the authority of the Secretary to transfer easement titles to private organizations and to also allow entities to own and write easements under this section, subject to periodic inspections by the Secretary.

The Senate amendment provides authority for the Secretary to enter into cooperative agreements with eligible entities for those entities to purchase, own, enforce, and monitor easements. Terms and conditions of cooperative agreements require entities to demonstrate qualifications, specify parcels to be enrolled, allow substitutions as agreed to by the parties, specify entity reporting on fund use, allow entities to use their own easement instruments, require appraisals using an industry approved method, allow a landowner contribution as a share of the purchase price, and specify a payment schedule. The Secretary shall require easements to contain a contingent right to protect the public investment.

The Conference substitute adopts the Senate amendment provision for cooperative agreements between the Secretary and eligible entities with a modification to the language specifying that eligible entities shall assume costs of administering and enforcing easements.

The Conference substitute adopts a requirement for a contingent right of enforcement. In selecting offers from eligible entities for funding, the Managers expect the Secretary to consider the sufficiency of the offer regarding effective monitoring and enforcement, reversionary interest, or other such factors that will affect the long-term integrity of easement being acquired under the program. The Conference establishes that eligible entities shall provide a share of the easement purchase price that is equal to the share provided by the Secretary. (Section 2403 of Conference substitute)

*(12) Environmental Quality Incentives Program*

*(a) Purposes (Section 1240 of FSA)*

The House bill adds forest management and organic transition as purposes of the program. It adds forest land and conserving energy to the list of purposes for installing conservation practices. Energy use, organic transition, and forest management are added to the list activities for which the Secretary will assist producers in making cost-effective changes. (Section 2105(a) of the House bill)

The Senate amendment adds forest management as a purpose of the program and adds forest land conservation and pollinators to the list of purposes for installing conservation practices. Fuels management and forest management are added to the list activities for which the Secretary will assist producers in making cost-effective changes. (Section 2351 of the Senate amendment)

The Conference substitute adopts the House bill with amendment. Forest management is added to the program purpose, and forest land and energy conservation are added to the resources to benefit from the installation of conservation practices. Fuels management and forest management are added to the list activities for which the Secretary will assist producers in making cost-effective changes. The Managers recognize the significance of the changes made to the program to reflect new needs and concerns. The Managers expect the Secretary to continue to help producers address conservation needs on their land while promoting agricultural production and environmental quality as compatible goals.

*(b) Definitions (Section 1240A)*

The House bill adds definitions for integrated pest management, socially disadvantaged farmer or rancher, and adds alpaca and bison to the definition of livestock. It also adds forest management and silviculture to land management practices for purposes of the program.

The Senate amendment adds a definition of producer that includes custom feeders and contract growers. It modifies eligible land to include private nonindustrial forest land and lands used for pond-raised aquaculture production. The amendment adds forest and fuels management and conservation planning to practices for purposes of the program.

The Conference substitute adopts the Senate amendment with an amendment to modify eligible land. The Managers intend for the Department to continue to provide assistance to custom feeders and contract growers through this program.

*(c) Establishment (Section 1240B)*

The House bill adds organic certification as a practice eligible for cost share payments; amends the exception to establish a 90-percent cost-share rate for beginning and socially disadvantaged farmers or ranchers and provides 90-percent cost-share for use of

gasifier technology. It allows for the use of an approved third party for technical assistance. Energy efficient improvements and renewable energy systems are added to practices eligible for incentive payments. Promotion of pollinator habitat is added to the Special Rule for determining incentive payment rates. The Secretary is directed to reserve for 90 days not less than 5 percent of program financial assistance for each of beginning farmers or ranchers and socially disadvantaged farmers or ranchers. It makes market agencies and custom feeding businesses eligible for technical and financial assistance. (Section 2105(c) through (h) of the House bill)

The Senate amendment adds conservation plans to practices eligible for incentive payments, reduces the maximum contract term to 5 years, and strikes the provision on bidding down. The cost-share rate exception for beginning and socially disadvantaged farmers or ranchers is amended to allow variable payment, not to exceed 90 percent, and authority to provide advance payments up to 30 percent for the purchase of materials or contracting. A guaranteed loan eligibility provision is included for eligible applicants that are not accepted into the program. Predator deterrence practices are added to the Special Rule for determining incentive payment rates. The Senate amendment authorizes assistance for water conservation and irrigation efficiency practices, air quality improvement practices and establishes a minimum eligibility requirement for program participation. (Section 2353 of the Senate amendment)

The Conference substitute extends the program through 2012 and maintains the 60 percent livestock funding allocation through 2012. It deletes the Senate provision on contract terms (1240B(b)(2)(B)) and bidding down (1240B(c)).

The Conference substitute does not include the Senate provision on the Special Rule (1240B(e)(2)). The Managers recognize that proactive, non-lethal options to deter predators protected by the Endangered Species Act of 1973, as well as delisted populations of gray wolves, grizzly bears, and black bears, are consistent with the purposes of EQIP.

The Conference substitute deletes the House provision on cost-share for gasifier technology. The Managers recognize the merits of new technologies, including gasification, as a means of safely disposing animal carcasses, thereby minimizing environmental impacts and threat of disease. As such, the Managers encourage the Secretary to consider EQIP applications involving poultry gasification and offer cost-share assistance of up to 75 percent.

The Conference substitute adopts the Senate provision for advance payments for beginning, socially disadvantaged and limited resource farmers or ranchers and deletes the Senate provision for guaranteed loan eligibility. The Conference substitute adopts the Senate provision with an amendment for cost-share rates and advance payments for beginning, socially disadvantaged, and limited resource farmers or ranchers.

The Managers expect EQIP to be available to organic producers for conservation activities related to organic transition and production. The Managers expect EQIP to be available to producers who are transitioning their operations to certified organic production and organic producers who may be transitioning additional acres or animal herds. The Managers are aware that organic conversion is a management-intensive activity and therefore encourage the Secretary to provide levels of technical and educational assistance for organic conversion commensurate to the need.

*(d) Evaluation of offers (Section 1240C)*

The House bill adds criteria to prioritize applications more completely and to evaluate applications in logical groupings relative to similar crop, livestock, or operation types. The Secretary is directed to ensure that the evaluation process is streamlined for applicants that have an environmental management system in place or seek to complete an existing system. (Section 2105(i) of the House bill)

The Senate amendment adds a priority for applications that propose to improve existing practices or to complete a conservation system. (Section 2354 of the Senate amendment)

The Conference substitute adopts the House bill with an amendment on priority for applications. The Managers intend this evaluation process to prioritize State, regional, or local resource concerns, as well as allow for the grouping of applications of similar agriculture operations to allow for more equitable consideration.

*(e) Duties of producers (Section 1240D)*

The House bill and Senate amendment modify the duties of producers to prohibit owners of enrolled forest land from conducting practices that may defeat the program purposes. (Section 2105(j) of the House bill and Section 2355 of the Senate amendment)

The Conference substitute adopts the House bill provision.

*(f) Environmental Quality Incentives Program plan (Section 1240E)*

The House bill adds a forest provision to allow a forest management plan, forest stewardship plan, or similar plan to serve as a plan of operations. The House bill authorizes the Secretary to consider a permit required under a regulatory program to serve as a plan of operations in order to avoid duplication in planning. (Section 2105(k) of the House bill)

The Senate amendment allows a producer organization to act on behalf of its membership in submitting applications or conducting similar activities to facilitate program participation. The Senate amendment includes a provision for forest plans similar to the House bill. (Section 2356 of the Senate amendment)

The Senate amendment establishes a Chesapeake Bay Watershed Conservation Program under EQIP to assist producers in applying conservation practices on agricultural and nonindustrial private forestland in the Bay watershed to address natural resource concerns related to agriculture. (Section 2361 of the Senate amendment)

The Conference substitute adopts the House provision regarding forest land.

The Conference substitute strikes the Senate amendment provision on producer organizations. The Managers intend for the Secretary to allow producer associations and farmer cooperatives to act on behalf of their members in submitting applications, plans, or other program materials for their members to participate in this program. The Managers expect the Secretary to clarify this option in any rule or procedure related to this program.

The Conference substitute adopts a modification to the House bill provision to consider a permit required under a regulatory program to serve as a plan of operations. The Managers intend this addition to reduce duplication in planning but expect that the plan developed for a regulatory permit should contain the elements equivalent to those required in a Plan of Operations, including practices to be implemented, objectives of the plan, and any relevant terms and conditions to carry out the plan.

*(g) Duties of the Secretary (Section 1240F)*

The House bill requires the Secretary to provide assistance for a practice intended to conserve water if it will result in a reduction in consumptive water use, saved water remains in the source, and the practice will not result in increased consumptive use on the producer's operation. (Section 2105(l) of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute retains current law. The Managers address the intent of the House bill under modifications made in Section 1240B to provide assistance for water conservation or irrigation efficiency improvements.

*(h) Limitation on payments (Section 1240G)*

The House bill moves the limitation on payments to Section 2409. (Section 2409(b) of the House bill)

The Senate amendment includes a provision to require direct attribution of payments. (Section 2357 of the Senate amendment)

The Conference substitute provides for a payment limit of $300,000 over 6 years. The Secretary is provided with the authority to waive that limit to $450,000 in cases of special environmental significance. Projects of special environmental significance include methane digesters, other innovative technologies, and projects that will result in significant environmental improvement. The Secretary is expected to utilize this waiver to achieve the purposes of the program. (Section 2508 of Conference substitute)

*(12) Conservation Innovation Grants (Section 1240H of FSA)*

The House bill adds forest resource management as an eligible grant activity and adds eligible projects to include those that ensure the efficient and effective transfer of technologies. The House bill provides mandatory funding for a comprehensive conservation planning project in the Chesapeake Bay Watershed, incentive and cost-share payments for air quality concerns, and increased benefits for specialty crop producers.

The Senate amendment clarifies the purpose of the grants are to develop and transfer innovative conservation technology. The amendment seeks to increase participation by specialty crop producers.

The Conference substitute adopts the House provisions related to forest resource management and air quality.

The Conference substitute provides $150,000,000 to help producers address air quality concerns. The Managers expect funds will be used to provide financial assistance to producers for air quality improvements that help them comply with Federal, State, or local air quality requirements associated with agricultural operations. The funds should be used for cost-effective methods in addressing air quality and to reduce emissions and pollutants from operations, including making improvements in mobile or stationary equipment such as engines.

The Managers believe conservation programs as implemented by USDA should recognize the use of innovative technology such as enhanced efficiency fertilizers. Enhanced efficiency fertilizers, which can protect water quality and reduce greenhouse emissions, include slow and controlled-release fertilizers (absorbed, coated, occluded or reacted) and stabilized nitrogen fertilizers (urease and nitrification inhibitors and nitrogen stabilizers) and are recognized by State regulators of fertilizers. (Section 2509 of Conference substitute)

*(13) Ground and Surface Water Conservation (Section 1240I of FSA)*

The House bill modifies the purpose of the existing Ground and Surface Water Conservation Program (GSWCP) to allow cooperative agreements between the Secretary, producers, government entities, and Tribes to achieve regional water quality or quantity goals in water quality priority areas. (Section 2106(a) of the House bill)

The House bill requires the Secretary to invite prospective partners to submit competitive grant proposals for a Regional Water Enhancement Program. Proposals will be competitively awarded based on the inclusion of the most lands and producers; the most activities versus costs; contribution to sustaining or enhancing agricultural production or rural economic development; development of performance measures to measure long term effectiveness; the capture of surface water runoff; the participation of multiple interested persons in improving issues of concern; and the assistance provided to producers to meet regulatory requirements that reduce the economic scope of their operation.

The House bill provides $60,000,000 to be available for each of fiscal years 2008 through 2012.

The Senate amendment maintains the existing GSWCP and provides an increase in funding from $60,000,000 to $65,000,000 per year. The provision provides funding for each State that received funding under the program in previous years in an amount that is the simple average of funds provided for fiscal years 2002–2007 or the amount provided in 2007, whichever is greater. For States over the Ogallala Aquifer, not less than the greater of $3,000,000 or the average of funds provided for fiscal years 2002–2007 is provided.

The Conference substitute adopts the House provision with an amendment. The substitute creates the Agricultural Water Enhancement Program (AWEP) and provides an additional $40,000,000 in mandatory funding for the program.

The purpose of AWEP is to address water quality and water quantity concerns on agricultural land. The Managers expect the Department to balance its resources among the needs of producers in performing water quantity and quality activities. The Managers intend for producers to participate in the program directly or with other producers who have come together with a partner. The Managers intend for the Department to manage the program so that a producer who chooses to participate as an individual has the same opportunities as one who chooses to participate with a partner.

The purpose of authorizing partners in AWEP is to leverage federal funds and to encourage producers to collectively address specific water quality or quantity concerns. The Managers intend for the program to be delivered according to applicable program rules. Any federal funding must be delivered to producers; no federal funding may be used to cover the administrative expenses of partners.

The Managers expect the Department to require partners to clearly state their objectives and describe how they intend to leverage federal funds and the water quantity or water quality issues they intend to address. The Managers encourage the Department to require the measurement and quantification of actual resource outcomes as part of AWEP projects.

The Managers recognize that water quantity conservation is a significant nationwide concern. The Ogallala Aquifer is a critical source of groundwater for agricultural and municipal uses. Due to the scope and significance of the aquifer, there is a need for regional efforts to address groundwater management in the region. The Managers urge the Department to work with States and agricultural producers in the Ogallala region to coordinate Federal assistance with State programs and to encourage cooperation among States in implementing conservation programs and water reduction practices.

The Managers recognize that water use efficiency projects are an important means to encourage water conservation and expect the Department to continue to support such activities. The Managers intend that additional significance should be placed on water conservation practices that convert irrigated farming to dryland farming to encourage substantial water savings.

To ensure the effectiveness of proposals that convert irrigated farming to dryland farming, the Managers have included provisions to allow the Department to fund proposals for an extended period of five years. In setting the payment rate, the Secretary should take into account the change in the land value of converting an irrigated farming operation to a dryland farming operation.

The Managers intend for the Department to make the construction of small, on-farm reservoirs or irrigation ponds eligible for assistance through AWEP in drought-stricken areas. The Managers intend the Department to use the Drought Monitor as a guide to determine the areas eligible. Any area that has received a D4 drought designation for a month-long period during the previous two years should be eligible. The Managers intend the ponds to be no more than 40 acres in size.

The Managers believe these ponds and related activities will benefit wildlife and demonstrate the potential to capture on-farm surface water runoff in an environmentally beneficial manner. The Managers do not intend for any State water regulation or law to be waived.

In utilizing the authority to waive the eligibility provisions in Section 1001D, the Managers expect the Secretary to take into account the need to accomplish the purposes of the program by enrolling land that would be ineligible to participate in other conservation programs.

The Managers intend for the Secretary to give priority to producers in six priority areas: The Eastern Snake Plain Aquifer region, Puget Sound, the Ogallala Aquifer, the Sacramento River watershed, Upper Mississippi River Basin, the Red River of the North Basin, and the Everglades. (Section 2510 of Conference substitute)

*(14) Grassroots Source Water Protection Program (Section 1240O of FSA)*

The House bill increases the appropriations authorization from $5,000,000 each fiscal year to $20,000,000 each fiscal year through 2012. The provision provides a one-time infusion of $10,000,000 in mandatory funding to be available until expended. (Section 2107 of the House bill)

The Senate amendment is similar but does not include the one-time infusion of $10,000,000 in mandatory funding. (Section 2394 of the Senate amendment)

The Conference substitute adopts the Senate provision. (Section 2603 of Conference substitute)

*(15) Conservation private grazing land (Section 1240M of FSA)*

The House bill (Section 2108) and the Senate amendment (Section 2392) extend the program through 2012.

The Conference substitute adopts the Senate provision. (Section 2601 of Conference substitute)

*(16) Great Lakes Basin Program for Soil Erosion and Sediment Control (Section 1240P of FSA)*

The House bill extends the program through 2012. (Section 2109 of the House bill)

The Senate amendment extends the program through 2012 and clarifies that the purpose of the program is to assist in implementing the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes. (Section 2395 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment that includes using the recommendations of the Great Lakes Regional Collaboration Strategy as a basis for soil erosion and sediment control projects. (Section 2604 of Conference substitute)

*(17) Discovery Watershed Demonstration Program (Section 1240Q of FSA)*

The Senate amendment establishes that the Secretary shall carry out a demonstration program in not less than 30 small watersheds in States of the Upper Mississippi River basin to identify and promote the most cost effective and efficient ways of reducing nutrient loss to surface waters from agricultural lands. It allows for the Secretary to establish or identify appropriate partnerships to select the watersheds and to encourage cooperative efforts among the Secretary and State, local, and nongovernmental organizations. The amendment provides criteria for the selection of watersheds and prohibits the use of funds for administrative expenses. (Section 2397 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the program.

The Managers recognize that the loss of nitrogen and other nutrients from agricultural land impacts water quality in many parts of the nation. This is of particular concern in the States of the Upper Mississippi River basin.

The Discovery Watershed Demonstration Program was intended to address this loss of nutrients in these States through management projects operating on a watershed scale. The projects were to be based on agriculture-related water quality problems and include widespread participation from local producers in the selected watershed.

In Section 2707, the substitute provides for the Cooperative Conservation Partnership Initiative (CCPI), which is designed to encourage these types of activities. Given the cooperative nature of the proposed Discovery Watershed program, the Managers encourage the Secretary to consider locally developed projects for funding under CCPI.

*(18) Emergency Landscape Restoration Program (Section 1240R of FSA)*

The Senate amendment replaces the Emergency Conservation Program (ECP) and the Emergency Watershed Program (EWP) with a new Emergency Landscape Restoration Program. The purpose of the Emergency Landscape Restoration Program is to rehabilitate watersheds, nonindustrial private forest lands, and working agricultural lands adversely affected by natural catastrophic events.

The amendment authorizes such sums as necessary, provides for the temporary administration of ECP and EWP until final regulations are formulated, and repeals ECP and EWP. (Section 2398 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the program.

*(19) Farm and Ranchland Protection Program (Section 1238I of FSA)*

The House bill establishes a certification process for States. It allows grants to be made to certified States based on the demonstrated need for farm and ranch land protection. Up to 10 percent of those funds may be used for the costs of purchasing and enforcing easements. The bill states that the Secretary may also enter into agreements with eligible entities. The terms and conditions of the agreements must be consistent with the purposes of the program, as well as include a requirement consistent with agricultural activities regarding impervious surfaces. It also requires the use of a conservation plan for highly erodible cropland.

The House bill provides for the Federal Government to retain a Federal contingent right of enforcement or executory limitation in an easement to ensure its enforcement. This right is not considered an acquisition of property.

The House bill provides cost-share assistance for purchasing an easement, but the assistance may not exceed 50 percent of the appraised fair market value of the easement. The fair market value is determined by an appraisal using an industry-approved method. (Section 2110 of the House bill)

The Senate amendment modifies the definition of eligible forest land to include land that contributes to the economic viability of an operation or serves as a buffer. It also amends the definition to include land that is incidental to other eligible land to ensure efficient administration of the program. The provision requires the Secretary to enter into cooperative agreements with eligible entities as long as the terms and conditions of the cooperative agreement include: entity qualifications, specific projects, substitution of projects, use of funds, flexibility to use unique terms and conditions for easements, impervious surface limitation, appraisal method, and charitable contributions.

The Senate amendment requires the protection of Federal investment through an executory limitation, but specifies that the executory limitation is not a Federal acquisition of real property and will not trigger any Federal appraisal or other real property requirements.

The amendment limits the amount the Secretary can share in the costs of purchasing the easement to 50 percent of the appraised fair market value and establishes minimum amounts entities pay based on the amount of landowner contributions. The Senate amendment requires appraisals based on Uniform standards of Professional Appraisal Practice or any other industry-approved standard. (Section 2371 of the Senate amendment)

The Conference substitute adopts the House provision with amendment.

The Managers expect the changes to the Farmland Protection Program (FPP) will provide flexibility and certainty to program participants. The substitute makes changes to the administrative requirements, appraisal methodology, and terms and conditions of cooperative agreements which shall make the overall program more user-friendly.

The substitute clarifies the purpose of the program as protecting land for agricultural use by limiting nonagricultural uses of the land. The substitute adopts the Senate provision to modify the definition of eligible land to include forestland and other land that contributes to the economic viability of an operation.

The substitute establishes a certification process similar to the House bill for all eligible entities. To become certified, entities must have the authority and resources to enforce easements, policies in place that are consistent with the purposes of the program, and clear procedures to protect the integrity of the program.

The substitute adopts terms and conditions for cooperative agreements similar to the Senate amendment. The cooperative agreement sets forth the working relationship between the Department and the entity in carrying out the program. The terms and conditions will stipulate the length of the agreement; allow for the substitution of qualified projects; and maintain, at a minimum, that the agreement is consistent with the purpose of the program, provide for adequate enforcement of the easement, and include a limit on impervious surfaces. Once an entity is certified, it may enter into an agreement for a minimum of five years with the Department. Non-certified entities may enter into agreements of not less than 3, but not more than 5 years. In selecting offers from eligible entities for funding, the Managers expect the Secretary to consider the sufficiency of the offer regarding effective monitoring and enforcement, reversionary interest, or other such factors that will affect the long-term integrity of easement being acquired under the program.

The Managers intend any violation of the terms and conditions will result in a penalty to the eligible entity and the agreement will remain in place. It is the expectation that the violation and penalty terms will be outlined in all cooperative agreements between the eligible entity and the Secretary.

The substitute provides for the Federal Government to retain a Federal contingent right of enforcement in an easement to ensure its enforcement. The Managers do not intend this right to be considered to be an acquisition of real property, but in the event an easement cannot be enforced by the eligible entity the Federal Government shall ensure the easement remains in force. (Section 2401 of Conference substitute)

*(20) Farm Viability Program (Section 1238J of FSA)*

The House bill reauthorizes the program through 2012. (Section 2111 of the House bill)

The Senate amendment reauthorizes the program through 2012. (Section 2396 of the Senate amendment)

The Conference substitute adopts the House provision. (Section 2402 of Conference substitute)

*(21) Wildlife Habitat Incentive Program (Section 1240N of FSA)*

The House bill reauthorizes the program through 2012. The bill raises the cost-share limitation for long-term projects from 15 percent to 25 percent. It also increases the cost-share rate for long-term agreements and activities that assist producers in meeting a regulatory requirement that impacts the economic scope of their operation from 15 to 25 percent. (Section 2111 of the House bill)

The Senate amendment authorizes the Secretary to make incentive payments and increases the percentage of funds that can be used for projects longer than 15 years from 15 percent to 25 percent. The Senate amendment requires the Secretary to give priority to projects that would further the goals and objectives of State, regional, and national fish and wildlife conservation plans and initiatives. (Section 2393 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The substitute increases the limitation on cost-share payments for long-term projects to 25 percent and focuses the program on agricultural and nonindustrial private forest lands.

The substitute allows the Secretary to provide priority to projects that address issues raised by State, regional, and national conservation initiatives. These 'State, regional and national conservation initiatives' may include such things as the North American Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies. The Managers intend for the Secretary to consider the goals and objectives identified in relevant fish and wildlife conservation initiatives when establishing State and national program priorities, scoring criteria, focus areas, or other special initiatives. The Managers expect the Department to work with conservation partners and State and Federal agencies, to the extent practicable, to complement the goals and objectives of these additional plans through USDA programs. (Section 2602 of Conference substitute)

*(22) Agricultural Management Assistance Program (Section 524(b)(1) of Federal Crop Insurance Act)*

The House bill adds Virginia and Hawaii as eligible States. It requires that 50 percent of available funds shall be used for construction or improvement of watershed management or irrigation structures, planting trees for windbreaks or improving water quality, and mitigating risk through diversification or various conservation practices; 40 percent may be used for any activity relating to risk management activities, including entering agriculture trade options, futures, or hedging; and 10 percent shall be used for organic certification cost-share assistance. (Section 2201 of the House bill)

The Senate adds Idaho as a participating State, extends the program through 2012, and provides an additional $10,000,000 per year to the program (Section 524(b)(4)(B)(ii)) through 2012. (Section 2601 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment and includes Hawaii as an eligible State. The Conference substitute provides an additional $25,000,000 in mandatory funding for fiscal years 2008 through 2012. (Section 2801 of Conference substitute)

*(23) Resource Conservation and Development Program (Section 1528 of Agriculture and Food Act of 1981)*

The House bill clarifies that an area plan must be developed through a locally led process, and that the planning process must be conducted by a local council. It also provides that the Secretary shall designate a coordinator to provide technical assistance to councils. (Section 2202 of the House bill)

The Senate amendment is comparable to the House. (Section 2605 of the Senate amendment)

The Conference substitute adopts the Senate provision. (Section 2805 of Conference substitute)

*(24) Small watershed rehabilitation (Section 14 of the Watershed Protection and Flood Prevention Act)*

The House bill provides $50,000,000 in mandatory funding for fiscal years 2009 through 2012. It authorizes appropriations for fiscal years 2007 through 2012 at the current funding level of $85,000,000 per year. (Section 2203 of the House bill)

The Senate amendment extends program to 2012 and authorizes appropriations for fiscal years 2008 through 2012 as such sums as necessary. (Section 2604 of the Senate amendment)

The Conference substitute adopts the House provision and provides $100,000,000 in mandatory funding for fiscal year 2009 to remain available until expended. (Section 2803 of Conference substitute)

*(25) Chesapeake Bay Program for Nutrient Reduction and Sediment Control (Section 1240Q of FSA)*

The House bill creates a new program at the Department to provide financial assistance to producers to minimize excess nutrients and sediments in order to restore, preserve, and protect the Chesapeake Bay. The program directs the Secretary to develop and implement a comprehensive plan to provide for innovative approaches to advance the improvement of water quality and enhance wildlife habitat. Critical projects include those in the Susquehanna, Shenandoah, Potomac and Patuxent River basins. The House bill includes a Sense of Congress that the Department is authorized and should be a member of the Chesapeake Bay Executive Council.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendment.

The Chesapeake Bay is the nation's largest estuary. In 2000, Chesapeake Bay partners agreed to target water quality and habitat restoration as goals to improve the health of the Bay and its living resources. According to current estimates, the Bay will not meet the 2012 agreement without a better coordinated plan and greater targeting of resources.

Farmers in the Chesapeake Bay region are under some of the most stringent environmental regulations in the country. Despite the desire and demand that exists among farmers in the region to participate in conservation programs, current funding levels and program allocations leave many behind. While the reliance upon conservation programs and the need for funding may not be unique to the Chesapeake, it is nonetheless uniquely critical to the success of the Bay restoration strategy and the ability of farmers to meet regulatory requirements.

The Managers intend the Chesapeake Bay Watershed Program be carried out on agriculture and forestlands in the Chesapeake Bay through the use of all conservation programs available to producers in the region. It is the expectation this program will be carried out through existing program mechanisms in coordination with other relevant Federal agencies working in the Bay watershed, such as the Chesapeake Bay Program Office.

The special consideration given to the rivers under this section are areas of critical need to the overall health of the Chesapeake Bay. The Managers intend that the Secretary focus initial program resources in these key basins and build upon successful implementation elsewhere in the Chesapeake Bay Watershed, as appropriate. These funds should be used to install practices to help control erosion and nutrient loading before they reach the Bay, and that assessments will be made using existing models and information to evaluate the most cost-effective strategies for reducing nonpoint source nutrient inputs. This program provides $438,000,000 in mandatory funding for fiscal year 2009 through fiscal year 2012. (Section 2605 of Conference substitute)

*(26) Voluntary Public Access and Habitat Incentive Program (Section 1240R [House] or 1240S [Senate] of FSA)*

The House bill establishes a voluntary public access program under which States and Tribes may apply for grants to encourage owners and operators of privately held farm, ranch, and forest land to make that land available for wildlife-dependent recreation. The Secretary shall give priority to States and tribal governments that have consistent opening dates for migratory bird hunting for both residents and non-residents. The House bill authorizes $20,000,000 in discretionary funding for each of fiscal years 2008 through 2012. The program does not preempt a State or tribal government law, including liability law. (Section 2303 of the House bill)

The Senate amendment is comparable to the House bill. It includes a priority to States where the location of participating lands would be available to the public and provides $20,000,000 per year in mandatory funding for each of fiscal years 2008 through 2012. (Section 2399 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment. The Conference substitute provides $50,000,000 in mandatory funds for this program. The Conference substitute includes a 25 percent reduction for the total grant amount if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents. (Section 2606 of Conference substitute)

*(27) Muck soils conservation (Section 2303)*

The House bill establishes a new program under which owners or operators of eligible land shall receive payments to conserve soil, water, and wildlife resources. Eligible land must be comprised of muck soil, be in agricultural production, have a spring cover crop, a winter crop, and year-round ditch banks seeded with grass. Payments are authorized for between $300 and $500 per acre per year. Appropriations are authorized at $50,000,000 for each of fiscal years 2008 through 2012. (Section 2303 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and the provision is deleted. The Managers recognize the unique soils throughout the Hudson Valley of New York that are classified as muck soils. These soils are former wetlands that have been drained with ditches years ago to allow for crop production. Due to the extensive networking of drainage ditches, normal buffer setback requirements associated with current conservation programs take a large percentage of these highly productive lands out of production. The Managers encourage the Secretary to work through the State Conservationist to address the needs of muck soil farmers in the Hudson Valley, using existing conservation programs to conserve soil, water, and wildlife resources on these lands.

*(28) Funding for programs under the Food Security Act of 1985 (Section 1241 of FSA)*

The House bill provides $1,454,000,000 for fiscal years 2007 through 2012 and $1,927,000,000 for fiscal years 2007 through 2017 for Conservation Security Program contracts entered into before Oct. 1, 2007. Conservation Security Program contracts entered into on or after Oct. 1, 2011, shall be funded in the amount of $5,01,000,000 for fiscal year 2012 and $4,646,000,000 for the period of fiscal years 2013 through 2017.

The Farm and Ranchland Protection Program is funded at $125,000,000 in fiscal year 2008; $150,000,000 in fiscal year 2009; $200,000,000 in fiscal year 2010; $240,000,000 in fiscal year 2011; and $280,000,000 in fiscal year 2012.

EQIP is funded at $1,250,000,000 in fiscal year 2008; $1,600,000,000 in fiscal year 2009; $1,700,000,000 in fiscal year 2010; $1,800,000,000 in fiscal year 2011; and $2,000,000,000 in fiscal year 2012.

WHIP is authorized at $85,000,000 each of fiscal years 2008 through 2012. (Section 2401 of the House bill)

The Senate amendment funds programs in title XII of the FSA for each of F 2008–2012 as follows:

Conservation Security Program—$2,317,000,000 for current contracts to remain available until expended;

Conservation Stewardship Program—13,273,000 acres for each of fiscal years 2008–2012;

FPP—$97,000,000 for each of fiscal years 2008–2012;

EQIP—for fiscal years 2008 and 2009: $1,270,000,000; for fiscal years 2010–2012: $1,300,000,000;

WHIP—Same as House;

Voluntary Public Access and Habitat Incentives Program—$20,000,000 for each of fiscal years 2008–2012; and

GRP—$240,000,000 for fiscal years 2008–2012. (Section 2401 of the Senate amendment)

The Conference substitute provides the following in additional new budget authority for these programs:

CSP—$1,100,000,000

EQIP—$3,393,000,000

FPP—$773,000,000

(Section 2701 of Conference substitute)

*(29) Conservation access (Section 1241 of FSA)*

The Senate amendment creates a new Conservation Access program. The provision requires 10 percent of conservation program funds and 10 percent of CRP and WRP acreage enrolled in any year be used to assist beginning and socially disadvantaged farmers and ranchers with annual gross sales of $15,000 or more. Any unused funds are to be re-pooled back to the original program and made available to all persons eligible for assistance.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. The Conference substitute provides that 5 percent of CSP acres and 5 percent of EQIP funds will be used to assist beginning farmers or ranchers, and an additional 5 percent of each to assist socially disadvantaged farmers or ranchers.

The Managers recognize the importance of providing intensive technical assistance to beginning and socially disadvantaged farmers or ranchers participating in farm bill conservation programs. The Managers encourage the Department to provide rates of technical assistance to beginning and socially disadvantaged farmers or ranchers commensurate with the special needs to ensure high participation levels and substantial and lasting conservation benefits.

In implementing the conservation access provisions, the Managers encourage the Secretary to develop, implement, and support cooperative agreements with entities, including community-based and nongovernmental organizations and educational institutions that have expertise in comprehensive conservation planning and assistance needs of beginning and socially disadvantaged farmers or ranchers.

The Managers recognize that off-farm employment is a necessity for most beginning farmers or ranchers, and that transition to a full-time agricultural occupation is a substantial challenge. The Managers also recognize the value that sound conservation can contribute to an enduring agricultural operation and a successful farming or ranching livelihood. The Managers intend for the Secretary to give priority to Conservation Access resources to beginning farmers or ranchers who are, or who are working toward, increasing their participation in the farming or ranching operation. (Section 2704 of Conference substitute)

*(30) Improved provision of technical assistance under conservation programs (Section 1242 of FSA)*

The House bill adds authority for contracting with third party providers to provide technical assistance to program participants, requires that the payment level for third party providers be established based on

prevailing market rates where available, and directs the Secretary to consult with producers, extension and others in a review and revision of conservation practice standards to ensure that they are complete and relevant. (Section 2402 of the House bill)

The Senate amendment adds the purpose of technical assistance, provides authority for contracting with third party providers for technical assistance, and defines entities eligible to receive technical assistance under this title. The Secretary is directed to provide technical assistance to all conservation and Agriculture Management Assistance program participants. Where financial assistance is not required, the Secretary may enter technical services contracts with program participants. (Section 2404 of the Senate amendment)

The Conference substitute adopts the Senate amendment with modifications. The Conference substitute reflects the Managers' two priorities for improving the delivery of technical assistance: 1) Increasing the availability of technical assistance, and 2) ensuring that conservation technical standards and resources are locally relevant.

The demand for technical assistance exceeds the present supply of technical resources, and the private sector cadre envisioned in the 2002 Farm Bill has not developed. The modifications made in the substitute are intended to correct these deficiencies through authority for use of mandatory funds and multi-year contracts with third party providers, establishment of fair and reasonable payment rates, and a nationally consistent certification process. The requirement for approval of State-level certification criteria is intended to address the criticism that current requirements, particularly those added at the State level, result in a complicated and overly burdensome process that discourages participation.

The Managers expect that these changes will provide the certainty needed to encourage the development of a successful, skilled, and accountable third party provider sector, diminish the tension caused by tradeoffs between public and private sector resources, and make locally relevant conservation technical assistance from public and private sources increasingly available and accessible to producers. (Section 2706 of Conference substitute)

*(31) Cooperative Conservation Partnership Initiative (Section 1243 of FSA)*

The House bill requires the Secretary to enter into 2- to 5-year agreements with eligible entities to preferentially enroll producers in specified conservation programs. This will allow multiple producers and others to cooperate on improving specific resources of concern related to farming on a local, State or regional scale. Eligible partners are States, State agencies, State subdivisions including counties and conservation districts, Tribes, and nongovernmental organizations and associations with histories of working with farmers on agriculture conservation issues.

The Conservation Security Program, EQIP, and WHIP are the programs covered by the provision. Not less than 75 percent shall be used for State projects and not more than 25 percent for multi-State projects. It prohibits use of funds to pay for partner overhead or administrative costs. (Section 2403 of the House bill)

The Senate amendment includes ''Special Rules Applicable to Regional Water Enhancement Projects'' that adds a section to the Partnerships and Cooperation section for Regional Water Enhancement Projects. This section requires the Secretary to identify priority areas and names the following as priority areas: Chesapeake Bay, Upper Mississippi River basin, Everglades, Klamath River basin, Sacramento/San Joaquin River watershed, Mobile River basin, Puget Sound, Ogallala Aquifer, Illinois River watershed (of Arkansas and Oklahoma), Champlain Basin, Platte River watershed (note: drafting error, this should be the Platte River Basin), Republican River Watershed, Chattahoochee river watershed, and the Rio Grande watershed.

The Senate amendment requires proposals to describe geographical location, identification of issues, baseline assessment, activities to be undertaken, and performance measures. It requires competitive awards of multi-year contracts for proposals that have the highest likelihood of success, involve multiple stakeholders, highest percentage of working agricultural lands, highest percentage of on-the-ground activities, the greatest contribution to sustaining agriculture, and suitable performance measures. (Section 2405 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment and names the initiative the Cooperative Conservation Partnership Initiative (CCPI).

The Managers intend that resources made available under CCPI be delivered in accordance with the basic program rules and mechanisms relating to basic program functions, such as appeals, payment limitations, and conservation compliance. The Conference substitute allows the Secretary to make certain programmatic adjustments better fit the local circumstances and goals and objectives of the special project identified for funding under the initiative. Proposed adjustments may be part of the application from the conservation partnership and forwarded to the State Conservationist or the Secretary for consideration. The Conference substitute provides for adjustments to provide producers preferential enrollment in the applicable program as part of the special project.

The Managers include the following as an example of a CCPI partnership: A cannery has closed and near-by orchards are going out of business. A local watershed council pulls together several partners such as a State university, a wildlife organization, and an organic growers' cooperative. They agree to work together to improve water quality and wildlife habitat while working with interested local producers to transition their orchards to organic grass-based cattle operations.

The watershed council files an application with the Department proposing to conduct local producer outreach; provide training on transitioning to a new agricultural sector, including organic certification and cattle management workshops; assist with tree removal; and assist in implementing habitat diversity practices with workshops, labor, and seed. The council asks for designation of $10,000,000 in EQIP and $250,000 in WHIP.

The State Conservationist agrees with the proposal and sets aside the approved resources, which will go to producers participating in the project. When the producer applies for the programs, they certify that they are a project participant. If they are qualified, they bypass the regular program ranking processes and enter into a contract in the identified program(s). Each program in this example stands on its own and all program rules apply. The difference is the streamlined application and the process that works to make the programs seamless in application.

The Conference substitute applies to all of the Department's conservation programs except CRP, WRP, FPP and GRP. The Managers intend that applications may propose projects for consideration by the State Conservationist or the Secretary that include innovative combinations of covered initiative programs, if such combinations aid significantly in meeting the goals and objectives of the project. It is also the intent of the Managers that applicants may propose projects for consideration by the State conservationist or the Secretary that might work in tandem with the enhancement programs under CRP or WRP. (Section 2707 of Conference substitute)

*(32) Regional equity and flexibility (Section 1241 of FSA)*

The House bill raises the base amount of conservation funds that a State must receive in order to receive priority funding for conservation programs from $12,000,000 to $15,000,000. (Section 2404 of House bill)

The Senate amendment also increases the funding from $12,000,000 to $15,000,000 and adds CSP and the Agricultural Management Assistance Program to the programs considered in determining funding. It instructs the Secretary to conduct a review of conservation program allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs. (Section 2402 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment. (Section 2703 of Conference substitute)

*(33) Administrative requirements for conservation programs (Section 1244 of FSA)*

The House bill authorizes for socially disadvantaged farmers to be added as a group the Secretary must provide incentives for to encourage participation in conservation programs. The Secretary must establish a single, simplified application process for initial requests of assistance under the conservation programs administered by NRCS. Applicants should not be required to provide information that is already available to the Secretary, and the process itself must minimize complexity and redundancy. (Section 2405 of the House bill)

The Senate amendment requires the Secretary to develop a streamlined application process for conservation programs and provide written notification of completion to Congress not later than 1 year after enactment. It requires the Secretary, at the request of the landowner, to cooperate with the Secretary of the Interior and Secretary of Commerce to make Safe Harbor assurances available to the landowner under the Endangered Species Act. The provision allows producers to apply for conservation programs through a producer organization and that any applicable payment limits shall apply to individuals and not the organization.

The Senate amendment requires the Secretary to immediately implement policies and procedures to ensure proper payment to producers participating in conservation programs and correct other management deficiencies identified in the OIG report 50099–11–SF. It requires the Secretary to monitor and measure performance of conservation programs; to demonstrate the long-term benefits of the programs; and to coordinate program activities with the Soil and Water Resources Conservation Act. (Section 2405 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment to include a pollinator provision. Despite their value, native pollinators such as bees, butterflies, moths, flies, beetles, bats, or hummingbirds often are under-appreciated in terms of their contributions to the U.S. agricultural sector. Insect-pollinated crops directly contributed $20,000,000,000 to the United States economy in 2000 alone. The

Managers recognize that many native pollinator groups, particularly those important to agriculture, are facing a serious risk of decline as a result of habitat loss, degradation, and fragmentation, among other factors.

The Managers see conservation programs as an important tool for creating, restoring, and enhancing pollinator habitat quantity and quality. The Managers expect the Secretary to encourage, within appropriate conservation programs, measures to benefit pollinators and their habitat, such as using plant species mixes in conservation plantings to provide pollinator food and shelter; establishing field borders, hedgerows, and shelterbelts to provide habitat in proximity to crops; establishing corridors that can expand and connect important pollinator habitat patches; and encouraging related pollinator-friendly production practices. (Section 2708 of Conference substitute)

*(34) Annual report on participation by specialty crop producers in conservation programs (Section 12512 of FSA)*

The House bill requires the Secretary to submit a report to the House and Senate Agriculture Committees regarding specialty crop producer participation in conservation programs that tracks participation by crop and livestock type, includes a plan to improve access of specialty crop producers to conservation programs, and the describes the results of this plan. (Section 2406 of the House bill)

The Senate amendment had no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the compliance and performance provisions of Section 1244 of FSA to accommodate the intent of the House bill. (Section 1244 of FSA)

*(35) Promotion of market based approaches to conservation/conservation programs in environmental service markets (Section 1245 of FSA)*

The House bill directs the Secretary to research, analyze and enter into contracts and agreements to promote the development of uniform standards for quantifying environmental benefits, promoting the establishment of credit registries and third party verification, and facilitating private sector market based approaches for agriculture and forest conservation activities. An Environmental Services Standards Board is established to develop uniform standards for quantifying environmental services in order to help develop credit markets agriculture and forest conservation activities. (Section 2407 of the House bill)

The Senate amendment directs the Secretary to establish a framework to develop uniform standards, design accounting procedures, and establish a protocol to report environmental services benefits. It also directed the Secretary to establish a registry to report and maintain the benefits and verify that a farmer, rancher or forest land owner has implemented the conservation or land management activity. The Secretary is directed to focus first on carbon markets. (Section 2406 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The Secretary is directed to establish technical guidelines, including a verification process that considers the role of third parties. The Secretary is instructed to consult with Federal and State agencies and nongovernmental interests, such as producers, academia, and financial institutions. The Secretary is directed to focus initially on carbon markets, as the Managers recognize that this is the most pressing emerging market in which agriculture may be involved. The Secretary is expected to fulfill the intent of this section with resources available to the Department.

The adoption of this provision recognizes the growing opportunities for agriculture to participate in emerging environmental services markets. The Managers observe that the largest barrier to participation is the lack of standards and accounting procedures that make transparent the benefits that are being produced and marketed. The Managers believe that the most appropriate Federal lead for developing these common standards is the Secretary and expect the Secretary to move expeditiously to accomplish this task. (Section 2709 of Conference substitute)

*(36) Establishment of state technical committees (Section 1261 of FSA)*

The House bill changes the existing composition of State technical committees to include at least 12 producers representing a variety of crops, livestock, or poultry grown in the State.

The House bill states that State technical committees shall convene subcommittees to provide technical guidance and implementation recommendations. The topics subcommittees must address include: establishing priorities and criteria for State initiatives; private forestland protection issues; water quality and quantity issues; air quality, wildlife habitat, wetland protection, and other issues. (Section 2408 of the House bill)

The Senate amendment requires the Secretary to develop standard operating procedures to be used by the State technical committee in the development of technical guidelines for the implementation of the conservation provisions of this title. It makes local work groups subcommittees of the State technical committee, which exempts them from the Federal Advisory Committee Act. (Section 2501 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The substitute requires the Secretary to develop standard operating procedures for the committees, updates the names of participating agencies, and deletes the requirement for establishing specific issue-area subcommittees. The substitute requires that public notice be given for meetings of the State technical committee and adds local working groups as subcommittees. The Managers expect that other relevant Federal agencies will also be invited to participate as needed. (Section 2711 of Conference substitute)

*(37) Payment limitation (Section 1246(a-c), 1244(i), 1238C(d), and 1240G of FSA)*

The House bill imposes payment limitation of $60,000 per fiscal year for any single program; $125,000 for payments from more than one program. This limitation does not apply to WRP, FPP, or GRP. The House bill requires the Secretary to issue regulations ensuring direct attribution. Further, the Secretary shall issue such regulations as necessary to ensure that the total amount of payments are attributed to an individual by taking into account the individual's direct and indirect ownership interests in a legal entity that receives payments. Payments to individuals shall be combined with the individual's pro rata share of payments received by an entity in which the individual has a direct or indirect ownership interest. Likewise, payments made to an entity shall be attributed to those individuals with a direct or indirect ownership interest in the entity. (Section 2409 of the House bill)

The Senate amendment requires the Secretary to use direct attribution for all conservation programs. In the case of a producer organization, the limitation on payments on applicable programs shall apply to each participating producer and not to the entity. (Section 2405 and Section 2357 of the Senate amendment)

The Conference substitute moves the payment limitations into each individual program and deletes this Section.

*(38) Inclusion of income from affiliated packing and handling operations as income derived from farming for application of adjusted gross income limitation on eligibility for conservation programs (Section 1001D(b)(1) of FSA)*

The House bill allows income from packing and handling operations to be included as income derived from farming for purposes of payment eligibility. (Section 2501 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and deletes this section.

*(39) Encouragement of voluntary sustainability practices guidelines*

The House bill provides that the Secretary may encourage the development of voluntary sustainable practices guidelines for producers and processors of specialty crops. (Section 2502 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and does not include the provision.

*(40) Farmland resource information (Section 1544 of Agriculture and Food Act of 1981)*

The House bill provides that the Secretary shall design and implement educational programs emphasizing the importance of farming. One or more farmland information centers shall be designated to provide technical assistance and serve as central depositories for information on farmland issues. The centers shall be funded using no more than 0.05 percent of FPP funds per year but no less than $400,000 annually and must be matched with non-federal funds or in-kind contributions. (Section 2503 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and does not include the provision.

*(41) Pilot program for four-year crop rotation for peanuts*

The House bill directs the Secretary to enter into contracts with peanut producers to implement a four-year crop rotation for peanuts. Funding for this pilot shall not exceed $10,000,000 of mandatory funds for each of fiscal years 2008 through 2012. (Section 2504 of the House bill)

The Senate amendment provides that within CSP the Secretary shall provide additional payments to producers who agree to adopt resource-conserving crop rotations to achieve optimal crop rotations. (Section 2341 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment.

*(42) Agriculture Conservation Experienced Services Program (Section 307(a) of the Department of Agriculture Reorganization Act of 1994)*

The Senate amendment authorizes the Secretary to enter into agreements with organizations to hire individuals 55 and older to provide assistance in administering conservation related programs. Funding for the program is authorized from EQIP, the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq), and the Older Americans Act (42 U.S.C. 3056). The provision stipulates that agreements may not displace individuals employed by the Department. It allows the Secretary to provide tools, including agency vehicles, necessary to carry out

the program. (Section 2602 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that limits individuals employed under this authority to providing only technical assistance. The Managers intend that the program be used solely for technical assistance and not for administrative tasks. (Section 2710 of Conference substitute)

*(43) Technical assistance (16 U.S.C 590(a) of Soil Conservation and Domestic Allotment Act and 16 U.S.C. 2001 of Soil and Water Resources Conservation Act)*

In the Soil Conservation and Domestic Allotment Act, the Senate amendment clarifies that it is the policy of the United States to preserve soil, water, and related resources and to promote soil and water quality. It defines technical assistance to mean technical expertise, information and tools necessary for the conservation of natural resources on land active in agricultural, forestry or related uses.

In the Soil and Water Resources Conservation Act of 1977, the Senate amendment expands on existing appraisal requirements to include data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters. The national conservation program's evaluation of existing conservation programs is amended to emphasize monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment to the Soil Conservation and Domestic Allotment Act. The Managers intend to clarify that it is the role of USDA to provide technical assistance to farmers, ranchers, and other eligible entities to assist in the conservation of soil, water, and related resources. The Managers recognize that the natural resource concerns that producers face are dynamic and preclude an inclusive list as responsibilities for USDA.

The Conference substitute adopts the Senate amendment to Soil and Water Resources Conservation Act with an amendment. The Act is extended to 2018. The Managers expect the delivery of appraisals and programs to be tied more closely to the Farm bill cycle, with the intent that these evaluations will inform development of future farm policy. (Section 2802 of Conference substitute)

*(44) National Natural Resources Conservation Foundation (Section 351 of Federal Agriculture Improvement and Reform Act of 1996)*

The Senate amendment updates existing foundation language and expands granting authority of the foundation to include making grants to individuals, entering into agreements with the Federal government, and making gifts to the foundation tax exempt. (Section 2606 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the provision.

*(45) Desert terminal lakes (Sec 2507 of the Farm Security and Rural Investment Act of 2002)*

The Senate amendment extends and reauthorizes through 2012. It allows funds to be used to lease or to purchase land, water appurtenant to the land, and related interests in the Walker River Basin from willing sellers.

The section provides $200,000,000 in mandatory funds for fiscal years 2008 through fiscal year 2012. (Section 2607 in the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide $175,000,000 in mandatory funding. (Section 2807 of Conference substitute)

*(46) High Plains water study*

The Senate amendment requires that program benefits under the 2007 Farm bill will not be denied to eligible individuals solely on the basis of participation in a one-time study of aquifer recharge potential in the high plains of Texas. (Section 2609 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers recognize that the ongoing depletion of the Ogallala Aquifer is an acute concern for the eight States that depend on it for agricultural, domestic, industrial uses, and other uses. This provision will allow agricultural producers to participate in a one-time study of aquifer recharge potential that will help inform State and local water conservation investment and policy to aid in managing this critical aquifer. The study is narrowly focused on a small number of playa lakes situated on agricultural land over the Ogallala Aquifer.

Playas are temporary wetlands unique to the High Plains of North America, numbering more than 60,000. Playas not only serve as the primary source of recharge for the Ogallala Aquifer, they are the most important wetland type for wildlife in this region. The Managers encourages the Department to further recognize the importance of playas through increased communication to landowners of the benefits of playas and conservation programs available. The Managers encourage the Department to work with the Playa Lakes Joint Venture to enhance the use of such programs like CRP to help ensure the protection of playas. (Section 2901 of Conference substitute)

*(47) Payment of expenses (Section 17(d) of the Federal Insecticide, Fungicide, and Rodenticide Act)*

The Senate amendment amends the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to require that the Department of State shall cover expenses incurred by Environmental Protection Agency staff participating on an international technical, economic, or policy review board, committee, or other official body with respect to a related international treaty. (Section 2610 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 14209 of Conference substitute)

*(48) Use of funds for salinity control activities upstream of Imperial Dam (Sec. 202(a) of the Colorado River Basin Salinity Control Act)*

The Senate amendment amends Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) to create a Basin States Program to allow the Bureau of Reclamation, to carry out salinity control activities in the Colorado River basin. The provision requires the Secretary of Interior to consult with the Colorado River Basin Salinity Control Advisory Council when providing assistance in the form of grants, grant commitments, or the advancement of funds to Federal or non-Federal entities. It requires a planning report to Congress that describes the proposed implementation of the program and stipulates that no funds may be expended to implement the program until 30 days after the report is submitted to Congress. (Section 2611 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Mangers intend for this provision to be fiscally neutral both as to appropriations and as to draws on the basin funds. does not change the cost share ratios already established in Section 205(a) of the Act, nor does it change the percentage split between the two funds or the requirement that no more than 15 percent of the basin States cost share is to come from the Upper Colorado River Basin Fund. It is only intended to clarify the authority through which Reclamation expends the required cost share dollars. (Section 2806 of Conference substitute)

*(49) Technical corrections to the Federal Insecticide Fungicide, and Rodenticide Act (Section 33 of FIFRA)*

The Senate amendment makes technical corrections to the pesticide registration service fee program in the Federal Insecticide, Fungicide, and Rodenticide Act. (Section 2612 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the provision. However, the Conference substitute includes a container recycling provision. (Section 14109 of Conference substitute)

The Managers have received concerns from numerous agricultural interests concerning pest resistance to first generation anticoagulant rodenticide products and the importance of low-cost, widely available effective rodenticides. The Managers encourage the Administrator of the Environmental Protection Agency to continue to classify second-generation rodenticides as general use products so as to minimize the potential consequences of reclassifying these materials as restricted use on target species resistance to first-generation rodenticides, potential non-target species poisoning, and cost and availability of rodenticides to the general public.

TITLE III—TRADE

*(1) Agricultural Trade Development and Assistance Act of 1954*

*(a) Short title (Section 1 of the Agricultural Trade Development and Assistance Act of 1954)*

The Senate amendment changes the title of the underlying legislation to the Food for Peace Act. It also includes numerous conforming amendments. (Section 3001)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision on changing the title of the underlying legislation to the Food for Peace Act (Section 3001).

*(b) United States policy (Section 2 of the Food for Peace Act)*

The Senate amendment deletes a paragraph describing market development as one of the objectives of the programs under this Act. This modification is made to reflect the approach taken in operating the program in recent years. (Section 3002)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision that deletes a paragraph in Section 2 describing market development as one of the objectives of the programs under this Act (Section 3002).

*(c) Food aid to developing countries (Section 3(b) of the Food for Peace Act)*

The Senate amendment modifies the Sense of Congress in current law to (1) require the

President to seek commitments from other donors; reinforces the need to keep recipient governments, non-governmental organizations, and private voluntary organizations involved in conducting needs assessment and implementing programs and ensure that a variety of options are available to provide needs-based emergency and non-emergency aid and (2) that the United States should increase food aid contributions consistent with the Uruguay Round Agreement on Agriculture. (Section 3003)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with a minor modification. (Section 3003).

*(d) Trade and development assistance (Title I of the Food for Peace Act)*

The Senate amendment renames Title I of the newly renamed Food for Peace Act from Development and Trade Assistance to Economic Assistance and Food Security. (Section 3004).

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision that renames Title I of the newly renamed Food for Peace Act from Development and Trade Assistance to Economic Assistance and Food Security (Section 3004).

*(e) Agreements regarding eligible countries and private entities (Section 102 of the Food for Peace Act).*

The Senate amendment strikes references to potential recipient countries becoming commercial markets and strikes a requirement that organizations seeking funding under the Act prepare and submit agricultural market development plans. (Section 3005).

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision that strikes references to potential recipient countries becoming commercial markets and strikes a requirement that organizations seeking funding under the Act prepare and submit agricultural market development plans (Section 3005).

*(f) Use of local currency payments (Section 104 of the Food for Peace Act).*

The Senate amendment adds the objective of improving trade capacity of the recipient country to the set of goals to be achieved under agricultural development. It removes authority for specific agricultural development activities such as business development loans, facilities loans, and private sector agricultural development. It also specifies that private voluntary organizations and cooperatives may implement agreements under this title. (Section 3006)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision on modifying language governing the use of local currencies, with the following changes: rather than striking paragraphs (3), (4), (5), and (6), the substitute modifies paragraphs (3), (4), and (5) to update obsolete references and leaves paragraph (6) intact (Section 3006).

*(g) General authority (Section 201 of the Food for Peace Act)*

The House bill amends the purposes of the Title II program to clarify that food deficits to be addressed include those resulting from man made and natural disasters. (Section 3001(a)).

The Senate amendment clarifies the objectives for assistance under Title II commodity donations. It adds the promotion of food security and support of sound environmental practices in paragraph (5); removes feeding programs as an objective in paragraph (6); and adds a new paragraph specifying the protection of livelihoods, provision of safety nets for food insecure populations and to encourage participation in educational, training, and other productive activities. (Section 3007)

The Conference substitute adopts both the House and Senate provisions, with a modification to paragraph (6) of the Senate provision to keep Section 201(6) intact and add a new paragraph (7) to reflect the need to promote economic and nutritional security for food insecure populations. (Section 3007).

The Managers recognize that humanitarian emergencies frequently occur due to a combination of factors, typically encompassing natural disasters, resource mismanagement and poor government policymaking. In most cases, the United States government ought to respond to such catastrophes with emergency assistance. However, if a disaster results mostly from poorly devised or discriminatory governmental policies in the recipient country, the Managers requests that the Administrator brief the relevant Congressional Committees before responding with assistance.

*(h) Provision of agricultural commodities (Section 202 of the Food for Peace Act)*

The House bill increases the percentage of Title II funding (currently at a range of 5 to 10 percent) that the Administrator may make available to eligible organizations for administrative and distribution costs to a range of 7 to 12 percent.

The House provision also expands the purposes for which such funds may be used to include developing monitoring systems for Title II programs. (Section 3001(b))

The Senate amendment revises current language to clarify that the fact that a project is being proposed in a country that does not have a U.S. Agency for International Development mission or is not part of an overall development plan for the country cannot be used as the sole rationale for denying the proposal.

It modifies the share of Title II funds which can be used to cover logistical expenses incurred by the eligible organizations that carry out Title II programs from between 5 and 10 percent to not less than 7.5 percent.

It clarifies that such funds can be used to cover management, personnel, programmatic, operational activities, internal transportation, and distribution costs for new and existing programs. These funds can also be used to cover the costs of needs assessment and monitoring and evaluation. (Section 3008).

It also strikes language on streamlining program management included in the 2002 farm bill. It also inserts new language which permits the Administrator to use Title II funds to address food aid quality issues, and requires that regular reports on progress on these quality issues be made to the relevant Congressional Committees.

The Conference substitute adopts Senate language on paragraph (1) and paragraph (3) with modifications, providing $4.5 million for fiscal years 2009 through 2011 to be used to study and improve food aid quality for fiscal 2009–2011 from funds made available under Section 3012. It adopts House language on paragraph (2) with the modifications that the range of Title II funding available for administrative and distributional expenses is increased to between 7.5 percent and 13 percent. (Section 3008).

The Managers urge the Administrator to explore the practicality of allowing Title II recipients to enrich or fortify Title II commodities overseas and produce high-value and processed products to support local manufacturing of food products in recipient countries. Such local products could include ready-to-use therapeutic and therapeutic and supplemental products and other fortified and processed foods that can be used successfully to treat severe and moderate malnutrition among children and provide nutritional support for people living with HIV/AIDS and other vulnerable groups.

*(i) Generation and use of currencies by private voluntary organizations and cooperatives (Section 203 of the Food for Peace Act)*

The House bill makes a technical correction. (Section 3001(c))

The Senate amendment adds activities involving micro-enterprises and village banking as a valid use of proceeds generated by monetization of commodities donated under Title II. (Section 3009)

The Conference substitute adopts the House provision (Section 3009).

The Managers recognize that microfinance and village banking, which relies on low dollar loans and collective responsibility, has flourished throughout the developing world for more than 30 years.

The Managers believe that similar activities such as micro-enterprise lending, village banking, and microfinance can be a valuable complement to development assistance projects under Title II of the Food for Peace Act, and encourages the Administrator to view micro-enterprise microfinance, and village banking projects as valid uses of local currency generated by monetization under this Act.

*(j) Levels of assistance (Section 204 of the Food for Peace Act)*

The House bill extends requirements on overall minimum tonnage and minimum tonnage for non-emergency assistance provided under Title II through 2012. (Section 3001(d))

The Senate amendment extends only the overall minimum tonnage requirement for Title II programs through 2012. (Section 3010).

The Conference substitute adopts the House provision (Section 3010).

*(k) The Food Aid Consultative Group (Section 205 of the Food for Peace Act)*

The House bill extends the authority for the Food Aid Consultative Group (FACG). (Section 3001(e))

The Senate amendment requires that a representative of the maritime transportation sector be included in the Group.

It also requires the Administrator to consult with the FACG in developing regulations for the pilot local cash purchase program established in Section 3014, and extends the authority for the FACG through 2012. (Section 3011)

The Conference substitute adopts the House provision, and paragraph (1) of the Senate provision. (Section 3011).

*(l) Administration (Section 207 of the Food for Peace Act)*

The House bill deletes a requirement that if the U.S. Agency for International Development denies a proposal for a Title II project, it must specify conditions that must be met for the approval of such proposal.

It also adds a new provision that requires the U.S. Agency for International Development to establish and report on systems to improve and evaluate Title II assistance, including early warning systems to prevent famines. (Section 3001(f) and (g)) The Senate amendment provides more flexibility to the Administrator in terms of the time available to evaluate and determine whether to accept a proposal for assistance under Title II, and clarifies the intent of the law with respect to notifying an applicant why their proposal was rejected.

It deletes a requirement for handbooks which are no longer used within the Title II program. Information previously contained in such handbooks is now available through other outlets, such as the U.S. Agency for International Development website.

It deletes a specific deadline for submitting commodity orders, which on occasion can have the effect of slowing down the process, and substitutes a requirement that orders should be provided on a timely basis and it pushes back the date from December 1 to June 1 for a report on the programs, countries, and commodities approved to date within a fiscal year under Title II.

It adds language that allows the Administrator to use Title II funds to pay for assessment, data collection and management, and monitoring activities, and to hire contract workers to undertake such work in recipient or neighboring countries, without limiting existing authority to hire contractors to help address emergency food needs.

The Senate amendment also adds language allowing the Administrator to pay the World Food Program of the United Nations for indirect support costs of the commodities donated under Title II, requiring that the Administrator report to relevant Congressional committees on such payments. It also clarifies the authority of the Administrator to pay indirect costs associated with funds received or generated for programs to PVO's and cooperatives. It also requires that project reports should be submitted in such a form as can be readily displayed for public use on the U.S. Agency for International Development website. (Section 3012)

The Conference substitute adopts House language to require specific oversight, monitoring, and assessment activities and provides up to $22 million annually of Title II funds for monitoring and assessment activities for non-emergency programs. It provides that no more than $8 million of these funds may be used for the Famine Early Warning Systems Network, but only if at least $8 million is provided for this system from accounts funded pursuant to the Foreign Assistance Act of 1961. It also provides up to $2.5 million of the $22 million to upgrade the information technology systems associated with the food aid program in fiscal year 2009, to enhance the monitoring of these programs.

The Conference substitute also adopts Senate language on paragraphs (2) and (3), and provides contracting authority for personal service in order to undertake monitoring and assessments for non-emergency programs, as part of paragraph (5). It does not provide for additional authority to pay indirect support costs to the World Food Program or to private voluntary organizations. (Section 3012).

The Managers recognize the use of handbooks in Title II is no longer an efficient method of providing information to foster development of programs under this title by eligible organizations. Realizing the need for clear communication of guidelines and regulations to eligible organizations, the Managers expect the Administrator to ensure the accessibility and clarity of information previously dispensed in the handbooks such as in an electronic form readily available to the public, in addition to other means as determined appropriate by the Administrator.

The Managers believe that the provision of commodities overseas must be carried out in a timely manner and in a manner that is consistent with planned delivery schedules.

The Managers are aware that the U.S. Agency for International Development has received significant cuts in operating expenses in the President's budget and in Congressional appropriations over the last several years to carry out their operating expense which increasingly affects the Agency's ability to monitor its programs. Although the Managers appreciate these constraints, it expects the Administrator to make every effort to improve the monitoring and evaluation of U.S. food assistance programs. Therefore, the Managers provide the Administrator with the authority to contract for personal services from persons not employed by the U.S. Government to carry out monitoring and oversight activities. The Managers have been concerned that, in the past, the U.S. Agency for International Development has not had the authority or the resources for monitors for non-emergency food aid programs. The April 2007 Government Accountability Office report on U.S. food assistance programs found that monitoring of food assistance programs in-country by the U.S. Agency for International Development has been insufficient due to various factors, including limited staff, competing priorities, and legal restrictions on the use of food assistance resources. The Managers are concerned about the significant gaps in monitoring and evaluation of U.S. international food assistance programs and expects the Administrator to address this problem immediately by establishing a system to monitor food assistance programs. The language in this new subsection will allow the Administrator to address this criticism by employing non-emergency food aid monitors.

The Managers expect the Administrator to continue to use existing authority to pay those expenses required and agreed upon to the World Food Program.

*(m) Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable, prepackaged foods (Section 208 of the Food for Peace Act)*

The House bill extends the authorization and increases annual funding for such grants from $3 million to $7 million. (Section 3001(h))

The Senate amendment reauthorizes this program and also increases the level that can be appropriated to assist in the development of shelf-stable, prepackaged foods for use in food aid programs from $3 million to $8 million. (Section 3013)

The Conference substitute adopts the Senate provision (Section 3013)

The Managers recognize the value added to U.S. food aid programs through cost sharing by implementing partners and recognize that preference is given to organizations that are able to provide such additional program funds. The Managers are supportive of the Administrator evaluating the inclusion of in-kind contributions when administering guidelines for cost sharing by non-profit organizations.

*(n) General authorities and requirements (Section 401 of the Food for Peace Act)*

The Senate amendment strikes the requirement that the Secretary make a determination about domestic supply of the commodity before releasing commodities for the food aid program. (Section 3015)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision (Section 3014).

*(o) Definitions (Section 402 of the Food for Peace Act)*

The Conference substitute consolidates several references to the appropriate committees of Congress with respect to reporting activities under the Food for Peace Act. (Section 3015).

*(p) Use of Commodity Credit Corporation (Section 406 of the Food for Peace Act).*

The Senate amendment clarifies that costs incurred to improve food aid quality to the list of activities and functions can be covered by the Commodity Credit Corporation through advance appropriations acts. (Section 3016)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision (Section 3016).

*(q) Administrative provisions (Section 407 of the Food for Peace Act)*

The House bill extends the authorization for prepositioning of commodities and increases the limit on funding available for prepositioning such commodities overseas from $2 million to $8 million. The bill also authorizes assessment and possible establishment of additional prepositioning sites. (Section 3001(i))

The Senate amendment reauthorizes prepositioning of U.S. commodities abroad and increases the limit on funding available for prepositioning in foreign countries from $2 million to $4 million. It also requires that resource requests for multi-year or ongoing non-emergency assistance agreements be approved by October 1 of the fiscal year when the commodities will be delivered.

It also pushes the completion date for an annual report concerning the programs and activities of this Act from January 15 to April 1, and requires the Administrator to make the report available to the public by electronic and other means. (Section 3017)

The Conference substitute adopts the Senate provision, but increases funding for prepositioning to $10 million, and adds the House language on studying the need for additional prepositioning sites (Sections 3017 and 3018(a)).

*(r) Consolidation and modification of annual reports regarding agricultural trade issues (Section 407 of the Food for Peace Act)*

The House bill amends requirements of the report the President must prepare on food aid programs that are carried out under the Act. (Section 3001(j))

The Senate amendment has no comparable provision.

The Conference substitute consolidates a number of reporting requirements and date changes for reports from both Senate and House bills (Section 3018).

*(s) Expiration of assistance (Section 408 of the Food for Peace Act)*

The House bill reauthorizes agreements under the Act through 2/31/12. (Section 3001(k))

The Senate amendment reauthorizes agreements under the Act through December 31, 2012. (Section 3018)

The Conference substitute adopts the House provision (Section 3019).

*(t) Authorization of appropriations (Section 412 of the Food for Peace Act).*

The House bill extends the Act through 2012, and sets authorization levels for Title II to $2.5 billion. (Section 3001(l))

The Senate amendment reauthorizes appropriations for the Act through 2012. It also strikes subsection (b) and removes the President's authority to transfer funds between the programs under this Act. (Section 3019)

The Conference substitute adopts the House provision, modifying it with technical changes. (Section 3020).

*(u) Micronutrient Fortification Programs (Section 415 of the Food for Peace Act)*

The House bill extends authorization for the program through 2012 and amends the purposes. (Section 3001(m))

The Senate amendment reauthorizes the Micronutrient Fortification Program from the Farm Security and Rural Investment Act of 2002 and adds new authority to assess and apply technologies and systems to improve food aid. It also strikes subsection (b),

which limits the number of countries in which this program can be implemented. (Section 3020)

The Conference substitute adopts the Senate provision (Section 3023).

*(v) John Ogonowski and Doug Bereuter Farmer-to-Farmer Program (Section 501 of the Food for Peace Act)*

The House bill provides a floor level of funding for the Farmer-to-Farmer program of $10 million and extends the program through 2012. The House bill also increases authorization of appropriations for specific regions from $10 million to $15 million. (Section 3001(n))

The Senate bill reauthorizes the Farmer-to-Farmer program. (Section 3022)

The Conference substitute adopts the House provision (Section 3024).

The Managers recognize that organizations such as the Foods Resource Bank provide vital financial and technical assistance to agricultural production in developing countries in areas of financing, market access and knowledge, and development assistance. This assistance is generated through sale of crops grown in a cooperative effort between members of urban and rural churches and other organizations. These growing projects are an outstanding example of harnessing the grass-roots energy and generosity of Americans. Through use of these proceeds, these members of churches and organizations help to increase the technical knowledge and available capital, for farmers and others in targeted developing countries. These efforts enhance food security and increase productivity in these countries.

The Managers understand that in the recent years, the Foods Resource Bank has received matching funds through the Global Development Alliance established by the U.S. Agency for International Development. The Managers encourage the Administrator to continue this funding and consider entering into longer term agreements with these organizations to provide for more certainty in project planning.

The Managers believe that providing funds to match such contributions leverage the government's investment and provide an incentive to expand the effort of growing projects working in the United States to raise money. Such an action would also increase public awareness of the plight of farmers in developing countries.

*(2) Export Credit Guarantee Program (Sections 203 and 211 of the Agricultural Trade Act of 1978)*

The House bill reduces the tenor of the GSM–102 Export Credit Guarantee Program to six months beginning in fiscal year 2008. (Section 3002)

The House bill and the Senate amendment both repeal authority for the Supplier Credit program, which provides guarantees to buyers of U.S. commodities in foreign countries for a period of not more than 180 days.

Both bills repeal authority for the GSM–103 Intermediate Credit Guarantee Program which provides guarantees for loans to purchase U.S. agricultural commodities with duration of between three years and ten years, and repeal the one percent cap on loan origination fees for the GSM–102 export credit guarantee program.

The Senate amendment reduces the tenor of the GSM–102 export credit guarantee program to no more than six months beginning in fiscal year 2012. The Senate amendment also clarifies how the U.S. Department of Agriculture should conduct evaluations of the creditworthiness of countries participating in export credit guarantee programs, and reduces the minimum amount that can be allocated to the export credit programs from its current $5.5 billion to $5 billion. (Section 3101)

The Conference substitute adopts the Senate provision, with the following modification: in lieu of the reduction in tenor for the GSM–102 program beginning in fiscal year 2012, the conference amendment includes a cap on the credit subsidy for the program of $40 million annually (Section 3101).

The Managers eliminated proposals to limit the tenor of export credit guarantees to periods shorter than 3 years in length. In order to garner budget savings while preserving the 3 year tenor and effectiveness of the program to support U.S. agricultural exports, subsection (b) limits the available budget authority for the cost of the program, as determined on a net present value basis under the Federal Credit Reform Act of 1990.

Specifically, the Commodity Credit Corporation must make available each year GSM–102 guarantees in an amount not less than $5.5 billion, or the amount of guarantees that can be supported by $40 million in budget authority (plus any budget authority carried over from prior years)—whichever amount is less. It is expected that the U.S. Department of Agriculture can make available approximately $4 billion annually in export credit guarantees on $40 million in budget authority.

The Managers remain concerned that the U.S. Department of Agriculture has consistently failed to meet its statutory obligation to make available at least $5.5 billion in export credit guarantees, to the detriment of U.S. agricultural exports and the ability of food importing countries to meet their food, feed, and fiber needs.

The Managers expect the U.S. Department of Agriculture to use this authority to design and operate the export credit guarantee program to maximize the export sales of agricultural commodities and to assist food importing countries' efforts to meet their food, feed, and fiber needs, by making available and utilizing guarantees equal to at least the statutory minimum, and more as necessary to meet program demand.

Finally, the Managers believe that the changes in this section satisfy U.S. commitments to comply with the Brazil cotton case with regard to the export credit programs.

*(3) Market Access Program (Sections 203 and 211 of the Agricultural Trade Act of 1978)*

The House bill extends the program and makes organic commodities eligible for the program. It increases funding by $25 million annually. (Section 3003)

The Senate amendment makes organic commodities eligible for the program. It also increases funding for the program from its current level of $200 million for fiscal year 2007, raising it by $10 million annually until fiscal year 2011, when it returns to baseline levels. (Section 3102)

The Conference substitute adopts the Senate provision, without the increase in funding above baseline levels (Section 3102).

*(4) Food for Progress Act of 1985*

The House bill extends the Food for Progress Act (7 U.S.C. 1736o) through 2012. (Section 3004)

The Senate amendment reauthorizes the program through 2012, and makes recipient governments, intergovernmental organizations, and private entities ineligible for the program. It also increases the amount that can be spent transporting commodities under Food for Progress from $40 million to $48 million for fiscal years 2008 through 2010. This figure is the effective cap on this program. (Section 3106)

The Conference substitute adopts the House provision and adds a provision requiring the Secretary to establish a project in Malawi under this program (Section 3105).

*(5) McGovern-Dole International Food for Education and Child Nutrition Program*

The House bill extends the program through 2012, requires the Secretary of Agriculture to carry out the program, and provides mandatory funds of: $0 for fiscal year 2008; $140,000,000 for fiscal year 2009; $170,000,000 for fiscal year 2010; $230,000,000 for fiscal year 2011; $300,000,000 for fiscal year 2012; and $0 for fiscal year 2013. (Section 3005)

The Senate amendment establishes the U.S. Department of Agriculture as the permanent home for this program and reauthorizes the program through fiscal year 2012. Up to $300 million may be appropriated annually to fund this program. (Section 3107)

The Conference substitute adopts the Senate provision, except it provides $84 million in mandatory money for this program for fiscal year 2009, to be available until expended (Section 3106).

*(6) Bill Emerson Humanitarian Trust*

The House bill extends the Bill Emerson Humanitarian Trust through 2012. (Section 3006)

The Senate amendment specifies that the Trust can be held as a combination of commodities and cash, not to exceed the equivalent of 4 million metric tons and allows the commodities to be exchanged for funds available under Title II or the McGovern-Dole program. The Secretary may sell commodities in the Trust onto the market if such sales will not disrupt the domestic market. It permits the Secretary to manage the funds held under the Trust to maximize its value.

The Senate amendment further clarifies the rules under which commodities or funds can be released from the Trust, and defines the term ''emergency'' for the purpose of release. It also clarifies the rules by which the Trust is managed by the Secretary, including specifying that price risks must be managed and allowing the funds held in the Trust to be invested in low-risk short-term securities or instruments. Instructs the Secretary to maximize the value of the Trust and instructs the Secretary to transfer saved storage costs back to the Trust from the CCC. The Senate amendment replaces the word ''replenish'' with the word ''reimburse'' throughout the language, reinforcing the notion that resources can be held through cash as well as commodities under this program. The program is reauthorized through fiscal year 2012. (Section 3201)

The Conference substitute adopts the Senate provision, with the following modifications: it removes the 4 million ton cap entirely, and no longer allows the Secretary to engage in futures market transactions with funds in the Trust. It also does not allow the exchange of funds available under Title II or the McGovern-Dole International Food for Education and Child Nutrition program, nor require transfer of foregone storage charges into the Trust (Section 3201).

The Managers expect the Trust to be used in a manner that recognizes its unique availability as a resource for food emergencies worldwide. The sale of commodities in the Trust should be undertaken in such a way as to prevent market disruptions and dramatic price fluctuations in the domestic market.

*(7) Technical assistance for specialty crops*

The House bill extends the Technical Assistance for Specialty Crops through fiscal year 2012 and increases funding from $2 million annually to $4 million in 2008, ramping up to $10 million for fiscal years 2011 and 2012. (Section 3007)

The Senate amendment extends Technical Assistance for Specialty Crops through fiscal year 2012 and increases funding by $19 million over the baseline. (Section 1833)

The Conference substitute adopts the House provision with annual funding ramped up to $9 million in fiscal years 2011 and 2012, and adds a report (Section 3203).

*(8) Representation by the United States at international standard-setting bodies*

The House bill authorizes the Secretary to enhance U.S. Department of Agriculture staff support for international standard-setting bodies, such as the Codex Alimentarius, the International Plant Protection Convention, and the World Animal Health Organization. (Section 3009)

The Senate amendment has no comparable provision.

The Conference substitute strikes this provision.

*(9) Foreign Market Development Cooperator Program (Section 702 of the Agricultural Trade Act of 1978)*

The House bill extends the program through fiscal year 2012. (Section 3010)

The Senate amendment increases funding for the Foreign Market Development Program from its current level of $34.5 million annually for fiscal year 2007 by $5 million for fiscal years 2008 and 2009, by $10 million in fiscal year 2010, and returns to baseline levels in fiscal year 2011. (Section 3105)

The Conference substitute adopts the House provision (Section 3104).

*(10) Emerging Markets and Facilities Loan Guarantee Program*

The House bill extends the program through fiscal year 2012. (Section 3011)

The Senate amendment reauthorizes the Emerging Markets and Facilities Guarantee Loan Program through fiscal year 2012.

It permits the Secretary to waive requirements that U.S. goods be used in the construction of a facility under this program, if such goods are not available or their use is not practicable. It also permits the Secretary to provide a guarantee for this program for the term of the depreciation schedule for the facility, not to exceed 20 years. (Section 3202)

The Conference substitute adopts the Senate provision (Section 3204).

*(11) Export Enhancement Program (Section 301 of the Agricultural Trade Act of 1978)*

The House bill extends the program through fiscal year 2012. (Section 3012)

The Senate amendment repeals authority for the program. (Section 3103)

The Conference substitute adopts the Senate provision (Section 3103).

*(12) Minimum level of nonemergency food assistance*

The House bill provides that of Title II funds, the U.S. Agency for International Development must use at least $450 million for non-emergency programs unless Congress provides otherwise with new legislation. (Section 3014)

The Senate amendment establishes a ''safe box'' for non-emergency, development assistance projects under Title II of $600 million annually to be obligated and expended each fiscal year. (Section 3019)

The Conference substitute adopts the House provision, modified to reflect a phasing in of the safe box level beginning at $375 million in fiscal year 2009 and ending at $450 million in fiscal year 2012. It also provides an exception to the safe box designation, allowed to be exercised only if the President determines that an extraordinary food emergency exists and that resources available from the Bill Emerson Humanitarian Trust have been exhausted, and if the President has submitted a request for additional appropriations to Congress equal to the reduction in safe box and Emerson Trust levels (Section 3022).

*(13) Global Crop Diversity Trust*

The House bill requires the U.S. Agency for International Development to make a contribution on behalf of the United States to the Global Crop Diversity Trust of up to $60 million over 5 years. United States contributions be may not exceed one fourth of the total of funds contributed to the Trust from all sources. (Section 3014)

The Senate amendment requires the U.S. Agency for International Development to make contributions to the Global Crop Diversity Trust to assist in conservation of genetic diversity of key food crops around the world. Appropriations of $60 million are authorized for the period of the fiscal year 2008 through 2012 for this purpose, with a cap equal to 25 percent of all funds contributed to the Trust from all sources. (Section 3021)

The Conference substitute adopts the House provision, with a title change for the section (Section 3202).

*(14) Report on efforts to improve procurement planning*

The House bill requires that not later than 90 days after the date of the enactment the U.S. Agency for International Development and the U.S. Department of Agriculture shall submit to Congress a report on efforts taken to improve planning for food and transportation procurement, including efforts to eliminate bunching of food purchases. (Section 3015)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision (Section 3022).

*(15) International disaster*

The House bill requires that for each of fiscal year 2008 through 2012, $40 million of amounts made available to carry out Section 491 of the Foreign Assistance Act of 1961 shall be made available for famine prevention. (Section 3016)

The Senate amendment authorizes a pilot program for local/regional cash purchase. Subsection (a) provides several key definitions for the section. Subsection (b) establishes authority for the pilot program. Subsection (c) establishes the purposes for which the pilot program can be used. Subsection (d) establishes criteria for local or regional procurement. Subsection (e) requires the Administrator to initiate an external review of prior local/regional cash purchase activities by other donor countries, PVO's and intergovernmental organizations within 30 days of enactment. A report detailing the results of this review is also to be provided to the relevant Congressional Committees. This information would be used to assist in developing guidelines for the request for proposals. Subsection (f) authorizes the Administrator to request and approve applications for grants from eligible organizations under this section, and requires any projects authorized under this section to be completed by Sept. 30, 2011, to allow time to complete a study of pilot results before expiration of authorized appropriations in subsection (k). Subsection (g) establishes requirements for specific projects in selecting proposals for grants. Subsection (h) lists information that would need to be included in grant applications. Subsection (i) requires the Administrator to arrange for independent evaluation of the pilot program results, and a report to the relevant Congressional Committees. It also lays out the factors that would have to be examined in the report. Subsection (j) requires the Administrator to promulgate guidelines for the operation of this pilot program. Subsection (k) authorizes appropriations of $25 million for each year between fiscal 2009 and fiscal 2011 for this program, to be available until expended. (Section 3014)

The Conference substitute adopts the Senate provision, modified to provide that the project be conducted by the Secretary with $60 million in mandatory funding between fiscal 2009 and 2012. It establishes requirements for undertaking such activities and requires the Secretary to promulgate rules or guidelines in order to award grants or cooperative agreements to conduct field-based projects using local or regional procurement. It also requires entities receiving grants or entering into agreements under this section to provide data about market parameters and methodologies used to acquire eligible commodities locally or regionally, intended to be used to evaluate the effectiveness of local or regional procurement (Section 3206).

*(16) Importation of agricultural products made with child labor*

The Senate amendment requires the Secretary of Agriculture, in cooperation with the Secretary of Labor, to develop standards that importers of agricultural products into the United States could choose to use to certify that those products were not produced with the use of abusive forms of child labor. (Section 3104)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision, modified to establish a consultative group of interested stakeholders charged with developing recommendations on practices that would enable companies to monitor and verify whether the food products they import are made with the use of child or forced labor. Guidelines developed from these recommendations would be released after a public comment period (Section 3205).

The Managers strongly support efforts to reduce and eliminate the use of child and forced labor. The Managers expect the Secretary of Agriculture to work with the multi-stakeholder Consultative Group to develop the recommendations for best practices for the voluntary, third-party certification initiative that will provide producers, importers, retailers and consumers with reasonable assurances as to what measures have been taken to ensure that the products are not produced with child labor. After the Consultative Group has issued its recommendations, the Managers expect the Secretary to develop guidelines for such best practices and release the guidelines for public comment. The outcome expected by the Managers is a voluntary, third-party certification effort is designed to reduce the likelihood that products produced with forced labor or child labor are imported into the United States as directed in the Trafficking Victims Protection Act of 2005.

The Managers recommend that the Secretary select officials from the Foreign Agricultural Service and the Agricultural Marketing Service to serve on the consultative group as the representatives of the U.S. Department of Agriculture. Additionally, the Managers recommend that the Department of Labor be represented by an individual from the Bureau of International Labor Affairs, and that the Department of State be represented by the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

*(17) Biotechnology and Agricultural Trade Program*

The Senate amendment reauthorizes the Biotechnology and Agricultural Trade Program through 2012. (Section 3203)

The House bill has no comparable provision.

The Conference substitute does not include this provision.

*(18) Technical assistance for international trade disputes*

The House bill and the Senate amendment both authorize the Secretary to provide technical assistance for limited resource groups involved in trade disputes. This program is subject to appropriations. (House Section 3008 and Senate Section 3204)

The Conference substitute does not include this provision.

The Managers understand that the U.S. Department of Agriculture currently possesses the authority to provide technical advice, analytical support, and other assistance to help limited resource organizations and others involved in exporting U.S. agricultural commodities. The Managers encourage the U.S. Department of Agriculture to provide such assistance, particularly to entities that both face unfair trading practices and do not possess adequate internal resources to address these practices given the size of their domestic industry or membership. The Department is encouraged to seek appropriations for this purpose as needed.

*(19) Importation of high protein food ingredients*

The Senate amendment requires the Secretary of Health and Human Services to report to Congress on the importation and use of high protein food ingredients. (Section 3206)

The House bill contains no comparable provision.

The Conference substitute does not include this provision.

*(20) U.S.-Canada Softwood Lumber Agreement*

The Senate amendment expresses the Sense of the Senate with respect to ensuring that imports of Canadian softwood lumber are consistent with the Softwood Lumber Agreement with Canada. (Section 11093)

The House bill contains no comparable provision.

The Conference substitute includes a softwood lumber importer declaration program. The purpose of the program is to assist in the enforcement of any international obligations that the United States and our trading partners assume with respect to trade in softwood lumber and softwood lumber products.

The Managers are concerned that existing U.S. importer declaration requirements are not sufficient to ensure compliance with such obligations. If the issue is not addressed, imports of noncompliant softwood lumber and softwood lumber products can harm U.S. producers.

The section amends the Tariff Act of 1930 by adding a new Title VIII, the ''Softwood Lumber Act of 2008''. The Act directs the President to establish a softwood lumber importer declaration program. The program requires U.S. importers of softwood lumber and softwood lumber products to take certain steps to help the United States and its trading partners ensure that trade in these products is consistent with the terms of any relevant international agreement.

As part of the program, U.S. importers must provide certain information about each shipment of softwood lumber or softwood lumber products at the time the importer files the entry summary documentation. The importer must also declare that the importer has made appropriate inquiries about the shipment and that, to the best of the importer's knowledge and belief, the imports of softwood lumber are consistent with certain terms of any relevant international agreement entered into by the country of export and the United States. The Act requires the Secretary of the Treasury to reconcile the transaction-specific information provided by the U.S. importer with transaction-specific information provided by the country of export to the United States, if any. Such reconciliation is to include any revised transaction-specific export prices provided by the country of export. The Secretary of the Treasury must also periodically verify the accuracy of the importer declarations. The Act provides for the assessment of penalties against any person who knowingly violates the Act. The Act, however, holds harmless importers who have made appropriate inquiries and who maintain and produce substantiating documentation.

The Managers intend that the requirement for the importer to provide the estimated export charges, if any, is meant to apply to export charges estimated to be due at the time of shipment, recognizing that the exporter's final liability could increase or decrease at the time of final assessment.

The Managers intend that, in implementing the program, the President or his designee avoid placing an unnecessary burden on U.S. importers. In this respect, the Managers note that the statutory language creating the program neither includes nor references any authority for the President or his designee to establish user fees, processing fees, or any other fees of any kind. It is the intention of the Managers that any expenses associated with the administration of this program be covered with appropriated funds.

The Managers intend that this program meet all bilateral and multilateral obligations of the United States, including adherence to international rules and procedures regarding trade in softwood lumber. The Managers intend the program to be consistent with U.S. obligations under the Uruguay Round Agreements, including the General Agreement on Tariffs and Trade 1994, and any other bilateral or multilateral trade agreements to which the United States is a Party.

The Managers recognize the subject matter set forth in the Act falls under the jurisdiction of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

TITLE IV—NUTRITION PROGRAMS

*(1) Renaming the Food Stamp Program*

The House bill amends the Food Stamp Act of 1997 (FSA) by renaming the Food Stamp Program the Secure Supplemental Nutrition Assistance Program (SSNAP). Conforming amendments are made to other laws, documents, and records that reference either the Food Stamp Act or Food Stamp Program. (Section 4001)

The Senate amendment amends the short title of the FSA by renaming the Act the Food and Nutrition Act of 2007. It amends the renamed Food and Nutrition Act of 2007 to change the term ''food stamp program'' each place it appears to ''food and nutrition program''.

The Senate amendment also makes conforming amendments to other laws that reference the Food Stamp Act/program. (Section 4001, Section 4909)

The Conference substitute adopts the Senate provisions with an amendment to rename the Food Stamp Program as the ''Supplemental Nutrition Assistance Program'' and to incorporate these changes into section 4001; and to incorporate technical changes and conforming amendments necessary to reflect the new title of the program and Act into section 4002. (Section 4001; Section 4002)

*(2) Definition of Drug Addition or Alcoholic Treatment and Rehabilitation Program*

The House bill amends section 3(f) of the FSA by mandating that drug addiction or alcoholic treatment and rehabilitation programs meet the FSA's definition regarding such programs if the State Title XIX agency certifies that: the program is eligible to receive funds under Part B of Title XIX of the Public Health Service Act (even if no funds are being received); or is operating to further the purposes of Part B.

This section also provides that nothing in the FSA's definition of a drug addiction or alcoholic treatment and rehabilitation program is to be construed as requiring State or Federal licensure. (Section 4002)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(3) Nutrition education*

The House bill amends section 4(a) of the FSA by authorizing the Secretary, subject to appropriated funds, to administer the food stamp nutrition education program to eligible households.

Section 11(f) of the FSA is amended by specifically giving State agencies the discretion to implement nutrition education programs that promote healthy food choices that are consistent with the Dietary Guidelines for individuals who receive, or are eligible to receive program benefits.

States are given the discretion to deliver nutrition education directly to eligible recipients through agreements with the Cooperative State Research, Education and Extension Service and other State and community health and nutrition providers and organizations.

States wishing to provide nutrition education must submit a plan that identifies the uses of the funding for local projects and conforms to standards set forth by the Secretary in regulations or guidance.

States must, whenever practicable, notify applicants, participants, and eligible program participants of the availability of nutrition education.

The federal matching funds requirement is continued. (Section 4003)

The Senate amendment is the same as the House bill, with technical differences. (Section 4213)

The Conference substitute adopts the Senate provision. (Section 4111)

*(4) Food distribution on Indian reservations*

The House bill amends section 4 of the FSA by permitting the distribution of commodities, with or without the Secure Supplemental Nutrition Assistance Program, on Indian reservations whenever a request is made for concurrent or separate food program operations by a tribal organization.

Tribal organizations are permitted to be responsible for the commodity distribution, should the Secretary determine that they are capable of doing so. The prohibition from approving plans that permit households to simultaneously participate in the SSNAP and FDPIR programs is continued.

An appropriation of $5,000,000 is authorized for fiscal years 2008 through 2012 for a traditional and local foods fund to distribute traditional and locally-grown foods, designated by region, on Indian reservations. At least 50 percent of the food distributed through the fund must be produced by Native American farmers, ranchers, and producers.

The Secretary is required to submit a report to Congress on the FDPIR food package. The report is to include: a description of the process for determining the contents of the food package; the extent to which the package conforms to the 2005 Dietary Guidelines for Americans; the extent to which the food package addresses nutritional and health challenges specific to Native Americans and the nutritional needs of Native Americans; and plans to revise the food package (or any rationale for not revising it). (Section 4004)

The Senate amendment is similar to the House bill with technical differences but: (1) provides that, subject to the availability of appropriations, the Secretary may purchase bison meat for distribution through FDPIR, and (2) requires the Secretary to survey participants to determine which traditional foods are most desired. (Section 4501)

The Conference substitute adopts the Senate provision with amendments to require that, where practicable, at least 50 percent of the food distributed through the traditional

and locally grown foods fund be produced by Native American farmers, ranchers, and producers, and to require a report describing the activities carried out under the traditional and locally grown foods fund. (Section 4211)

*(5) Excluding combat related pay from countable income*

The House bill amends section 5(d) of the FSA by specifically excluding combat-related military pay when determining income for program eligibility and benefits. (Section 4005)

The Senate amendment is the same as the House bill, with technical differences. (Section 4101)

The Conference substitute adopts the Senate provision with an amendment to specify that the exclusion of combat-related military pay becomes effective on October 1, 2008. (Section 4101)

*(6) Increasing the standard deduction*

The House bill amends section 5(e)(1) of the FSA by increasing the minimum standard deduction and indexing it for inflation as measured by the Consumer Price Index (CPI–U).

The minimum standard deduction is raised to:

$145 (for the 48 contiguous States and the District of Columbia);
$248 (for Alaska);
$205 (for Hawaii);
$128 (for the Virgin Islands); and
$291 (for Guam).

The alternative minimum of 8.31 percent of the poverty guidelines is not changed.

On October 1, 2008 (and each October thereafter) the minimum dollar-denominated standard deductions (noted above) would be adjusted by the CPI–U change (for all items other than food) over the 12 months ending the previous June 30th (and rounded down to the nearest whole dollar). (Section 4006)

The Senate amendment amends section 5(e)(1) to increase the minimum standard deduction and index it for inflation as measured by the CPI–U.

The minimum standard deduction is raised to:

$140 (for the 48 contiguous States and the District of Columbia);
$239 (for Alaska);
$197 (for Hawaii);
$123 (for the Virgin Islands); and
$281 (for Guam).

As in the House bill, the alternative minimum of 8.31% of the poverty guidelines is not changed, and the amounts specified for the standard deduction would be adjusted for annual changes in the CPI–U and rounded down. (Section 4102)

The Conference substitute adopts the Senate provision with an amendment to increase the minimum standard deduction to:

$144 (for the 48 contiguous States and the District of Columbia);
$246 (for Alaska);
$203 (for Hawaii);
$127 (for the Virgin Islands); and
$289 (for Guam).

The Conference substitute indexes these amounts for inflation as measured by the CPI–U, rounded down and specifies that these increases become effective on October 1, 2008. (Section 4102)

*(7) Deducting dependent care expenses*

The House bill amends section 5(e)(3) of the FSA by removing the caps on dependent care deductions. (Section 4007)

The Senate amendment is the same as the House bill.

The Conference substitute adopts the House provision with an amendment to make the removal of the caps on dependent care deductions effective on October 1, 2008. (Section 4103)

*(8) Adjusting countable resources for inflation*

The House bill amends section 5(g) of the FSA by requiring that the resource (asset) dollar limits for SSNAP households be indexed. Limits are to be indexed annually for inflation (measured by the CPI–U) and adjusted to the nearest $100. (Section 4008)

The Senate amendment amends section 5(g) by increasing the dollar limits on financial resources that an eligible household may own to $3,500 (or $4,500 for households with elderly or disabled members), and requiring that they be indexed annually for inflation (measured by the CPI–U) rounded down and adjusted down to the nearest $250. (Section 4101(a))

The Conference substitute adopts the Senate provision with amendments to specify that the existing asset dollar limits be indexed annually for inflation as measured by the CPI–U and adjusted down to the nearest $250, to specify that such policy become effective on October 1, 2008, and to make other technical changes. (Section 4104)

*(9) Excluding education accounts from countable income*

The House bill amends section 5(g) of the FSA by excluding tax-qualified education savings as countable financial resources. (Section 4009)

The Senate amendment is the same as the House bill, with technical differences. (Section 4104(c))

The Conference substitute adopts the Senate provision with an amendment to specify that such exclusions become effective on October 1, 2008, and to make other technical changes. (Section 4104)

*(10) Excluding retirement accounts*

The House bill amends section 5(g) of the FSA by excluding all tax-qualified retirement accounts/savings as countable financial resources. (Section 4010)

The Senate amendment is the same as the House bill with technical differences. (Section 4104(b))

The Conference substitute adopts the Senate provision with an amendment to specify that such exclusions become effective on October 1, 2008; and to make other technical changes. (Section 4104)

*(11) Simplified reporting*

The Senate amendment amends section 6(c)(1) to allow States to require periodic reporting of changes in household circumstances (as opposed to reporting changes when they occur) by households with elderly/disabled members, migrant/seasonal farmworker households, and households in which all members are homeless. This provision limits the frequency with which these households must report changes (other than changes whereby they exceed the program's gross monthly income eligibility limits). Elderly/disabled households with no earned income are required to report no more often than once a year; migrant/seasonal farmworker and homeless households could be required to report no more often than once every 4 months. (Section 4105)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to specify that the simplified reporting policy change becomes effective on October 1, 2008. (Section 4105)

*(12) Deobligate food stamp coupons*

The House bill amends the FSA by prohibiting States from issuing coupons, stamps, certificates or authorization cards, effective upon enactment of the Farm Bill.

The House bill provides that, effective one year after enactment of this Act, only Electronic Benefit Transfer (EBT) cards will be eligible for exchange at retail food stores that participate in the SSNAP.

The House bill also provides that coupons will no longer be an obligation of the Federal government, effective one year after enactment of the Farm Bill, thereby requiring that coupons be redeemed within that one-year period. (Section 4011)

The Senate amendment is similar to the House bill with technical differences but: (1) directs the Secretary to require a state agency to issue or deliver benefits using alternative methods if the Secretary determines, in consultation with the Inspector General, that it would improve the integrity of the food and nutrition program; and (2) provides that no interchange fees shall apply to electronic benefit transfer transactions under the food and nutrition program. It also makes necessary conforming amendments as in the House bill. (Section 4202, 4001)

The Conference substitute adopts the Senate provision with amendments to strike the study relating to the use of program benefits and to make other technical changes. While this provision does generally prohibit the use of coupons in the Supplemental Nutrition Assistance Program (SNAP), it is not the Managers' intention to prohibit States from issuing benefits in a form other than EBT cards as part of efforts through SNAP to provide food assistance to eligible individuals affected by a disaster. (Section 4115)

*(13) Eligibility for single unemployed adults*

The Senate amendment amends section 6(o) to lengthen the eligibility period for ABAWDs who are not working or in an employment/training or workfare program to 6 months in every 36-month period.

The Senate amendment eliminates the current provision of law under which an ABAWD who gains eligibility by meeting one of the 3 work-related tests, but subsequently fails to meet any of them, may remain eligible for an added 3 months. (Section 4107)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(14) Transitional benefits*

The Senate amendment amends section 11(s) to permit States to provide transitional food assistance benefits to households with children that cease to receive cash assistance under a state-funded public assistance program. (Section 4108)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make the transitional benefits policy change effective on October 1, 2008. (Section 4106)

*(15) Allow for the accrual of benefits*

The House bill amends section 7(i) of the FSA by authorizing States to establish procedures for recovering electronically issued benefits from a household due to inactivity in the household's EBT account.

The House bill provides States with the discretion to recover benefits if an EBT account has been inactive for: (1) 3 months during which it continuously had a balance greater than $1,000 (adjusted for inflation); or (2) 12 months, whichever is less.

The House bill also provides that a household whose benefits are recovered must receive notice, and have its benefits made available again, upon request not less than 12 months after the recovery of the benefits. (Section 4012)

The Senate amendment amends section 7(i) of the FSA to (1) require that States establish procedures for recovering electronically issued benefits from inactive benefit accounts and allow them to store recovered benefits off-line if the household has not

accessed the account after 6 months and (2) require States to expunge benefits that have not been accessed by a household for 12 months.

States would also be required to notify households of stored benefits and make them available not later than 48 hours after a household's request. (Section 4106)

The Conference substitute adopts the Senate provision. (Section 4114)

*(16) Increasing the minimum benefit*

The House bill amends section 8(a) of the FSA by increasing the amount of the minimum benefit for 1 and 2-person households to 10 percent of the inflation-indexed ''Thrifty Food Plan'' for a 1–person household. (Section 4013)

The Senate amendment is the same as the House bill except that the effective date is stipulated as October 1, 2008.

The Conference substitute adopts the House provision with an amendment to specify that the minimum benefit shall be equal to 8 percent of the maximum benefit for a household of one, and to make the increase in the minimum benefit effective on October 1, 2008. The Managers understand that the Thrifty Food Plan changes on a monthly basis, and expect that the minimum benefit, as amended by this provision, will be calculated on an annual basis. (Section 4107)

*(17) State option for telephonic signature*

The House bill amends Section 11(e)(2)(C) of the FSA by authorizing State agencies to establish a system for applicant households to sign an application by providing a recorded, verbal assent over the telephone.

The system must record the applicant's verbal assent, as well as the information to which the assent was given. The State system is required to include safeguards against impersonation and identity theft.

The provision specifies that a household's right to apply for food stamps in writing not be precluded.

The provision further specifies that if there are any errors in the application, the applicant must return a copy of the application with instructions for correcting such errors.

Applicants must satisfy all the requirements associated with a written signature on an application to ensure that the verbal assent triggers the effective date of the submission of the application. (Section 4014)

The Senate amendment is the same as the House bill with technical differences.

The Conference substitute adopts the Senate provision. (Section 4119)

*(18) Technical clarification regarding eligibility*

The Senate amendment amends section 6(k) to require that the Secretary establish procedures to ensure that States use consistent procedures that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings. (Section 4201)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4112)

*(19) Split issuance*

The Senate amendment amends section 7(h) to require that any method for staggering the issuance of benefits throughout a month not include splitting any household's monthly benefit into multiple issuances—unless a benefit correction is necessary. (Section 4203)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers recognize that there may be situations in which individuals that leave a group home before the end of the month will still be eligible to receive program benefits. The Managers intend that, in such a situation, the Secretary interpret the term ''benefit correction'' to allow a second issuance of program benefits in a month. (Section 4113)

*(20) Privacy protection*

The Senate amendment amends section 11(e)(8) to clarify rules pertaining to the disclosure of information obtained from applicant households. The provision bars use of this information by persons having access for any purpose other than program administration/enforcement activities, and also makes clear that applicants' information may be used to comply with requirements for certifying schoolchildren as eligible for free school meals based on their family's eligibility for food and nutrition assistance program benefits (Section 4205)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4120)

*(21) Civil rights compliance*

The Senate amendment amends section 11(c) to specify in law that administration of the program must be consistent with the rights of households under the Age Discrimination Act, section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and title VI of the Civil Rights Act. (Section 4207)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4117)

*(22) Employment and training*

The Senate amendment amends section 6(d)(4) to include—as an eligible employment and training program activity—job retention services provided (for up to 90 days after securing employment) to individuals who have received other employment/training services under the program.

The Senate amendment also modifies section 6(d)(4) to permit individuals voluntarily participating in employment and training programs to participate beyond the required maximum of 20 hours a week (or a number of hours based on their benefit divided by the minimum wage). (Section 4208)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make the changes authorized by this provision effective on October 1, 2008. (Section 4108)

*(23) Codification of access rules*

The Senate amendment amends section 11(e)(1) to clarify that States must comply with the Secretary's regulations requiring the use of appropriate bilingual personnel and materials. (Section 4209)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4118)

*(24) Expanding the use of EBT at farmers markets*

The Senate amendment requires the Secretary to make grants to carry out projects to expand the number of farmers' markets that accept Food and Nutrition program electronic benefit transfer (EBT) cards. Grants may not be made for ongoing costs and may only be provided to entities that demonstrate a plan to continue to provide EBT card access. Mandatory funding of $5 million is provided for these grants. (Section 4210)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision. Language incorporating the goals and objectives of the Senate provision appears in Section 10106 of the Horticulture and Organic Agriculture title.

*(25) Review of major changes in program design*

The House bill amends section 11(e)(6) of the FSA by specifying that only State agency Merit System employees are authorized to:

(1) represent the State in any communications with prospective food stamp applicants, food stamp applicants, or recipient households regarding their application or participation in the food stamp program;

(2) participate in making determinations regarding a household's compliance with the requirements of the FSA or its implementing regulations; or

(3) make any other determinations required under this section.

The provision specifies that non-profit agencies that assist low-income individuals and households in applying for SSNAP benefits by helping the individuals and households complete and submit applications are exempted. The non-profit exemption applies to general application assistance, which is currently allowed as a food stamp outreach activity, and specialized projects that are operating under a waiver of the FSA and its implementing regulations.

State agencies are not prohibited from contracting for automated systems or issuance services or for assistance in verifying an applicant's identity.

Funds from any appropriations act are prohibited from being used for implementing or continuing any contract that fails to meet the specifications regarding State Merit System employees.

State agencies are prohibited from using Federal funds to: (1) perform or carry out contracts that fail to comply with the specifications regarding Merit System employees; or (2) pay any cost associated with the termination, breach, or full or partial abrogation of any contact that does not comply with the specifications regarding State Merit System employees.

State agencies are prohibited from conducting projects that fail to comply with the specifications regarding State agency Merit System employees.

State agencies are prohibited from privatizing food stamp eligibility determinations via the simplified food stamp program.

The Secretary of Agriculture may authorize a State agency, on a temporary basis, to use non-Merit State employees to determine eligibility for a disaster SSNAP program.

States have 120 days to bring any activities inconsistent with this section into compliance. (Section 4015)

The Senate amendment amends section 11(a) to clarify State responsibility for program administration (including cases where the program is operated on a state or locally-administered basis) and to require that program records kept to determine whether the State is in compliance with the Act/regulations, that such records be available for review in any action filed by a household to enforce the Act/regulations, and to specify that inspection and audit requirements are subject to privacy requirements contained elsewhere in the Food and Nutrition Act.

The provision also amends section 11(a) to require the Secretary to develop standards for identifying major changes in State agency operations—such as substantial increases in reliance on automated systems, or potential increases in administrative burdens placed on applicant or recipient households. It further mandates that, if a State implements a major change in operations, it must notify the Secretary and collect any information the Secretary needs to identify and correct any adverse effects on program integrity or access. (Section 4211)

The Conference substitute adopts the Senate provision. (Section 4116)

*(26) Preservation of access and payment accuracy*

The Senate amendment amends section 16(g) of the FSA to require that computerized systems for State program operations receiving federal matching payments must (1) be tested adequately before and after implementation (including through pilot projects evaluated by the Secretary), and (2) be operated under a plan for continuous updating (to reflect changed policy and circumstances) and testing (for effects on households and payment accuracy). (Section 4212)

The House bill has no comparable provision.

The Conference substitute accepts the Senate provision. (Section 4121)

*(27) Grants for simple application and eligibility determination systems and improved access to benefits*

The House bill provides no changes to the Secretary's authority to make grants and amends section 11(t)(1) of the FSA by extending the grant program through Fiscal Year 2012.

The Senate amendment amends section 11(t) of the Food and Nutrition Act to permanently extend the authority provided under that section. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes and to link the authority for grants for simple application and eligibility determination systems and improved access to benefits to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

*(28) Civil money penalties and disqualification of retail food stores and wholesale food concern*

The House bill amends section 12 of the FSA by increasing the civil money penalties for retail stores and wholesale food concerns to $100,000 for each violation of the FSA or its regulations. The requirement that a determination as to the assessment of civil money penalties be based on whether there would be hardship for recipient households is removed.

The provision stipulates that the period of disqualification:

(1) for a first violation is not to exceed 5 years; and

(2) for a second violation is not to exceed 10 years.

The provision does not change the permanent disqualification rules, or other requirements, governing applications containing false information.

The House bill requires the Secretary, in consultation with USDA's Inspector General, to establish procedures whereby participating food concerns may be immediately suspended for ''flagrant violations,'' pending administrative and judicial appeal. Unsettled benefit claims would be subject to forfeiture—or returned to the food concern if the disqualification action is not upheld (without interest). (Section 4017)

The Senate amendment is the same as the House bill, with technical differences. It also amends section 12 to generally ease the conditions under which bonds are required of violating food concerns wishing to be re-approved for participation. The Secretary would be permitted to require bonds from food concerns disqualified for 180+ days (or subjected to a civil money penalty in lieu of a 180+ day disqualification). Bonds could be required for a period of not more than 5 years. Where a food concern has been sanctioned and commits a subsequent violation, the Secretary may require a collateral bond or irrevocable letter of credit regardless of the length of the disqualification period. (Section 4303)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 4132)

*(29) Major systems failures*

The House bill provides that no changes are made to the methods by which a State agency is authorized to collect overissuances of coupons.

The prohibition on the amount of the reduction in a household's monthly allotment that a State agency is allowed to collect in the instance where overissuance of coupons has occurred is continued.

Section 13(b) of the FSA is amended by providing the Secretary with the discretion to determine that a State agency has overissued benefits to a substantial number of households as the result of a ''major systemic error'' by the State.

A State agency is given the option to appeal the Secretary's determination. However, if the State agency fails to appeal the Secretary's determination, or, in the case of an appeal, if the State agency is held liable, the State agency is required to reimburse to the Secretary the amount for which the State agency is liable.

The Secretary is authorized to prohibit, upon making a determination that overissuances have occurred, the State agency from collecting the over-issuances from some or all of the affected households. (Section 4018)

The Senate amendment is the same as the House bill, with technical differences.

The Conference substitute adopts the House provision. The Managers have provided the Secretary with discretionary authority to determine when it is appropriate to prohibit a State agency from collecting overissuances from households that have been affected by a major system failure. In certain instances, it may be appropriate for the Secretary to allow the State to collect overissuances from households. The Managers expect that the Secretary will exercise this authority judiciously, and further expect that in circumstances where a major systems failure is attributable to a specific and deliberate action by the State, that states will not be allowed to pass along the costs associated with such systems failures to households. (Section 4133)

*(30) Funding for employment and training programs*

The House bill provides no program changes. The funding level remains the same and is extended for each of the fiscal years 2008 through 2012. (Section 4019)

The Senate amendment amends section 16(h)(1) to limit the time unspent unmatched federal funding for employment and training program expenses may remain available to 2 years (as opposed to until expended). Also rescinds unspent employment and training program funds for any fiscal year before fiscal year 2008. It also provides permanent authorization for funding of employment and training programs. (Section 4304; Section 4801)

The Conference substitute adopts the Senate provisions with amendments to allow funds to remain available for 15 months rather than two years, to strike the requirement that any unobligated employment and training funds be rescinded, and to link the authority for funding for employment and training programs to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language from subsection (b) of section 4801 of the Senate amendment is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4122)

*(31) Reductions in payments for administrative costs*

The House bill amends section 16(k) of the FSA by extending the requirement to reduce State administrative cost payments through fiscal year 2012. (Section 4020)

The Senate amendment amends section 16(k) to permanently extend the requirement to reduce State administrative cost payments. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

*(32) Performance standards for bio-metric identification technology*

The Senate amendment amends section 16 of the FSA to establish the conditions under which the Secretary may pay States the federal share (50%) of costs associated with the acquisition and use of biometric identification technology (e.g., fingerprints, retinal scans). In order to gain federal cost-sharing, States must provide a statistically valid and otherwise appropriate analysis of the cost effectiveness of using biometric identification technology to detect program fraud, demonstrate that the proposed technology is cost effective in reducing fraud and that no other fraud-detection methods are at least as cost-effective, and demonstrate that the system will comply with privacy protection rules. (Section 4302)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(33) Cash payment pilot projects*

The House bill amends section 17(b)(1)(B)(vi) of the FSA by extending the authority for cash-payment pilot projects through October 1, 2012. (Section 4021)

The Senate amendment amends section 17(b)(1)(B)(vi) by permanently extending existing authority for cash-payment pilot projects to households whose members are 65 years old or entitled to SSI benefits. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment for technical changes. The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

*(34) Findings of Congress regarding Secure Supplemental Nutrition Assistance Program education*

The House bill contains Congressional findings regarding the Food Stamp Program noting that the FSA ''plays an essential role in improving the dietary and physical activity practices of low-income Americans, [by] helping to reduce food insecurity, prevent[ing] obesity, and reduc[ing] the risks of chronic disease.''

The Secretary is encouraged to support the most effective interventions for nutrition education under the FSA, including public health approaches and traditional education, to increase the likelihood that recipients and potential recipients of benefits under the SSNAP program choose diets and physical activity practices that are consistent with the Dietary Guidelines for Americans. (Section 4022)

The Senate amendment is the same as the House bill with technical differences.

The Conference substitute deletes both the House and Senate provisions. The Managers

recognize that nutrition education plays an essential role in improving the dietary and physical activity practices of low-income individuals in the United States, helping to reduce food insecurity, prevent obesity, and reduce the risks of chronic disease. Expert organizations, such as the Institute of Medicine, indicate that dietary and physical activity behavior change is more likely to result from the combined application of public health approaches and education than from education alone.

The Managers expect that the Secretary will support and encourage implementation of the most effective methods, informed by current science, for nutrition education under the Food and Nutrition Act, including those that are consistent with recommendations and actions of expert bodies to promote healthy eating and physical activity behavior change. Funds provided under the Food and Nutrition Act should be used for activities that promote the most effective implementation of programs to increase the likelihood that recipients of, and those potentially eligible for, supplemental nutrition assistance program benefits will choose diets and physical activity practices consistent with the Dietary Guidelines for Americans. The Managers recognize that state nutrition education activities under the Food and Nutrition Act work best when coordinated with other federally funded food assistance and public health programs and when policies are implemented to leverage public/private partnerships to maximize the resources and impact of the programs.

*(35) Eligibility disqualification*

The Senate amendment amends section 6 of the FSA to disqualify (for a period determined by the Secretary) persons found by a court or administrative agency to have intentionally obtained cash by misusing program benefits to obtain money for return of deposits on containers. It also modifies section 6 to disqualify (for a period determined by the Secretary) persons found by a court or administrative agency to have intentionally sold any food that was purchased using program benefits. (Section 4305)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers do not intend for this provision to include inadvertent de minimis actions such as an individual who purchases a brownie mix with program benefits, then makes brownies and sells them at a school bake sale. (Section 4131)

*(36) Definition of staple foods*

The Senate amendment amends section 3 to (1) add dietary supplements to the list of accessory food items that are not classified as staple foods for the purpose of approving the participation of food concerns in the program, and (2) require the Secretary to issue regulations to ensure that adequate stocks of staple foods are available on a continuous basis in approved food concerns. (Section 4401)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(37) Accessory food items*

The Senate amendment amends section 9 of the FSA to require that, within 1 year of enactment, the Secretary issue proposed regulations defining dietary supplements: multivitamin-mineral supplements providing prescribed minimum amounts of essential vitamins and minerals that do not exceed prescribed daily upper limits and certain prescribed amounts of folic acid or calcium. Final regulations as to dietary supplements must be issued within 2 years of enactment. No dietary supplements may be purchased with program benefits until the earlier of (1) the date of final regulations with regard to dietary supplements, or (2) the date the Secretary certifies a voluntary system of labeling for identification of eligible dietary supplements. (Section 4402)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(38) Nutrition education and promotion initiative to address obesity*

The House bill amends section 17 of the FSA by adding a new section that authorizes the Secretary to establish a demonstration program, to be known as the ''Initiative to Address Obesity Among Low-Income Americans,'' to develop and implement strategies to reduce obesity among low-income Americans.

The Secretary is authorized to enter into competitively awarded contracts, cooperative agreements, or grants with public or private organizations or agencies.

Agencies are required to submit applications to the Secretary, and the Secretary is to evaluate demonstration proposals using a variety of criteria, including: (1) identifying a low-income target audience that corresponds to individuals living with incomes at or below 185 percent of the poverty level; (2) incorporating scientifically based strategies that are designed to improve diet quality through more healthful food purchases, preparation, or consumption; and (3) a commitment to a demonstration plan that allows for rigorous outcome evaluation, including data collection.

Projects that limit the use of SSNAP program benefits are prohibited from receiving funding. The Secretary is authorized to use funds to pay costs associated with monitoring, evaluating, and disseminating the Initiative's findings.

An appropriation of $10,000,000 is authorized for fiscal years 2008 through 2012. No new grants are to be made after September 30, 2012. (Section 4023)

The Senate amendment amends section 17 to require and fund pilot projects to develop and test methods of using the Food and Nutrition program to improve the dietary and health status of participants and to reduce overweight, obesity, and associated comorbidities. Among other initiatives, projects may include those providing increased program benefits, increased access to farmers' markets, incentives to participating vendors to increase the availability of healthy foods, adding vendor approval requirements with respect to carrying healthy foods, point-of-purchase incentives to encourage program participants to buy fruits, vegetables, and other healthy foods, and providing integrated communication and education programs (including school-based nutrition coordinators).

These pilot health and nutrition promotion projects would include independent evaluations and annual reports on their status.

Mandatory funding of $50 million is provided, and up to $25 million must be used for point-of-purchase incentive projects. (Section 4403)

The Conference substitute adopts the House provision with amendments to specify that the purpose of the section is to carry out pilot projects to develop and test methods for improving the dietary and health status of households in the Supplemental Nutrition Assistance Program, as well as to reduce obesity and other diet-related diseases in the United States; specify the types of pilot projects that the Secretary may consider; include a requirement relating to evaluations and reports of the pilot projects; specify mandatory funding amounts and require that the Secretary use not more than $20 million of that mandatory funding to carry out a point-of-purchase pilot project to encourage households to purchase fruits, vegetables, or other healthy foods. (Section 4141)

*(39) Hunger free communities*

The Senate amendment requires the Secretary to conduct and periodically update a study of major matters relating to hunger in the United States. The study would assess data on hunger and food insecurity and measures that have been carried out or could be carried out to achieve goals of reducing domestic hunger. It also would contain recommendations for removing obstacles to domestic hunger goals and otherwise reducing domestic hunger.

The Senate amendment authorizes grants to food program service providers and local nonprofit organizations (like emergency feeding organizations) for the federal share (up to 80%) of projects that assess community hunger problems and meet, or develop new resources/programs to meet, goals for achieving hunger-free communities.

The provision authorizes matching grants to emergency feeding organizations for infrastructure development.

Appropriations of $50 million a year (through fiscal year 2012) are authorized. (Section 4405)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments to strike the definition of food security; strike the study and report relating to hunger; specify that not more than 50 percent of the funds made available under this section be used for the federal share of collaborative grants; strike requirements relating to the contents of collaborative grants and priority for eligible entities that meet certain criteria; and to make other technical changes. (Section 4405)

*(40) State performance on enrolling children receiving program benefits for free school meals*

The Senate amendment requires the Secretary to submit annual reports that assess the effectiveness and practices of each State in enrolling school-aged children in households receiving food stamp benefits for free school meals using ''direct certification'' (a current-law procedure allowing children in families receiving program benefits to be deemed automatically eligible for free school meals). (Section 4406)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add the House Committee on Education and Labor to the list of recipients of the reports produced by the Secretary in accordance with this section. The Managers recognize the time and data constraints for developing the report scheduled to be provided on or before December 31, 2008, and expect that this report will include as much data as possible given such constraints. (Section 4301)

*(41) Authorization of appropriations*

The House bill amends section 18(a)(1) of the FSA by reauthorizing appropriations to carry out that Act through 2012. (Section 4024)

The Senate amendment amends section 18(a)(1) of the Food and Nutrition Act by permanently reauthorizing appropriations to carry out the Act. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes and to extend authority for appropriations to carry out the Supplemental Nutrition Assistance Program

(SNAP) through fiscal year 2012. The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

*(42) Consolidated block grants for Puerto Rico and American Samoa*

The House bill amends section 19(a)(2)(A) of the FSA by extending to 2012 the Secretary's authority to provide funds to Puerto Rico and American Samoa to administer their nutrition assistance programs. (Section 4025)

The Senate amendment amends section 19(a)(2)(A)(ii) of the Food and Nutrition Act by permanently extending the Secretary's authority to provide funds to Puerto Rico and American Samoa to administer their nutrition assistance programs. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes and to link the authority for consolidated block grants for Puerto Rico and American Samoa to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

*(43) Study on comparable access to nutrition assistance program benefits for Puerto Rico*

The House bill amends section 19 of the FSA by authorizing the Secretary to conduct a study on the feasibility of including Commonwealth of Puerto Rico in the SSNAP program, in lieu of providing Puerto Rico with a block grant.

The study is to include, among other findings: (a) an assessment of the administrative, financial, and other changes that would be required for Puerto Rico to establish a comparable SSNAP program; (b) a discussion of the appropriate program rules under other sections of the FSA, such as benefit levels, income eligibility standards, and deduction levels for Puerto Rico to establish a comparable SSNAP program; (c) an estimate of the impact on Federal and Commonwealth benefit and administrative costs; and (d) an estimate on the impact of the SSNAP program on hunger and food insecurity among low-income Puerto Ricans. (Section 4026)

The Senate amendment is the same as the House bill (with technical differences), but provides mandatory funding of $1 million to conduct the study. (Section 4206)

The Conference substitute adopts the Senate provision. (Section 4142)

*(44) Reauthorization of community food project competitive grants*

The House bill continues the Secretary's authority to make grants. Section 25 of the FSA is amended by authorizing an appropriation of $30,000,000 a year through fiscal year 2012 for community food projects. The eligibility requirements remain unchanged.

Section 25 of the FSA is amended by expanding the list of preferences for selecting community food projects to include projects that are designed to serve special needs in the areas of: (1) emergency food service infrastructure; (2) retail access to underserved markets; (3) integration of urban and metro-area food production in food projects; and (4) technical assistance for youth, socially disadvantaged individuals, and limited resource groups.

The Federal share of the cost of establishing or carrying out a community food project is not to exceed 75 percent of the cost of the project during the time of the grant.

The maximum term of a grant is increased to 5 years.

No changes are made to the Secretary's authority.

The Secretary is required to allocate, for each of the fiscal years 2008 through 2012, out of the funds made available to carry out community food projects, $500,000 for the project to address common community problems.

The Senate amendment amends section 25 of the Food and Nutrition Act to provide $10 million a year in mandatory funding for community food projects, through fiscal year 2012.

The Conference substitute adopts the Senate provision with amendments to authorize the establishment of and provide a grant to the Healthy Food Urban Enterprise Development Center; to provide authority for the Center to provide subgrants to eligible entities for the purpose of carrying out feasibility studies, as well as to establish and facilitate enterprises that process, distribute, aggregate, store, and market healthy affordable foods; to provide mandatory funding of $1,000,000 a year for fiscal years 2009 through 2011 for the Center, and to incorporate these changes into section 4402. The Senate provision providing mandatory funding of $5 million a year for the Community Food Projects competitive grants appears in section 4406. (Section 4402; Section 4406)

*(45) Emergency Food Assistance Program*

The House bill amends section 27 of the FSA by increasing the Emergency Food Assistance Program (TEFAP) commodity purchase requirement. In fiscal year 2008, the Secretary is authorized to purchase a total of $250,000,000 in commodities; for fiscal years 2009 through 2012, the dollar amount is to be indexed annually for food-price inflation. (Section 4028)

The Senate amendment is substantially similar to the House bill with technical differences and without the requirement to index the base amount of $250 million per year. (Section 4110)

The Conference substitute adopts the Senate provision with amendments to increase mandatory funding to $190,000,000 in fiscal year 2008, $250,000,000 in fiscal year 2009 and subsequently indexed for food-price inflation during fiscal years 2010 through 2012. (Section 4201)

*(46) Authorization of appropriations*

The House bill amends section 204(a) of the Emergency Assistance Food Act of 1983 by increasing the authorization of appropriations to $100,000,000 a year, through fiscal year 2012. (Section 4201)

The Senate amendment amends section 204(a) of the Emergency Food Assistance Act by permanently increasing the authorization of appropriations to $100 million a year. It also requires that State TEFAP agencies submit operation and administrative plans every 3 years (as opposed to every 4 years under current law) and makes clear that funds may be applied to the cost of administering wild game donations. (Section 4802, 4601)

The Conference substitute adopts the Senate provisions with amendments to specify that amendments to State operation and administrative plans may be submitted as necessary; and to combine sections 4802 and 4601 into a single section. (Section 4201)

*(47) Distribution of commodities special nutrition projects*

The House bill provides that no changes are made to the mandate encouraging reprocessing agreements, with respect to surplus commodities.

Section 1114(a)(2)(A) of the Agriculture and Food Act (AFA) is amended by extending, through fiscal year 2012, the requirement for the Secretary to encourage reprocessing agreements. (Section 4202)

The Senate amendment is the same as House bill with technical differences. (Section 4802)

The Conference substitute adopts the Senate provision with an amendment for technical changes. The language for this provision is incorporated into a single section reauthorizing the Supplemental Nutrition Assistance Program and other domestic nutrition assistance programs. (Section 4406)

*(48) Commodity distribution program*

The House bill amends section 4(a) of the Agriculture and Consumer Protection Act of 1973 (ACPA) by extending the Secretary's authority through fiscal year 2012.

Section 5 of the ACPA is amended by extending through fiscal year 2012 the ACPA requirement concerning inflation-indexed caseload slot grants.

Section 5(d)(2) of the ACPA is amended by extending the requirement that the Commodity Credit Corporation (CCC) furnish cheese and nonfat dry milk for the Community Supplemental Food Program (CSFP) through fiscal year 2012.

Section 5(g) of the ACPA is amended by mandating that local agencies are to use funds made available under the CSFP to provide assistance to low-income elderly individuals, women, infants, and children in need for food assistance in accordance with any regulations the Secretary may prescribe. Conforming amendments are made stipulating that CSFP benefits are available to low-income elderly individuals.

Section 5 of the ACPA is further amended by requiring the Secretary to establish maximum income eligibility standards for the CSFP that are the same for all applicants. The standards are not to exceed the maximum income limits established for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)—i.e., 185 percent of the federal poverty income guidelines. (Section 4203)

The Senate amendment amends section 4(a) of the ACPA by permanently extending the Secretary's authority to purchase and distribute agricultural commodities for food assistance programs (including the Commodity Supplemental Food Program).

The Senate amendment permanently extends the ACPA requirement in section 5 for inflation-indexed caseload slot grants, and permits State to serve low-income elderly persons with income up to 185% of the federal poverty income guidelines, if the Secretary determines that annual appropriations have enabled every State seeking to participate in the CSFP to participate.

Section 4602 bars the Secretary from requiring any State or local CSFP program to prioritize assistance to a particular group of individuals that are low-income elderly persons or women, infants, and children. (Section 4802, 4602)

The Conference substitute adopts the Senate provisions with amendments to make technical changes to incorporate the reauthorization of the Commodity Supplemental Food Program into Section 4406; incorporate language relating to the prohibition on requiring State or local agencies to prioritize assistance to certain groups of individuals into section 4221. (Section 4406; Section 4221)

The Managers recognize the importance of the Commodity Supplemental Food Program (CSFP) as a critical nutrition program that serves primarily the vulnerable population of low-income elderly Americans. CSFP provides nutritious food, often in the form of food boxes for home delivery, that are designed to meet the dietary needs of seniors, women, and children in 32 states, two Indian tribal organizations, and the District of Columbia. In fiscal year 2007, 93 percent of the recipients were elderly individuals with an annual income at or below $13,273. CSFP serves a unique niche by providing nutritious commodities to homebound seniors who are at severe risk for hunger.

The Managers fully support the continued operation of this program and recognize the need for a substantial expansion of the CSFP. The Managers note that there are five states that have currently been approved by USDA for entry into CSFP (Arkansas, Delaware, Oklahoma, New Jersey and Utah) subject to the availability of appropriations. Provided that sufficient funds are appropriated by Congress, the Managers encourage the Secretary to approve all remaining states for expansion and to expand caseload in all participating states.

*(49) Periodic surveys of foods purchased by school food authorities*

The Senate amendment amends section 6 of the Richard B. Russell National School Lunch Act to require periodic nationally representative surveys of food purchased by schools participating in the school lunch program. It also provides funding of $3 million for each survey. (Section 4901)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide one-time funding of $3,000,000 to carry out the section. (Section 4307)

*(50) Healthy Food Education and Program replicability*

The Senate amendment amends section 18(i) to provide that sponsored projects may promote healthy food education and that the Secretary must give priority to projects that can be replicated in schools. It also authorizes a new pilot project (at $10 million) in not more than 5 States under which grants are made to ''high-poverty'' schools for initiatives with hands-on gardening. No cost-sharing is required. (Section 4903)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the authorization of appropriations to carry out the provision. (Section 4303)

*(51) Purchase of fresh fruits and vegetables for distribution to schools and service institutions*

The House bill amends section 10603 of the Farm Security and Rural Investment Act of 2002 (FSRIA) by increasing the dollar amount of fresh fruits, vegetables and other specialty foods the Secretary must procure for schools and service institutions participating in programs under the National School Lunch Act to at least $50,000,000 a year for each of the fiscal years 2008 and 2009 and $75,000,000 a year for each of the fiscal years 2010 through 2012. As under current law, these amounts may be spent through the Department of Defense (DoD) Fresh Program. (Section 4301)

The Senate amendment provides that, in lieu of purchases required under Sec. 10603, the Secretary purchase fruits, vegetables, and nuts for use in domestic food assistance programs using Section 32 funds.

Purchase amounts are set at: $390 million for fiscal year 2008, $393 million for fiscal year 2009, $399 million for fiscal year 2010, $403 million for fiscal year 2011, and $406 million for fiscal year 2012 and each year thereafter.

Items purchased may be in frozen, canned, dried, or fresh form.

The Senate amendment also allows the Secretary to offer value-added products containing fruits, vegetables or nuts after taking into consideration whether demand exists for the value-added product and the interest of entities that receive fruits, vegetables and nuts under this program. (Section 4907)

The Conference substitute adopts the House language with an amendment to retain the current $50 million a year requirement to acquire fresh fruits and vegetables for distribution in accordance with section 6(a) of the Richard B. Russell National School Lunch Act. The Managers expect the purchases of fresh fruits and vegetables previously made through the Department of Defense Fresh Program will continue under an equivalent procurement mechanism. (Section 4404)

*(52) Buy America requirements*

The House bill includes Congressional findings that: (1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin; (2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers; and (3) the School Lunch Act requires the use of domestic food products for all meals served under the program, including food products purchased with local funds. (Section 4302)

The Senate amendment is the same as the House bill, with technical differences. (Section 4906).

The Conference substitute adopts the House provision. (Section 4306)

*(53) Expansion of Fresh Fruit and Vegetable Program*

The House bill amends section 18(f) of the Richard B. Russell National School Lunch Act (NSLA) by expanding the fresh fruit and vegetable program in elementary and secondary schools. Mandatory funding is increased from $9,000,000 to $70,000,000 a year, and the program is to be available nationwide in: (A) 35 elementary and secondary schools in each State; and (B) additional elementary and secondary schools in each State in proportion to the student population of the State.

The Senate amendment replaces the current fresh fruit and vegetable program, beginning with the 2008–2009 school year. The new program would provide mandatory funding ($225 million in the first year, indexed for inflation in later years) and authorize additional appropriations for a program to make free fresh fruits and vegetables available in participating elementary schools nationwide.

Participating elementary schools would be selected by States with priority generally given to schools with the highest proportion of children eligible for free or reduced-price school meals, those that partner with entities that provide non-federal resources, and those that evidence efforts to integrate the program with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity.

Funding would be allocated among States under a formula distributing roughly half of the funds equally among States and apportioning the remainder based on State population. At least 100 schools chosen to participate must be operated on Indian reservations. Per-student grants would be determined by the State but could not be less than $50, or more than $75, annually.

An evaluation is required and provided funding of $3 million to remain available until expended.

The Senate amendment changes the final report's due date to December 31, 2012.

The Secretary is authorized, in selecting schools to participate in the program, to encourage plans for implementation that include locally grown foods.

The Secretary is required to establish requirements to be followed by States in administering the Fresh Fruit and Vegetable Program—the initial set of requirements must be established not later than 1 year after the enactment.

The Secretary is allowed to reserve up to 1% of program funding for administrative expenses related to the program. States may use up to 5% of program funding for administrative expenses. (Section 4904)

The Conference substitute adopts the Senate provision with several amendments. The substitute deletes Senate language allowing a consortia of schools to apply for funding. The substitute includes a new requirement that state agencies administering the program initiate special outreach to schools with significant numbers of children eligible for free or reduced price meals informing them of their eligibility for the program. The substitute includes a new provision to ensure that states currently receiving funding under the program do not see a reduction in their funding as the program is phased in over time. The substitute includes an amendment which allows states to reserve funding for program administration, in accordance with regulations promulgated by the Secretary. And the substitute includes several provisions intended to aid the Secretary as the program transitions from the existing requirements of section 18(f) to the new requirements established by this section. Mandatory funding is provided through section 32 of the Act of August 24, 1935 in the amounts of $40,000,000 on October 1, 2008; $65,000,000 on July 1, 2009; $101,000,000 on July 1, 2010; $150,000,000 on July 1, 2011; $150,000,000 indexed for inflation according to the CPI–U on July 1, 2012. (Section 4304)

It is the intent of the Managers to specifically target available program funding to schools with the highest proportion of children who are eligible for free and reduced price meals, in accordance with (d)(1)(B). Accordingly, the Managers expect that, provided the rest of a school's application is acceptable, that a school with a higher proportion of children eligible for free and reduced-price meals will be selected to participate rather than a school with a lower proportion of children eligible for free and reduced-price meals.

As the name of the program makes clear, it is the intent of the program to provide children with free fresh fruits and vegetables. It is not the intent of the Managers to allow this program to provide other products, such as nuts, either on their own or comingled with other foods, such as in a trail mix. The Managers support the inclusion of all fruits and vegetables in the federal nutrition programs where supported by science and will continue to work with the Department on promoting access to all fruits and vegetables.

*(54) Purchases of locally produced foods*

The House bill amends section 9(j) of the NSLA by authorizing the Secretary to:

(1) encourage institutions that receive funds under the NSLA and the Child Nutrition Act (CNA) to purchase, to the maximum extent practicable and appropriate, locally-produced foods;

(2) advise institutions about the policy related to purchasing locally-produced foods and post information related to this policy on the website maintained by the Secretary; and

(3) allow institutions receiving funds under the NSLA and the CNA, including the DoD Fruit and Vegetable Program, to use geographic preference in their procurement of locally-produced foods. (Section 4304)

The Senate amendment is the same as the House bill, except that Senate amendment pertains to locally produced fruits and vegetables. (Section 4902)

The Conference substitute adopts the House provision with an amendment to specify that the Department of Agriculture is required to allow institutions to use a geographic preference for the procurement of unprocessed, locally grown and raised agricultural products. (Section 4302)

The Managers do not intend that the Food and Nutrition Service interpret the term ''unprocessed'' literally, but rather intend that it be logically implemented. In specifying the term ''unprocessed,'' the Managers' use of the term intends to preclude the use of geographic preference for agricultural products that have significant value added components. The Managers do not intend to preclude de minimis handling and preparation such as may be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton.

*(55) Seniors Farmers—Market Nutrition Program*

The House bill amends section 4402 of FSRIA by: (1) extending mandatory funding of $15,000,000 for the Senior Farmers' Market Nutrition Program through fiscal year 2012; and (2) authorizing additional appropriations of $20,000,000 for fiscal year 2008, $30,000,000 for fiscal year 2009, $45,000,000 for fiscal year 2010, $60,000,000 for fiscal year 2011, and $75,000,000 for fiscal year 2012.

Honey is added to the list of items to be covered by program vouchers.

The value of benefits provided to eligible Senior Farmers' Market Nutrition Program recipients is prohibited from being considered income or resources for any purposes under any Federal, State or local law. State and local governments are also prohibited from collecting taxes on food purchased with vouchers distributed under the program. (Section 4401)

The Senate amendment amends section 4402 by permanently extending mandatory funding for the senior farmers' market nutrition program (at $15 million a year). It also mandates additional funding of $10 million a year.

Provisions regarding the treatment of senior farmers' market nutrition program benefits are the same as in the House bill. (Section (4701, 4702)

The Conference substitute adopts the House provision with an amendment to strike the authorization of additional appropriations to carry out the program, and to make other technical changes. The Senate provision requiring additional mandatory funds is adopted and appears in section 4405 with an amendment to increase current mandatory funding to $20,600,000 a year. (Section 4231)

*(56) Congressional Hunger Center*

The House bill amends section 4404 of FSRIA with provisions similar to those contained in current law. Provisions in this section differ from those in current law by authorizing annual appropriations of $3,000,000 a year, through fiscal year 2012, and by specifically naming the Congressional Hunger Center as the administering entity for Emerson and Leland fellowships. (Section 4402)

The Senate amendment is the same as the House bill, with technical differences and requires: (1) issuance of a grant from USDA to the Congressional Hunger Center to administer the program (as opposed to a contract in the House bill); and (2) an appropriations authorization set at ''such sums as are necessary.'' (Section 4404)

The Conference substitute adopts the Senate provision with an amendment to strike language pertaining to congressional findings, and make other technical changes. (Section 4401)

*(57) Joint Nutrition Monitoring*

The House bill amends Subtitle D of Title IV of FSRIA by authorizing the Secretary of Agriculture, along with the Secretary of Health and Human Services, to continue to provide jointly for national nutrition monitoring and related research activities.

Among other duties, the two Secretaries are required to: (a) collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample; (b) periodically collect data on special at-risk populations as identified by the Secretaries; (c) distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion; (d) analyze new data that becomes available; (e) continuously update food composition tables; and (f) research and develop data collection methods and standards. (Section 4403)

The Senate amendment is the same as the House bill, with technical differences. Freestanding provision. (Section 7501)

The Conference substitute adopts the House provision with a technical amendment to structure the language as a freestanding provision. (Section 4403)

*(58) Team Nutrition Network*

The Senate amendment provides mandatory funding for Team Nutrition Network activities—$3 million a year through fiscal year 2012. (Section 4905)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(59) Agricultural policy and public health*

The Senate amendment requires the Government Accountability Office (GAO) to assess whether the agricultural policies of the U.S. have an impact on health, nutrition, overweight and obesity, and diet-related chronic disease. (Section 4908)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(60) Sense of the Congress*

The House bill expresses the sense of Congress that food items provided pursuant to the Federal School Meal Program should be selected so as to reduce the incidence of juvenile diabetes and to maximize nutritional value. (Section 4404)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(61) Grain Pilot Program*

The Senate amendment amends the Richard B. Russell National School Lunch Act to establish a pilot project to provide grain products in selected elementary and secondary schools. Funding of $4 million is provided—to be supplied from funds available for the senior farmers' market nutrition program and community food projects. (Section 4912)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments to purchase whole grain products for distribution in the school lunch and breakfast programs; provide an evaluation of the pilot program; and to require that funding to carry out this program be utilized from funds made available under Section 32 of the Act of August 24, 1935. (Section 4305)

*(62) Report on Federal hunger programs*

The Senate amendment requires the Government Accountability Office (GAO) to submit a report that surveys all federal programs that seek to alleviate hunger or food insecurity or improve nutritional intake. (Section 4913)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(63) Food Employment Empowerment and Development Program*

The Senate amendment authorizes a ''food employment empowerment and development'' program under which grants would be made to encourage the effective use of community resources to combat hunger and the causes of hunger through food recovery and job training initiatives. (Section 4914)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision. The Managers note that the activities authorized under the Senate provision are eligible for funding under the Community Food Projects (CFP) competitive grants program, and encourage organizations seeking federal assistance to carry out such activities to submit an application for funding through CFP.

The Managers recognize the Community Food Projects (CFP) program is designed to provide one-time grant funding for projects that meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and plan for long-term solutions to address such needs. The Managers acknowledge that the Food Employment Empowerment and Development (FEED) Program meets the requisite eligibility standards for funding under the CFP program. The goal of the FEED Program is to encourage the effective use of community resources to combat hunger and the root causes of hunger by creating opportunity through food recovery and job training. In general, eligible participants of the FEED Program, such as school based programs, will focus their efforts in the following areas:

(1) Recovery of donated food from area restaurants, caterers, hotels, cafeterias, farms, or other food service businesses and distribution of meals or recovered food to nonprofit organizations.

(2) Training of unemployed and underemployed adults for careers in the food service industry.

(3) Carrying out of a welfare-to-work job training.

The Managers expect USDA to give full consideration to CFP grant applications that meet the goals of the FEED program.

*(64) Infrastructure and transportation grants to support rural food bank delivery of perishable foods*

The Senate amendment authorizes competitive grants—totaling $10 million a year through fiscal year 2012—to expand the capacity and infrastructure of food banks to improve their ability to handle ''time-sensitive'' (perishable) food products, to improve identification of potential providers of donated food, and to support the procurement of locally-produced food from small and family farms and ranches. (Section 4915)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments to structure the provision as an amendment to the Emergency Food Assistance Act of 1983; provide a requirement that the Secretary use not less than 50 percent of grant funds for rural areas; specify authorized levels of appropriations; and to make other technical changes. (Section 4202)

*(65) Reauthorization and application*

The House bill extends the various expiring authorities through fiscal year 2012 in sections 4016, 4019, 4020, 4021, 4024, 4025, 4027, 4028, 4201, 4202, and 4203 of this Act, except for the authorization of appropriations for the nutrition information and awareness program established by Section 4403 of FSRIA. (Section 4016, 4019, 4020, 4021, 4024, 4025, 4027, 4028, 4201, 4202 and 4203)

The Senate amendment extends most expiring authorities indefinitely. Community food projects, authority in section 1114(a)(2) of the AFA, and the nutrition information and awareness program are extended through FY2012.

The Senate amendment also stipulates that, except as otherwise provided, the amendments made in the Nutrition title take effect April 1, 2008. It also provides that States may implement amendments made in Sections 4101 through 4110 beginning on a date determined by the State during the period between April 1 and October 1, 2008. States are given the option to implement amendments made by sections 4103 and 4104 for a certification period that begins not earlier than an implementation date between April 1 and October 1, 2008 (as determined by the State).

This section provides that the amendments made in sections 4101–4104, 4107–4109, 4110(a)(2), 4208, 4701(a)(3), 4801(g), and 4903 terminate September 30, 2012. (Section 4801, 4802, 4803, 4910, 4911)

The Conference substitute adopts the Senate provision with amendments for technical changes, to extend various expiring authorities through fiscal year 2012, and to link various expiring authorities to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

*(66) Study on purchases of food with program benefits*

The Senate amendment requires GAO to conduct a study of the effects of a rule requiring that food stamp benefits only be used to purchase food included in the most recent thrifty food plan market basket. (Section 4202)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE V—CREDIT

*(1) Farming experience*

The Senate amendment amends section 302(a)(2) of the Consolidated Farm and Rural Development Act (Con Act) by clarifying that the Secretary may take into consideration all farming experience of a loan applicant when considering eligibility for farm ownership loans. (Section 5001)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 5001)

*(2) Refinancing of guaranteed farm ownership loans for beginning farmers or ranchers*

The Senate amendment amends Section 303 of the Con Act by allowing beginning farmers or ranchers to refinance a delinquent guaranteed farm ownership loan with a direct farm ownership loan. (Section 5002)

The House bill as no comparable provision.

The Conference substitute deletes the Senate provision.

*(3) Conservation loan guarantee program*

The House bill amends section 304 of the Con Act by creating a conservation loan guarantee program. The Secretary is authorized to provide loan guarantees and interest subsidies, or both, to farmers, ranchers, and other entities that are controlled by farmers and ranchers and primarily and directly engaged in agricultural production to carry out qualified conservation projects.

The Secretary is required to give priority to: qualified beginning farmers or ranchers; socially disadvantaged farmers or ranchers; owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and producers who use the loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985.

The term ''qualified conservation loan'' is defined as a loan in which: the proceeds are used to cover the costs of the borrower in carrying out a qualified conservation project; the principal amount of the loan is not more than $1 million; the loan repayment period is 10 years; and the total amount of all processing fees does not exceed an amount to be prescribed by the Secretary.

The term ''qualified conservation project'' is defined as conservation measures that address provisions of the borrower's conservation plan.

The term ''conservation plan'' is defined as a plan, approved by the Secretary, that for a farming or ranching operation, identifies the conservation activities that will be addressed with the conservation loan, including the installation of conservation structures; the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes; the installation of water conservation measures; the installation of waste management systems; and the establishment of improvement or permanent pasture; compliance with section 1212 of the Food Security Act of 1985; and any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

The amount of the interest subsidies the Secretary may provide is limited to 500 basis points, if the principal amount of the loan is less than $100,000; 400 basis points, if the principal amount of the loan is not less than $100,000 and is less than $500,000; and 300 basis points in all other cases.

The Secretary is prohibited from approving any application for the program unless the Secretary determines that the loan sought by the applicant, as described in the application, would be a qualified conservation loan, and the project for which the loan is sought is likely to result in a net benefit to the environment.

Necessary appropriations are authorized for each of the fiscal years 2008 through 2012. (Section 5001)

The Senate amendment amends section 304 of the Con Act. The transition to organic and sustainable farming practices is to be an eligible loan purpose. The implementation of one or more practices under the Environmental Quality Incentives Program is also to be an eligible loan purpose.

Beginning farmers or ranchers and socially disadvantaged farmers or ranchers are to be given priority in this program.

The loan restriction of $50,000 is eliminated. (Section 5003)

The Managers agreed to include the House provision in the Conference substitute, with an amendment. The amendment establishes a conservation loan and loan guarantee program where eligible borrowers may get a loan or loan guarantee to carry out qualified conservation projects. The Secretary shall guarantee 75 percent of the principle loan amount guaranteed under this program. It is the intent of the Managers that the loan program established in the section should complement financial assistance offered in the conservation title of this Act. In addition to the priorities established under the program, the Secretary shall give strong consideration to loan applicants who are waiting funding under conservation programs authorized and established under title XII of the Food Security Act of 1985. (Section 5002)

Qualified conservation projects eligible to receive funding under this program must have a conservation plan that identifies the conservation activities that will be addressed by a loan made under this program. It is the Manager's view that conservation structures that address soil, water and related resources include sod waterways, permanently vegetated stream boarders and filter strips, wind breaks, shelterbelts, living snow fences, and other vegetative practices.

It is also the Managers intent that the Farm Service Agency operating loan limitations established in section 312 of the Con Act are to apply to a loan or loan guaranteed under this program.

*(4) Limitations on amount of ownership loans*

The House bill amends section 305(a)(2) of the Con Act by setting the farm ownership loan limit at $300,000.

The Secretary is required to establish a plan, in coordination with the activities under section 359, 360, 361, and 362 of the Con Act, to encourage borrowers to graduate to private commercial or other sources of credit. (Section 5002)

The Senate amendment is the same as the House bill but has no comparable provisions requiring the Secretary to establish graduation criteria. (Section 5004)

The Conference substitute adopts the Senate provision. (Section 5003)

*(5) Down payment loan program*

The House bill amends section 310E of the Con Act by: including socially disadvantaged farmers or ranchers in the down payment loan program; setting the Farm Services Administration (FSA) portion of the loan at 45 percent; fixing the interest rate for the program at 4 percent below the regular direct farm ownership interest rate or 1 percent, whichever is greater; setting the duration of the loan at 20 years; requiring a borrower down payment of 5 percent; and setting the maximum price for the farm or ranch at $500,000.

The Secretary is authorized to establish annual performance goals to promote the use of the down payment loan program and other joint financing participation loans as the preferred choice for direct real estate loans made by lenders to qualified beginning farmers or ranchers or socially disadvantaged farmers or ranchers. (Section 5003)

The Senate amendment amends section 310E of the Con Act by: allowing socially disadvantaged farmers or ranchers to be eligible for the down payment loan program; setting the FSA portion of the loan at 45 percent; and adjusting the interest rate for the down payment loan to the greater of 4 percent below the interest rate for the regular farm ownership loan or 2 percent.

The duration of the loan, the borrower payment, and the maximum price are the same as the House bill.

The Secretary is required to establish annual performance goals to promote the use of the down payment loan program and joint financing arrangements. (Section 5004)

The Conference substitute adopts the House provision with an amendment to adjust the interest rate to 4 percent below the regular direct farm ownership interest rate or 1.5 percent, whichever is greater. (Section 5004)

*(6) Beginning farmer and rancher contract land sales program*

The House bill amends section 310F of the Con Act by: expanding the beginning farmer and rancher contract land sales program to include socially disadvantaged farmers or ranchers; making the program permanent and expanding it nationwide; requiring program participants to provide a down payment of 5 percent of the purchase price of the farm or ranch; setting the maximum purchase price for the farm or ranch that is the subject of the contract land sale at $500,000;

and setting the loan guarantee period, for a loan provided under this program, at 10 years.

The land seller is given the option of choosing either a prompt payment guarantee or a standard guarantee. A prompt payment guarantee consists or either three amortized annual installments or an amount equal to three annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments. A standard guarantee plan covers an amount equal to 90 percent of the outstanding principal of the loan. (Section 5004)

The Senate amendment is the same as the House bill except socially disadvantaged farmers or ranchers are not added as eligible participants. In addition, the Senate amendment does have a standard guarantee plan. (Section 5006)

The Conference substitute adopts the House provision with amendment. The amendment clarifies that in order for a private seller to use the standard guarantee plan they must obtain a servicing agent who will be responsible for servicing activities associated with the contract land sale. Further, the amendment allows the Secretary to phase-in use of the standard guaranteed option. (Section 5005)

*(7) Loans to purchase highly fractioned lands*

The House bill amends section 1 of Public Law 91–229 (25 U.S.C. 488) by giving the Secretary of Agriculture the discretionary authority to make and insure loans, as provided in section 309 of the Con Act, to eligible purchasers of highly fractioned lands, pursuant to section 204(c) of the Indian Land Consolidation Act. (Section 5005)

The Senate amendment is the same as the House except it amends section 205(c) of the Indian Land Consolidation Act. (Section 5401)

The Conference substitute adopts the Senate provision. (Section 5501)

*(8) Farming experience; direct operating loan term limitations*

The Senate amendment amends section 311(a) of the Con Act by clarifying that the Secretary may take into consideration all farming experience of a loan applicant when considering eligibility for farm operating loans. The period that a participant is eligible for direct operating loan assistance is extended by 1 year. (Section 5105)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to delete the provision that extends the period of time a borrower is eligible for direct farm operating loan assistance. (Section 5101)

*(9) Limitations on amount of operating loans*

The House bill amends section 313(a)(1) of the Con Act by limiting the amount of an operating loan other than one guaranteed by the Secretary to $300,000. (Section 5012)

The Senate amendment includes the same provision as the House bill. (Section 5102)

The Conference substitute adopts the House provision. (Section 5102)

*(10) Suspension of limitation on period for which borrowers are eligible for guaranteed assistance*

The House bill amends section 5102 of the Farm Security and Rural Investment Act of 2002 (FSRIA) by suspending, until January 1, 2008, a limitation placed on the number of years that borrowers are eligible to receive guaranteed assistance on operating loans. (Section 5012)

The Senate amendment repeals section 319 of the Con Act. This section provides a limitation on the number of years a borrower is eligible to receive guaranteed assistance on operating loans. (Section 5103)

The Conference substitute adopts the Senate provision with amendment. The amendment extends the waiver on guaranteed operating loan term limits through December 31, 2010. (Section 5103)

*(11) Beginning farmer and rancher individual development accounts*

The Senate amendment amends the Con Act by adding after section that establishes the New Farmer Individual Development Account Pilot Program (IDA). Its purpose is to match the savings of beginning farmers or ranchers to help them establish a pattern of savings and build assets which will help their long term farm viability.

The terms demonstration program, eligible participant, individual development account, qualified entity are defined. Subsection (a) creates definitions that will be used throughout this section.

The Secretary is authorized to establish a pilot program to be administered by the FSA (FSA) in at least 15 states. Each qualified entity that receives a grant under the pilot program must provide a 25 percent non-Federal match of the grant awarded. An eligible participant will enter into a contract with a qualified entity that requires: a monthly deposit into a personal savings by the eligible participant; an agreement on the eligible expenditure for which the savings will be used when the contract is completed; and an agreed upon a match of not more than 3 to 1 for every dollar for saved by the eligible participant provided by the eligible entity. An eligible participant cannot receive more than $9,000 in matching funds for each fiscal year of the contract.

The Senate amendment establishes an application process in which eligible entities receive a grant to administer the IDA program. When considering applications for the program, the Secretary is to give a preference to qualified entities that have a track record of serving eligible participants and expertise in dealing with financial management aspects of farming. The maximum grant a qualified entity may receive is $300,000 to carry out the IDA program.

Qualified entities that receive a grant must submit, to the Secretary, an annual report that includes the following: an evaluation of the demonstration project's progress; the amounts in the reserve fund; the amounts deposited in each IDA; the amounts withdrawn from the IDA and the purpose for which the money was withdrawn; and information about the demonstration program and participants.

The Secretary is authorized to promulgate regulations that ensure the termination of pilot program and control of the reserve fund in case of early termination of a demonstration program.

An appropriation of $10,000,000 is authorized for each fiscal year 2008 through 2012. The Secretary is prohibited from using more than 10 percent of the funds made available to administer the program and provide technical assistance to qualified entities. (Section 5201)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate provision with amendment.

The amendment increases the non-Federal match of the grant amount from 25 percent to 50 percent. Federal grant money used for administrative costs is limited to 10 percent. The amendment caps the savings match a qualified entity may provide under the program at not more than 200 percent of the participant's savings. Furthermore, the amendment reduces the maximum federal grant amount to $250,000. (Section 5301)

The Managers are aware that farmers over the age of 65 outnumber those below the age of 35 by more than 2 to 1. Access to credit and land are two of the largest problems facing beginning farmers or ranchers today. The increased cost of farmland, equipment, and other farm inputs have created a significant barrier to farm entry. To ensure the future viability of U.S. farming, the Managers are aware of the need to develop public polices that address the unique challenges beginning farmers and ranchers face. The New Farmer Individual Development Accounts Pilot Program (IDA) is designed to help those with modest means save build assets and enter the financial mainstream. This pilot program would assist beginning farmers or ranchers by using matched savings accounts, the proceeds of which may be used toward capital expenditures for a farm or ranch operation, including expenses associated with the purchase of farmland, buildings, equipment, livestock, infrastructure, or the acquisition of training. The Managers intend that the IDA established by a qualified entity for an eligible participant will be separate from the personal savings of the eligible participant. The IDA account and funding shall be controlled by the qualified entity. Upon completion of an IDA contract by an eligible participant, the qualified entity shall supply funds from the IDA account directly toward the eligible purchase on behalf of the eligible participant.

It is the Managers' intent that eligible participants must also complete financial training established by the qualified entity establishing the IDA for the participant. Such training may involve education and technical assistance related to budgeting, business planning, recordkeeping, banking, farm credit management, cash flow management, market development, equity investment, land access and land tenure options, and other similar financial training needs. It is the intent of the Managers that eligible entities may create their own financial management training programs or utilize curricula and training events of other organizations, businesses, and institutions. The Managers encourage FSA to coordinate with eligible entities who may want to make use of the borrower financial and farm management training programs established under Section 359 of the Con Act as part of their financial management training offering. The Managers believe when considering applications to carry out eligible demonstrations the term ''new farming opportunities'' used in the application criteria means either starting a farm or converting to other production.

*(12) Inventory sales preferences*

The House bill amends section 335(c) of the Con Act by restoring the first priority given to socially disadvantaged farmers or ranchers whenever the Secretary sells or leases property. The Secretary is required to ensure that socially disadvantaged farmers or ranchers are included in the process whenever property is sold or leased. (Section 5021)

The Senate amendment amends section 335(c) of the Con Act by making socially disadvantaged farmers or ranchers eligible for inventory property in the first 135 days the Secretary is able to sell the inventory property. If one or more eligible socially disadvantaged or beginning farmers offer to purchase the same property in the first 135 days, the buyer is to be chosen randomly. (Section 5202)

The Conference substitute adopts the Senate provision. (Section 5302)

*(13) Loan authorization levels*

In section 346(b)(1) of the Con Act the Senate Amendment increases the loan authorization for FSA loan programs to $4,226,000,000.

Section 346(b)(2)(A) increases the loan authorization for direct loans to $1,200,000,000.

The authorization for the direct farm ownership loan program is increased to $350,000,000, and the authorization for the direct operating loan program is increased to $850,000,000. (Section 5204)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate provision. (Section 5303)

*(14) Loan fund set-asides*

The House bill amends section 346(b)(2)(A)(i)(I) of the Con Act by increasing the amount of direct farm ownership loans that the Secretary is to reserve for beginning farmers or ranchers to 75 percent. Of the funds reserved for beginning farmers or rancher in the direct farm ownership program, 66 percent of those funds are reserved for the down payment loan program and joint financing arrangements.

Section 346(b)(2)(A)(ii)(III) of the Con Act is amended by increasing the amount of direct operating loans the Secretary is to make available to beginning farmers or ranchers to 50 percent.

Section 346(b)(2)(B)(i) of the Con Act is amended by increasing the amount of guaranteed farm ownership loans that the Secretary is to reserve for beginning farmers or ranchers to 40 percent. (Section 5022)

The Senate amendment is the same as the House provision. (Section 5204)

The Conference substitute adopts the Senate provision. (Section 5302)

*(15) Transition to private commercial or other sources of credit*

The House bill amends section 344 of the Con Act by requiring the Secretary, when making or insuring a real estate or operating loan, to establish regulations that have as their goal transitioning borrowers to other sources of credit, including private commercial credit, in the shortest practicable period of time. (Section 5023)

The Senate amendment is the same as House provision.

The Conference substitute adopts the House provision. (Section 5304)

*(16) Interest rate reduction program*

The Senate amendment amends section 351(a) of the Con Act by clarifying that interest assistance is to be available for new guaranteed operating loans or restructured guaranteed operating loans. (Section 5205)

The House bill has no comparable provisions.

The Conference substitute deletes the Senate provision.

The Managers are aware that the Secretary has amended regulations under the guaranteed loan program to limit the availability of interest rate reduction authorized under section 351 of the Con Act to new guaranteed operating loans. The Managers believe that non-statutory limitations in the program's regulations will deter the immediate availability of funds that may be appropriated in the future for interest rate reductions for other categories of guaranteed loans. It is the Managers' expectation that the regulations and policies for the guaranteed loan program should clarify that interest rate reduction may be available for all new and restructured guaranteed loans.

*(17) Extension of the right of first refusal to reacquire homestead property to immediate family member of borrower-owner*

The House bill amends section 352(c)(4)(B) of the Con Act by extending, in the case of a socially disadvantaged farmer or rancher, the right of first refusal to reacquire a homestead property to members of the immediate family of the borrower.

It allows, in the case of a socially disadvantaged farmer or rancher, for an independent appraisal of the property by an appraiser selected by the immediate family member of the borrower. (Section 5024)

The Senate amendment has no comparable provisions.

The Conference substitute adopts the House provision. (Section 5305)

*(18) Deferral of shared appreciation recapture amortization*

The Senate amendment amends section 353(e)(7)(D) of the Con Act by clarifying that deferral is an available servicing tool and limits any deferral to 1 year. (Section 5206)

The House bill has no comparable provisions.

The Conference substitute deletes the Senate provision.

The Managers are aware that under subsection (e)(7)(D) of section 353 of the Con Act, the Secretary has permitted borrowers to seek only re-amortization of amortized Shared Appreciation recapture payments despite the reference in that section to all ''loan service tools under section 343(b)(3) [7 USC §1991(b)(3)].'' It is the Managers' expectation that the Secretary will amend program regulations and policies to clarify that the full range of loan service tools set out in subsection (b)(3) of section 343 of the Con Act is available for modification of amortized Shared Appreciation recapture payments.

*(19) Rural development and farm loan program activities*

The House bill amends Subtitle D of the Con Act by prohibiting the Secretary from completing a study or entering into a contract with any private party to carry out, without a specific authorization in an Act of Congress, a competitive source activity of the Secretary, including USDA support personnel, relating to rural development or farm loan programs. (Section 5025)

The Senate amendment amends the Con Act by adding a new section, 365, that prohibits the Secretary from completing or entering into a contract with a private party to carry out competitive sourcing activities relating to rural development, housing, and farm loan programs at the United States Department of Agriculture. (Section 5207)

The Conference substitute adopts the House provision. (Section 5306)

The managers intend this provision to cover USDA's Rural Development mission area, including rural cooperative, business, housing, and energy programs.

*(20) Technical correction*

The Senate amendment amends section 3.3(b) of the Farm Credit Act (FCA) of 1971 by making a technical correction. It strikes ''per'' in the first sentence and inserts ''par''. (Section 5302)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 5402)

*(21) Banks for cooperatives voting stock*

The House bill amends section 3.3(c) of the FCA by authorizing the board of a bank for cooperatives to determine the terms and conditions for the issuance and transfer of bank voting stock to bank for cooperatives customers and other Farm Credit System associations.

A conforming amendment is made to section 4.3A(c)(1)(D) of the FCA to add to the list of borrowers eligible to hold voting stock under the bylaws of the banks for cooperatives persons and entities eligible to borrow from banks for cooperatives. (Section 5031)

The Senate amendment has no comparable provisions.

The Conference substitute adopts the House provision. (Section 5403)

*(22) Confirmation of the Farm Credit Administration chair*

The Senate amendment amends section 5.8(a) of the FCA by requiring the advice and consent of the Senate for the confirmation of chairman of the Farm Credit Administration. (Section 5303)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(23) Rural utility loans*

The House bill amends section 8.0(9) of the FCA to allow rural utility loans (loans, or interest in a loan, for electric and telephone facilities) to be considered as ''qualified loans''. (Section 5032)

The Senate amendment amends section 8.0(9) of the FCA by adding a new subparagraph to allow rural utility loans (loans, or interest in a loan, for electric and telephone facilities) to be considered as ''qualified loans'' for Federal Agricultural Mortgage Corporation financing.

Section 8.6(a)(1) of the FCA is amended by making conforming and technical changes to the standards established under section 8.8(a) of the FCA related to agricultural real estate loans and rural utility loans.

Section 8.8(a) of the FCA is amended by authorizing the creation of appropriate underwriting, security, and repayment standards for agricultural mortgage loans and rural utility loans.

Minimum criteria standards are set for agricultural real-estate loans focused on individual borrower traits (loan-to-value ratio, sufficient cash flow, documentation standards, appraisal process, actively engaged in farming, speculation in real estate, and consideration of real estate tax purposes). These standards do not apply to rural utility loans.

Loan amounts for agricultural production are established. The limitation does not apply to rural utilities loans. (Section 5306)

The Conference substitute adopts the Senate provision. (Section 5406)

*(24) Farm Credit System Insurance Corporation*

The House bill amends section 1.12(b) of the FCA to change the method that each Farm Credit System (FCS) bank must use to assess associations and other financing institutions to cover the costs of making Farm Credit System Insurance Corporation (FCSIC) premium payments under Part E of Title V of the FCA. FCS banks are required to compute the assessments on lenders in an ''equitable manner.''

Section 5.55(a) of the FCA is amended by mandating that the premiums due from System institutions will no longer be collected annually when the aggregate amount in the Farm Credit Insurance Fund does not exceed the secure base amount. The premium due from any insured System institution is to be based on the average outstanding insured debt.

Section 5.55(b) of the FCA is amended by allowing the FCSIC to collect premiums more frequently than annually.

Section 5.55(c) of the FCA is amended by authorizing FCS banks to deduct a percentage of investments guaranteed by the Federal government and a percentage of investments guaranteed by State governments when calculating the secure base amount.

Section 5.55(d) of the FCA is amended by authorizing the FSCIC to use the principal outstanding on all loans made by an insured FCS bank or the amount outstanding on all investments made by an insured system bank for purposes of premium calculations and secure base amount calculations.

Section 5.55(e) of the FCA is amended by requiring the FCSIC to use year-end numbers in calculating excess funds, with respect to the secure base amount. The formula concerning payments from the Farm Credit Insurance Fund Allocated Insurance Reserve Accounts is simplified.

Section 5.56(a) of the FCA is amended by authorizing FCS banks to file certified statements quarterly.

Section 5.58(10) of the FCA is amended by clarifying that FCSIC has the authority to adopt rules and regulations concerning section 1.12(b) of Title I of the FCA, the ''Authority to Pass Along Cost of Insurance Premiums.'' (Section 5033)

The Senate amendment amends section 1.12(b) of the FCA to allow FCS banks to have flexibility in deciding how to pass along insurance premiums to their affiliates. This section specifies that premiums are to be computed in an equitable manner. (Section 5301)

The Senate amendment also amends section 5.55(a) of the FCA by allowing the total insured debt obligations on which premiums are assessed to be subtracted by 90 percent for investments guaranteed by the Federal government and 80 percent for investments guaranteed by State governments.

Section 5.55(b) of the FCA is amended by allowing the FCSIC to collect premiums more frequently than annually.

Section 5.55(c) of the FCA is amended by adjusting the outstanding insured obligations of all insured System banks by excluding an amount equal to the sum of 90 percent of federal government guaranteed loans and investments and 80 percent of state government-guaranteed loans and investments when calculating the ''secure base amount''.

Section 5.55(d) of the FCA is amended to determine the principal outstanding on all loans made by an insured System bank, or the amount outstanding on all investments made by an insured System bank, for the purpose of premium calculations and ''secure base amount'' collections.

Subsection 5.55(e) of the FCA is amended by allowing the Farm Credit System Insurance Fund to use year-end numbers rather than the average daily balance when calculating excess funds and simplifying the current formula concerning payments from the Allocated Insurance Reserve Accounts. (Section 5304)

Section 5.56(a) of the FCA is amended by allowing System banks to collect insurance premiums quarterly rather than annually. (Section 5305)

Section 5.58(10) of the FCA is amended to clarify that FCSIC has the authority to adopt rules and regulations concerning section 1.12(b) of the FCA. (Section 5301)

The Conference substitute adopts the Senate provision with technical amendments. (Sections 5401, 5404, and 5405)

*(25) Risk-based capital levels*

The House bill amends section 8.32(a)(1) of the FCA by allowing FSCIC to calculate risk-based capital levels for rural electric and telephone loans. (Section 5034)

Section 8.32(a)(1) of the FCA is amended by creating a new subparagraph (B) that directs the FCA to establish a risk-based capital standard for rural utility loans. (Section 5306)

The Conference substitute adopts the Senate provision. (Section 5406)

*(26) Farm credit system equalization*

The Senate amendment amends the FCA by establishing a new section, 7.7, which equalizes lending authorities among FCS associations in Alabama, Mississippi, and Louisiana.

The Federal Land Banks or Credit Associations are given the ability to make short- and intermediate-term loans, and Production Credit Associations are given the ability to make long-term loans. The new authorities can only be exercised if the board of directors of the association and a majority of voting stockholders approve.

The FCA is authorized to issue charter amendments to reflect the new lending authority. (Section 5307)

The House bill has no comparable provision.

The Conference substitution adopts the Senate provision. (Section 5407)

*(27) Emergency loans for equine farmers and ranchers*

The Senate amendment amends section 321(a) of the Con Act to allow equine farmers and ranchers to be eligible for FSA emergency loans. (Section 5404)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 5201)

The managers are aware that family farmers and ranchers who breed and raise horses are eligible for the FSA's emergency loan program. In order to be eligible for a loan under this section, the farmer or rancher must meet all of the relevant requirements of the Con Act, including the credit elsewhere test. The farmer or rancher must also be primarily engaged in the operation and must not have an operation larger than a family farm. Horse owners who use horses for racing, showing, recreation, or pleasure are not eligible for the emergency loan program. Further, the regulation that implements a specifically authorized equine disaster assistance program is not applicable to the change made by this provision.

*(28) Operating loan assistance for commercial fisherman*

The Senate amendment amends section 343(a)(1) of the Con Act by amending the definition of farmer and farming to include commercial fishing for the purposes of operating loans.

Section 343 of the Con Act is amended by adding a new subsection, (c) that defines farm to include a commercial fishing enterprise; the owner or operator of which is unable to obtain credit from a bank or other lender, as determined by the Secretary. (Section 6020)

The House bill has no comparable provision.

The conference substitute deletes the Senate provision.

TITLE VI—RURAL DEVELOPMENT

*(1) Definition of rural*

The House bill directs the Secretary to prepare and submit a report to the House and Senate Agriculture Committees that: (a) assesses the varying definitions of rural used by the U.S. Department of Agriculture (USDA); (b) describes what effect those varying definitions have on USDA programs; and (c) makes recommendations on ways to better target the funds provided through rural development programs. (Section 6001)

The Senate amendment amends section 343(a)(13) of the Consolidated Farm and Rural Development Act (Con Act) to provide a standard definition for ''rural'' and ''rural area'' to exclude: (1) cities of 50,000 or more; (2) any urbanized area contiguous and adjacent to a city of 50,000 or more, except for narrow strips of urbanized areas; and (3) any collection of contiguous census blocks with a housing density of 200 housing units per square mile that is adjacent to a city of 50,000 or adjacent to an urbanized area, except for narrow strips of such territory. An exception to this definition is provided for Honolulu and Puerto Rico where cities and counties are coterminous. An applicant may appeal the determination of the Secretary with regard to the housing density factor.

The Senate amendment retains the rural area eligibility in current law for the water and waste disposal loans and grants program, as a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants. For purposes of determining eligibility for Community Facility loans, the Senate amendment applies the standard definition's housing density requirement, thereby making the definition of rural for the purposes of eligibility for such loans any area that meets the standard definition's criteria and is less than 20,000 in population.

The Undersecretary for Rural Development may designate a place to be of rural character and include in that designation any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not more that 2 census blocks that are otherwise considered not in a rural area.

The Secretary is required to submit a report, once every 2 years, to the House and Senate Agriculture committees on the various definitions of ''rural'' and ''rural area'' that are used with respect to USDA programs, the effects the definitions have on those programs, and recommendations on how to better target funds provided through rural development programs.

The Senate amendment makes changes to other definitions. ''Sustainable agriculture'' is defined as a system of plant and animal production that will satisfy human food and fiber needs, enhance environmental quality and the natural resources, make efficient use of nonrenewable resources and integrate biological cycles and controls, sustain the viability of the farming operation, and enhance the quality of life for farmers and society. ''Technical assistance'' is defined as managerial, financial, operational, and scientific analysis and consultation. The definition of ''farmer'' and ''farming'' is amended to include commercial fishermen, and for the purpose of the Farm Service Agency operating loan program the definition of ''farm'' is amended to include a commercial fishing enterprise in which the owner or operator is unable to obtain commercial credit from a bank or other lender. (Section 6020)

The Conference substitute adopts the Senate amendment with several modifications. The housing density criterion in the Senate amendment is struck from the standard definition of ''rural'' and ''rural area'' and from Community Facilities Program eligibility. However, USDA is directed to conduct a rulemaking to develop additional restrictions on areas that consist of any collection of contiguous census blocks with a housing density of 200 housing units per square mile that is adjacent to a city of 50,000 or adjacent to an urbanized area. The exception for the standard definition of ''rural area'' for Honolulu and Puerto Rico is retained, as is the eligibility of isolated census blocks that would otherwise be considered non-rural simply because they are connected by not more that 2 census blocks to an urbanized area.

The eligibility for water and waste disposal loans and grants program and the community facility program are unchanged from current law.

To address urbanized area mapping complications, the Undersecretary for Rural Development is provided with the authority to determine a place to be of rural character if: (1) it is located in an urbanized area with localities at least 40 miles apart and not located next to a city of more than 150,000 people; or (2) is within one-quarter mile of a rural/non-rural boundary. This authority may not be delegated and must be done in consultation with State rural development directors and Governors. The consideration of a petition for such a determination must be made public and is subject to appeal. A report must be submitted to the Congress annually on the use of this authority.

The Conference substitute adopts the Senate provision requiring a report, once every 2 years, on the definitions of ''rural'' and ''rural area'' that are used with respect to USDA programs, the effects the definitions on those programs, and recommendations on

how to better target funds provided through rural development programs.

The Conference substitute strikes the definitions of technical assistance, sustainable agriculture, and the modifications made to ''farmer'' and ''farming''. (Section 6018)

The Managers have authorized the Secretary of Agriculture to make areas of the Commonwealth of Puerto Rico and the County of Honolulu, Hawaii eligible for Rural Development programs because the unique governmental structure of those entities prevents Census Bureau maps from adequately capturing the demographics of these island areas. The Managers do not expect the Secretary to provide access to rural development programs to areas that are urban or do not meet other requirements of the applicable programs, but do expect the Secretary to recognize areas that meet the intent and spirit of the law.

*(2) Water, waste disposal and wastewater facility grants*

The House bill extends the authorization for appropriations in section 306(a)(2)(A) of the Con Act through 2012. (Section 6002)

The Senate amendment is the same as the House bill. (Section 6001)

The Conference substitute adopts the House provision. (Section 6001)

*(3) Rural business opportunity grants*

The House bill extends the authorization of appropriations for 306(a)(11)(a) of the Con Act through 2012. (Section 6003)

The Senate amendment is the same as the House bill. (Section 6002)

The Conference substitute adopts the Senate provision. (Section 6003)

*(4) Rural water and wastewater circuit rider program*

The House bill amends section 306(a)(22)(A) of the Con Act by increasing the authorization of appropriations for the rural water and wastewater circuit rider program to $25,000,000 for each of the fiscal years 2008 through 2012. (Section 6004)

The Senate amendment increases the authorization to $20,000,000. (Section 6004)

The Conference substitute adopts the House provision. (Section 6006)

*(5) Tribal college and university essential community facilities*

The House bill amends section 306(a)(25)(B) of the Con Act by prohibiting the Secretary from requiring non-Federal financial support in an amount that is greater than 5 percent of the total cost of developing essential community facilities at tribal colleges and universities. The authorization is extended to 2012. (Section 6005)

The Senate amendment provides that the maximum Federal grant tribal colleges and universities may receive for the cost of developing essential community facilities in rural areas is 95 percent. The authorization is extended through 2012. (Section 6007)

The Conference substitute adopts the House provision. (Section 6007)

*(6) Child day care facility grants, loans, and loan guarantees*

The Senate amendment amends section 306(a)(19) of the Con Act (the community facilities program) by providing $40,000,000 in mandatory funding, to remain available until expended, starting in 2008. The Secretary is authorized to make grants, loans and loan guarantees to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas. The mandatory funding provided under this section is to be in addition to any other funds and authorities relating to development and construction of rural day care facilities. (Section 6003)

The House contains no comparable provision.

The Conference substitute provides that the program will not receive mandatory funding, but the current set-aside for this purpose in the community facility program will be extended from April 1 to June 1. (Section 6004)

*(7) Community facility loans and grants for freely associated States and outlying areas*

The Senate amendment reserves 0.5 percent of community facility loans and grants for freely associated States and outlying areas. If, after 180 days within a fiscal year, an insufficient number of applications have been received to account for 0.5 percent then the unused funds are to be reallocated to make loans and grants to otherwise eligible entities located in the States. (Section 6008)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers note the higher infrastructure costs faced by those in the freely associated States and outlying areas of the United States due to the very considerable distances involved in transporting building materials and equipment necessary for infrastructure projects to these areas. In addition, severe storms that are common to these areas cause repeated damage to infrastructure. USDA resources from the community facilities program and from the Rural Utilities Service programs can be of tremendous help in alleviating these serious problems. The Managers expect the Secretary to fully take into account the higher costs that are involved in infrastructure projects in this region and to provide assistance to allow improvements to infrastructure that will be resilient to storms and less likely to be damaged by them even though those costs of construction are higher.

*(8) Priority for community facility loan and grant projects with high non-Federal share*

The Senate amendment provides that priority will be given to community facility projects with non-Federal funding that is substantially greater than the minimum requirement. (Section 6009)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(9) Emergency and Imminent Community Water Assistance Grant Program*

The House bill is the same as section 306A of the Con Act, which authorizes the Secretary to provide grants to assist residents in rural areas and small communities comply with the Water Pollution Control Act or the Safe Drinking Water Act. The authorization of appropriations remains the same and is extended through 2012. (Section 6006)

The Senate amendment provides the same as the House bill. (Section 6011)

The Conference substitute adopts the House provision. (Section 6008)

*(10) Water systems for rural and native villages in Alaska*

The House bill amends section 306D(d)(1)(a) of the Con Act by extending the authorization of appropriations through 2012. (Section 6007)

The Senate amendment provides that the Denali Commission may be eligible for grants to improve solid waste disposal sites that are contaminating or threatening to contaminate rural drinking water in the State of Alaska. The program is extended through 2013. (Section 6012)

The Conference substitute includes the House provision, with an amendment to provide a $1,500,000 authorization for each of the fiscal years 2008 through 2012 under the Solid Waste Disposal Act for the Denali Commission to provide assistance to municipalities in Alaska. (Section 6009)

*(11) Grants to finance water well systems in rural areas*

The House bill provides for an extension of the authorization of the program through 2012 and provides that the level of matching funds is not to be taken into account when determining priority in awarding grants. The payment by a grant recipient of audit fees, business insurance, salary, wages, employee benefits, printing costs, and legal fees associated with the purpose of the grant program is to be considered as the providing of matching funds by the grant recipient. (Section 6008)

The Senate amendment extends the program through 2012. (Section 6013)

The Conference substitute adopts the House provision with a modification to strike the change with respect to consideration of the matching fund levels, and to increase the limitation on the amount that can be expended on each well from $8,000 to $11,000. (Section 6010)

*(12) Grants to develop wells in isolated areas*

The Senate amendment amends section 306F of the Con Act by authorizing $10,000,000 for a new program for each of the fiscal years 2008 through 2012. The new program allows the Secretary to make grants to nonprofit organizations to develop and construct household, shared, and community wells in isolated areas when a traditional water system is not practical due to distance, geography and limited number of households present. Priority is given to applicants that have experience in developing similar types of wells in rural areas. As a condition of receipt of a grant, the water from the well is to be tested annually for quality and the results made available to well users and the appropriate State agency. The grant amount is limited to an amount not to exceed the lesser of $50,000 and the amount that is 75 percent of the costs of a single well and associated system. Grants are prohibited in areas where a majority of users' household incomes exceed the nonmetropolitan median household income. (Section 6013)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(13) Rural Cooperative Development Grants*

The House bill amends section 310B(e)(5)of the Con Act by authorizing the Secretary to give preference to grant applications that—

(A) demonstrate a proven track record in administering activities to promote and assist in the development of cooperatively and mutually owned businesses;

(B) demonstrate previous expertise in providing technical assistance in rural areas to promote and assist in the development of cooperatively and mutually owned businesses;

(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperative and new cooperative approaches, and generate employment opportunities that will improve the economic conditions in rural areas;

(D) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the U.S.;

(E) demonstrate a commitment to—

(i) networking with and sharing the results of its efforts with other cooperative development centers and other organizations involved in rural economic development efforts; and

(ii) developing multi-organization and multi-State approaches to address the cooperative and economic development needs of rural areas; and

(F) commit to provide a 25-percent matching contribution with private funds and in-

kind contributions, except that the Secretary is prohibited from requiring non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution.

The Secretary is authorized to award 1-year grants to centers that have not received prior funding and evaluate programs that receive grant funding. The Secretary is given the discretion to award grants for a period of more than 1 year, but not more than 3 years, to programs that the Secretary determines are meeting the criteria of the program. The Secretary is also given the discretion to extend for only 1 additional 12-month period the period in which a grantee may use a grant made under this section. The Secretary is authorized to enter into a cooperative research agreement with one or more qualified academic institutions for the purpose of conducting research on the national economic effects of all types of cooperatives.

The Secretary is authorized to reserve 20 percent of appropriated funds for grants for cooperative development centers, individual cooperatives, or groups of cooperatives serving socially disadvantaged communities when the appropriated funds for a fiscal year exceed $7,500,000. If the Secretary determines the number of applications received for this purpose is insufficient, the Secretary is authorized to use the funds for the purposes outlined in this section.

The current law authorization is retained and extended through 2012. (Section 6009)

The Senate amendment is the same as the House bill except that it requires the Secretary to award multi-year grants to programs that the Secretary determines meet the parameters of the program and provides a definition for the term socially disadvantaged. (Section 6015)

The Conference substitute adopts the Senate provision with minor changes. (Section 6013)

*(14) Criteria to be applied in providing loans and loan guarantees under the business and industry loan program*

The House bill amends section 310B(g) of the Con Act by authorizing the Secretary, in providing loans and loan guarantees under the Business and Industry Loan Program, to consider applications more favorably—when compared to other applications—when the project described in the application supports community development and farm and ranch income by marketing, distributing, storing, aggregating, or processing locally or regionally produced agricultural product.

A ''locally or regionally produced product'' is defined to mean an agricultural product: (1) which is produced and distributed in the locality or region where the finished product is marketed; (2) which has been shipped a total of distance of 400 or fewer miles, as determined by the Secretary; and (3) about which the distributor has conveyed to the end-use consumers information regarding the origin of the product or production practices, or other valuable information. (Section 6010)

The Senate amendment authorizes the Secretary to make loans and loan guarantees to individuals, cooperatives, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally-produced agricultural food products.

The term ''locally-produced agricultural food product'' is to mean an agricultural product that is raised, produced, and distributed within the locality or region and that is transported less than 300 miles from the origin of the agricultural product or the State in which the agricultural product is produced.

The term ''underserved community'' is to mean an urban, rural, or Indian tribal community that has, as determined by the Secretary: (i) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets or a high incidence of diet-related disease as compared to the national average, including obesity; and (ii) a high rate of food insecurity or a high poverty rate.

The priorities for awarding loans and loan guarantees under this program are for projects that support community development and farm and ranch income by marketing, distributing, storing, aggregating, or processing a locally produced agricultural product; or for projects that have components benefiting underserved communities, as defined in this section.

The recipients of loans and loan guarantees may use up to $250,000 in loan or loan guarantee funds per retail or institutional facility to modify and update facilities to accommodate locally-produced agricultural food products and to provide outreach to consumers about the sale of locally-produced agricultural food products.

The Secretary is required to submit an annual report to the House and Senate Agriculture Committees that describes the projects carried out using loans and loan guarantees provided under this program. The report is to include the characteristics of the communities served and benefits of the projects. (Section 6017)

The Conference substitute adopts the Senate provision with modifications. The distance for which a product can travel and still be considered for the program is extended to 400 miles. ''Underserved community'' is defined as an urban, rural, or Indian tribal community that has, as determined by the Secretary: (i) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and (ii) a high rate of food insecurity or a high poverty rate. Priority for the program is given to entities proposing to provide product to underserved communities.

The Conference substitute does not include the Senate provision allowing recipients to redistribute loan or loan guarantee proceeds to retail or institutional facilities. However, the Managers expect recipients of business and industry loans and loan guarantees under this section to include applicants who propose to work with retail establishments in underserved communities to supply items to promote and ensure the salability of the locally-produced agricultural food product. (Section 6015)

The Managers expect the Administrator of the Rural Business Cooperative Service to work in coordination with the Administrator of the Agricultural Marketing Service on implementation of this program.

The Managers are aware of the increased demand for locally and regionally produced foods. Although demand exists for locally and regionally produced foods, producers in many parts of the country have difficulties finding markets and processing facilities as well as establishing distribution channels. In many instances, retail outlets are not interested in buying from smaller volume producers because they cannot provide sufficient and consistent supply of food products. The Managers expect this section to help bridge the gap between the production of locally and regionally produced agricultural food products and the processing and distribution of those products. A distributor could work with several farmers in an area and build the necessary relationships with small, medium or large retail outlets, schools, hospitals or other institutions to provide a marketing channel for locally and regionally produced foods.

*(15) Cooperative equity security guarantee*

The Senate amendment amends section 310B of the Con Act to allow Business and Industry guarantees for loans made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations. (Section 6014)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with technical changes. (Section 6012)

*(16) Appropriate technology transfer for rural areas*

The House bill provides for the establishment of a national technology transfer program for rural areas to assist agricultural producers that are seeking information to help them: (1) reduce their input costs; (2) conserve their energy costs; (3) diversify their operations through new energy crops and energy generation facilities; and (4) expand markets for their agricultural commodities through the use of sustainable farming practices. The Secretary is authorized to carry out the program by making a grant or entering into a cooperative agreement with a national non-profit agricultural assistance organization. A grant or cooperative agreement entered into is to provide 100 percent of the cost of providing information. The program is authorized at $5,000,000. (Section 6011)

The Senate amendment is substantially similar to the House bill. (Section 6018)

The Conference substitute adopts the Senate provision with minor changes to elaborate on the purpose of the program. (Section 6016)

*(17) Grants to improve technical infrastructure and improve quality of rural health care facilities*

The House bill authorizes a grant program for rural health facilities to assist such facilities in: purchasing health information technology to improve quality health care and patient safety or, improving health care quality and patient safety, including the development of: (a) quality improvement support structures to assist rural health systems and professionals; and (b) innovative approaches to financing and delivery of health services to achieve rural health quality goals. (Section 6012)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(18) Rural hospital loans and loan guarantees*

The Senate amendment provides $50,000,000 in mandatory funding in fiscal year 2008, to remain available until expended, for loans and loan guarantees for rehabilitating and improving hospitals with not more than 100 acute beds in rural areas. Not less than $25,000,000 is to be allocated to hospitals with fewer than 50 beds. (Section 6006)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(19) Rural Entrepreneur and Microloan Assistance Program*

The House bill provides for the establishment of a rural entrepreneurship and microenterprise grant and loan program, authorized for $20,000,000 per year for each of the fiscal years 2008 through 2012. Grants may be made to qualified organizations to: (i) provide training, operations support, or rural capacity-building services to qualified organizations to assist them in developing microenterprise training, technical assistance, market development assistance, and other

related services; (ii) assist in researching and developing best practices in delivering training, technical assistance, and microcredit to rural entrepreneurs; and (iii) carry out other projects that the Secretary deems to be consistent with the purposes of the program. As a condition of receiving a grant, the qualified organization is required to match not less than 25 percent of the total amount of the grant. In addition to cash from non-Federal sources, the matching share may include indirect costs or in-kind contributions funded under non-Federal programs.

A rural microloan program is established to: (i) make loans to qualified organizations for the purpose of making short-term, fixed interest rate microloans to startup, newly established, and growing rural microbusiness concerns; and (ii), in conjunction with the loans provide grants for the purpose of providing intensive marketing, management, and technical assistance to small businesses. The term of the loan is to be 20 years and the loan is to bear an annual interest rate of at least 1 percent. The Secretary has the discretion to defer payments, both principal and interest, for 2 years beginning on the date the loan is made. The amount of a grant given in connection with the loan program is not to be more than 25 percent of the total outstanding balance of the loan the organization received and, as a condition of receiving a grant, the qualified organization is required to match not less than 15 percent of the total amount of the grant.

No more than 10 percent of the assistance received by a qualified organization is to be used to pay administrative expenses. An organization that receives either a rural entrepreneurship and microenterprise grant or a rural microloan has to provide the Secretary any information that the Secretary requires to ensure that the grant or loan is being used for its intended purposes. (Section 6013)

The Senate amendment amends Subtitle D of the Con Act by authorizing the Secretary to establish a Rural Microenterprise Program to provide low-or-moderate income individuals with the skills necessary to establish a new rural microenterprise and to continue technical and financial assistance to rural microenterprises. The Senate and House sections are substantially similar; however, the Senate section requires the Secretary to ensure that grant recipients include microenterprise development organizations of varying sizes and that serve racially and ethnically diverse populations.

Mandatory funding of $40,000,000, to remain available until expended, is provided starting in fiscal year 2008. Not less than $25,000,000 of the funds provided are to be used to carry out grants for the Rural Microenterprise Program. Not less than $15,000,000 of the funds provided are to be used to carry out the Rural Microloan Program; of that amount, not more than $7,000,000 is to be used to support direct loans. In addition to mandatory funding, an authorization of appropriations is provided for each of fiscal years 2009 through 2012 to carry out this program. (Section 6022)

The Conference substitute adopts the House provision with modifications. The Conference substitute strikes as an eligible use of program funding research and development of best practices in delivering training, technical assistance and microcredit to rural microenterprises. Additionally, the Conference substitute provides $15,000,000 in mandatory funding, to remain available until expended, in the following years: fiscal year 2009 ($4,000,000); fiscal year 2010 ($4,000,000); fiscal year 2011 ($4,000,000); and fiscal year 2012 ($3,000,000). (Section 6022)

The Managers intend that the Microentrepreneur Assistance Program will be used to assist microenterprises located in rural areas. However, a microenterprise development organization receiving assistance under the program need not be located in a rural area to be eligible to participate. A microenterprise development organization is eligible so long as the organization provides assistance to microentrepreneurs located in rural areas, facilitates access to capital for a microenterprise in a rural area, or has a demonstrated record of delivering services to microentrepreneurs located in a rural area.

In addition, in making grants available to microenterprise development organizations to support microenterprise development, the Managers intend that the Secretary shall not require an organization to have received a loan in order to receive a grant under subsection (b)(4)(a).

*(20) Criteria to be applied in considering applications for rural development projects.*

The House bill amends subtitle D of the Con Act by authorizing the Secretary to review the income demographics, population density, and seasonal population increases, and other factors as determined by the Secretary, for eligible communities that submit applications for rural development programs authorized or modified by title VI of the 2007 Farm Bill, or section 306, 306A, 306C, 306D, 306E, 310(c), 310(e), 310B(b), 310B(c), 310B(e), or 370B, or subtitles F, G, H, or I, of the Con Act.

The Secretary is authorized to issue regulations to establish the limitation that a rural area cannot exceed in order to remain eligible for rural development funds. (Section 6014)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(21) National sheep industry improvement center*

The House bill provides for the continuation of the National Sheep Industry revolving fund to promote strategic development activities and collaborative efforts to strengthen and enhance the production and marketing of sheep or goat products in the United States; by optimizing the use of available human capital and resources within the sheep and goat industries, and adopting flexible and innovate approaches to solving the long-term needs of the U.S. sheep or goat industry.

The House bill eliminates the requirement that the National Sheep Industry Improvement Center be required to privatize its revolving fund and authorizes appropriations of $10,000,000 for each of the fiscal years 2008 through 2012. (Section 6015)

The Senate amendment renames the program as the National Sheep and Goat Industry Improvement Center. The Senate amendment also eliminates the requirement that the National Sheep Industry Improvement Center be required to privatize its revolving fund. The Senate amendment provides for new mandatory funding of $1,000,000 for fiscal year 2008, to be available until expended, and authorizes $10,000,000 for each of the fiscal years 2008 through 2012 for infrastructure development, business planning, production, resource development and market and environmental research. (Section 11009)

The Conference substitute adopts the Senate provision with modifications. It retains the existing name of the Center and provides $1,000,000 in mandatory funds for the Center. (Section 11009 of the Livestock Title)

*(22) National rural development partnership*

The House bill extends authorization through 2012. (Section 6016)

The Senate amendment extends the authorization to 2012 and amends subsection (h) of section 378 of the Con Act by establishing the termination date for this authority as September 30, 2012. (Section 6024)

The Conference substitute adopts the House provision. (Section 6019)

*(23) Historic barn preservation*

The House bill amends section 379A(c) of the Con Act by extending the authorization for this program through 2012 and providing that the Secretary, in making grants, is to give the highest priority to funding projects that identify, document, and conduct research on historic barns and that develop and evaluate appropriate techniques or best practices for protecting historic barns. (Section 6017)

The Senate amendment establishes that a grant may be made to an eligible applicant for ''eligible projects'' that rehabilitate or repair historic barns; preserve historic barns; and identify, document, survey, and conduct research on historic barns or farm structures and that evaluate techniques or best practices for protecting these structures. (Section 6025)

The Conference substitute adopts the House provision with technical changes. (Section 6020)

*(24) NOAA weather transmitters*

The House bill is the same as section 379B of the Con Act. The authorization remains the same and is extended through 2012. (Section 6018)

The Senate amendment is identical to the House bill. (Section 6026)

The Conference substitute adopts the House provision. (Section 6021)

*(25) Delta Regional Authority*

The House bill provides for the extension of the Delta Regional Authority (DRA) to 2012. (Section 6019)

The Senate amendment provides for the extension of the (DRA) and also authorizes the Secretary to award grants to the Delta Health Alliance (DHA) for the development of health care services, health educational programs, health care job training, and for public health facilities in the Delta region. The DHA must solicit input from local governments, public health care providers and other entities in the Mississippi Delta region. (Section 6029)

The Conference substitute adopts the House provision with modifications to add counties to the eligible region for the DRA. (Section 6025) In addition, the Conference substitute establishes a separate section called Health Care Services, which authorizes $3,000,000 annually for each of fiscal years 2008 through 2012 for healthcare services in the Delta Region to be provided by a consortium of regional institutions. (Section 6024)

The Managers note that, for the purposes of the Delta Health Care Services provision, the term ''Delta region'' refers to the Mississippi River Delta region. The Managers recognize the serious unmet health needs in this region and authorize this program with the goal of promoting collaboration among entities that are working in the region to provide access to quality health care.

*(26) Northern Great Plains Regional Authority*

The House bill provides for an extension of the Northern Great Plains Regional Authority (NGPRA), which provides funding for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the States of Iowa, Minnesota, Nebraska, North Dakota and South Dakota. The House bill broadens the Authority's support for resource conservation districts.

The House bill makes several modifications to the authority by: (1) changing the formula for the Federal share of the NGPRA's administrative expenses—the formula is: for fiscal year 2007, 100 percent; for fiscal year 2008, 75 percent; and for fiscal

year 2009, 50 percent; (2) eliminating the order of priority, with respect to funding for economic and community development projects, and the prohibition on providing funds for projects located in nondistressed counties; (3) and reducing to 25 percent, the minimum amount of funds that the authority is to allocate to transportation, telecommunication, and public infrastructure projects.

The House bill also adds ''renewable energy projects'' among the projects that are eligible to receive funds. (Section 6020)

The Senate amendment provides for an extension of the NGPRA and makes changes similar to the House, with respect to renewable energy investments and the proportion of funds made available to distressed counties. The Senate amendment allows the NGPRA to organize and operate without a Federal member if such a member has not been confirmed by the Senate 180 days after enactment. With respect to the tribal chairperson, the Senate amendment allows the leaders of the Indian tribes in the region to select a member if a tribal chairperson has not been confirmed by the Senate within 180 days of enactment.

The Senate amendment provides that, among other duties, the NGPRA is to develop comprehensive and coordinated plans and programs for multistate cooperation to advance the economic and social well-being of the region and approve grants for the economic development of the Northern Great Plains region. Additionally, the assessment of needs and assets of the region should include available research, demonstrations, investigations, assessments, and evaluations from the regional boards established under the Rural Collaborative Investment Program (RCIP).

The Senate amendment provides that the NGPRA should enhance the capacity of, and provide support for, multistate development and research organizations, local development organizations and districts, and resource conservation districts in the region.

The Senate amendment amends section 383B(g)(1) of the Con Act by providing a 100 percent Federal cost-share for fiscal years 2008 and 2009, a 75 percent Federal cost-share for fiscal year 2010, and a 50 percent Federal cost-share for fiscal year 2011 and beyond.

The Senate amendment adds a new provision to provide assistance to States in developing plans to address multistate economic issues, including plans to: develop a regional transmission system for the movement of renewable energy; assist in the harmonization of transportation policies and regulations that impact the interstate movement of goods and individuals; encourage and support interstate collaboration on federally-funded research of national interest; and establish regional working groups on agriculture development and transportation concerns.

Multistate economic issues are to include: renewable energy development and transmission, transportations planning and economic development, information technology, movement of freight and persons in the region; conservation land management, and federally funded research.

The Senate amendment would allow grants to be awarded to multistate, local or regional development district organizations for administrative expenses. Grants may not exceed 80 percent of the administrative expenses of the local development district and no grant may exceed 3 years in duration. The contribution of the grantee may be in cash or in-kind, fairly evaluated, and can include equipment, space and services.

The Senate amendment removes the requirement for local development districts to serve as lead organizations and liaison between State, tribal, and local governments, nonprofit groups, the business community, and citizens. (Section 6030)

The Conference substitute adopts the Senate amendment, but modifies it to require that the NGPRA consult and coordinate, as appropriate, with tribal leaders in the region should a Federal or tribal chairperson not be appointed and confirmed. Generally, a local development district will operate as the lead organization serving a multicounty area in the region. However, the Federal cochairperson, or the Secretary, if no person has been confirmed, may designate an Indian tribe or an alternative organization to serve in that capacity. Organizations that are suitable to serve in such a capacity include rural conservation and development districts, a Rural Economic Area Partnership (REAP) zone organizations, or regional organizations established under RCIP. (Section 6026)

*(27) Rural Collaborative Investment Program/ Rural Strategic Investment Program*

The House bill provides for the extension of the rural strategic investment program (RSIP) in section 385E of the Con Act with an authorization of appropriations of $25,000,000 for fiscal years 2008 through 2012. The preservation and promotion of ''rural heritage,'' as defined in this section, are added to the criteria for regional plans, for the purpose of making regional strategic planning grants—which are competitive grants awarded to Regional Boards for the purpose of developing, maintaining, and evaluating regional plans.

In awarding innovation grants, the National Board is to give priority to Regional Boards that, among other criteria, demonstrate a plan to protect and promote rural heritage. (Section 6021)

The Senate amendment amends section 385A of the Con Act by establishing a Regional Rural Collaborative Investment Program (RCIP) to provide rural regions with a flexible investment vehicle to develop and implement locally prioritized, comprehensive strategies for achieving regional competitiveness, innovation and prosperity.

The Senate amendment requires the Secretary to appoint a National Rural Investment Board and establish a National Institute on Regional Rural Competitiveness and Entrepreneurship. The National Institute on Regional Rural Competitiveness and Entrepreneurship will work with the Secretary to create a National Rural Investment Plan and a Rural Philanthropic Initiative, certify Regional Rural Investment Boards, and make Regional Innovation Grants to Regional Boards to implement approved regional strategies. These Regional Boards are to be multijurisdictional, multisectoral, regional entities which are broadly representative of the long-term economic, community and cultural interests of a region, and are comprised of public, private and non-profit organizations and residents of the region. A region must include a population of at least 25,000 individuals or in regions with a population density of less than 2 persons per square mile, a population of at least 10,000 individuals. The Regional Board designs a Regional Investment Strategy and competes for Regional Innovation Grants.

Grants of not more than $150,000 are to be provided on a competitive basis to certified Regional Boards to develop, implement and maintain Regional Investment Strategies, developed through a collaborative and inclusive public process. Regional Investment Strategies are to provide an assessment of the region's competitive advantage, an analysis of the region's economic and community development challenges, opportunities, and resources, a plan of action to implement the goals of the strategies identified, and performance measures by which to evaluate implementation.

Regional Innovation Grants shall be provided on a competitive basis to certified Regional Boards, to implement projects and programs identified in funded Regional Investment Strategy Grants. The Secretary is to give priority to strategies that demonstrate significant leverage of capital, quality job creation, and asset-based development. A Regional Board may not receive more than $6,000,000 in Regional Innovation Grants during any 5-year period.

Long-term loans may be provided to eligible community foundations to assist in the implementation of funded Regional Investment Strategies. The eligible community foundation must be located in the covered region, provide a 25 percent match, and use the funds to implement priorities within the Regional Investment Strategy.

The Senate amendment provides $135,000,000 in mandatory funding to remain available until expended. Of the amounts made available, the Secretary is to use $15,000,000 for Regional Investment Strategy Grants, $110,000,000 for Regional Innovation Grants, $5,000,000 to administer the National Board, and $5,000,000 to administer the National Institute. (Section 6032)

The Conference substitute adopts the Senate provision, with modifications to incorporate rural heritage as a goal of the program. An appropriation of $135,000,000 is authorized for fiscal years 2009 through 2012 to carry out this program. (Section 6028)

*(28) Northern Border Economic Development Commission*

The Senate amendment adds a new subtitle to the Con Act that establishes the Northern Border Economic Development Commission (NBEDC) made up of a Federal member appointed by the President with the advice and consent of the Senate. The membership of the Commission includes the Governors of each State in the region that elects to participate in the Commission. The State cochairperson is a Governor of a participating State in the region. The State cochairperson will serve for a term of not less than a year. Each State member may have a single alternate, who is appointed by the Governor of the State from among the Governor's cabinet. Each Commission may appoint and fix the compensation of an executive director to carryout the duties of the Commission.

Although the Commission has the authority to determine what constitutes a quorum of the Commission, the Federal cochairperson must be present to reach a quorum. Alternate members cannot be counted toward the quorum. Decisions, such as approval of State, regional, or subregional development plans or strategy statements, allocations to States, and modifications to the Commission's code, may not be made without a quorum.

The Senate amendment establishes the duties and administrative actions of the Commission. The amendment specifies that the Commission is required to submit an annual report to Congress. In addition, Federal agencies are required to work with the Commission.

Any State member, alternate, official, or employee of the Commission, their immediate family, organization, or organization for which the employee has an arrangement concerning prospective employment, are prohibited from participating personally or substantially in a matter in which the employee has a financial interest. A conflict of interest can be overcome by full disclosure to the Commission and a subsequent determination by the Commission that the matter will not substantially affect the integrity of the work of the Commission.

The Senate amendment confers upon the Commission the authority to approve grants

to improve economic development of the region. Grants may be provided from Federal appropriations, other Federal and State grant funds, or any other sources. The Federal cochairperson is permitted to use funds made available to the program to fund any portion of the basic Federal contribution to a project of activity under a Federal grant program in the region in an amount not to exceed 80 percent of the project cost. The Commission is also permitted to make grants to local development districts for administrative expenses as long as the grant does not exceed 80 percent of the administrative expense of the local development district receiving the grant.

States participating in the Commission are required to submit a development plan for the area of the region represented by the State member. In developing the plan, the State must consult with the appropriate organizations. The Commission is to encourage public participation in developing such plans. Any State or regional development plan or any multistate subregional plan that is proposed must be reviewed by the Commission.

An appropriation of $30,000,000 is authorized for each of fiscal years 2008 through 2012; not more than 5 percent of the appropriated amount is to be used for administrative expenses. The authority of the Commission is terminated on October 1, 2012. (Section 6034)

The House contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to establish the Northern Border Regional Commission, the Southeast Crescent Regional Commission, and the Southwest Border Regional Commission in a new subtitle ''Regional Economic and Infrastructure Development'' in Title 40 of the U.S. Code. (Section 14217 of the Miscellaneous Title )

The Conference substitute establishes commission membership, voting structure, and staffing; outlines conditions for financial assistance; authorizes grants to local development districts; establishes an Inspector General for the commissions; and includes other provisions designed to produce a standard administrative framework.

Each Commission includes a Federal cochairperson, appointed by the President and confirmed by the Senate. The Federal Cochairperson will appoint an alternate Federal cochairperson. The membership of the Commission also includes the Governors of each State in the region that elects to participate in the Commission. The State cochairperson is a Governor of a participating State in the region. The State cochairperson will serve for a term of not less than a year. Each State member may have a single alternate, who is appointed by the Governor of the State from among the Governor's cabinet. Each Commission may appoint and fix the compensation of an executive director to carryout the duties of the Commission.

Each State member is required to submit a development plan for the area of the region represented by the State member. In carrying out the development planning process, a State will consult with local development districts, local units of government, and universities and take into account the goals, objectives, and recommendations of these entities. Each Commission is to establish priorities in an economic and infrastructure development plan for its region, including 5-year regional outcome targets. The Commission will, to the extent practicable, encourage and assist public participation in the plans and programs of the Commission.

The Commission is authorized to hold hearings, take testimony under oath, and request information from State and Federal agencies; adopt, amend, and repeal bylaws and rules governing the conduct of Commission; request the head of any Federal department or of any State agency or local government to detail to the Commission personnel needed to carry out the duties of the Commission; provide Commission employees with retirement and other benefits; accept, use, and dispose of gifts; enter into contracts to carry out Commission duties; establish a central office and field offices for the Commission; and provide an appropriate level of representation in Washington, DC.

The Federal Government will pay 50 percent of the administrative expenses of the Commission and the States participating in the Commission will pay 50 percent of such expenses. Each Commission is required to hold an initial meeting no later than 180 days after the date of enactment of this Act.

Any State member, alternate, official, or employee of the Commission, their immediate family, organization, or organization for which the employee has an arrangement concerning prospective employment, are prohibited from participating personally or substantially in a matter in which the employee has a financial interest. A conflict of interest can be overcome by full disclosure to the Commission and a subsequent determination by the Commission that the matter will not substantially affect the integrity of the work of the Commission.

Governments of Indian tribes in the region of the Southwest Border Regional Commission are allowed to participate in matters in the same manner and to the same extent as State agencies and instrumentalities in the region.

Not less than 90 days after the last day of each fiscal year, each Commission will submit to the President and Congress a report on the activities carried out by the Commission in the past fiscal year. The report will include a description of the criteria used by the Commission to designate counties, a list of the counties designated in each category, an evaluation of the progress of the Commission in meeting the goals identified in the Commission's economic and infrastructure development plan, and any policy recommendations approved by the Commission.

Each Commission may make grants to State and local governments, Indian tribes, and public or nonprofit organizations for projects to develop infrastructure in the region, including transportation, public, and telecommunications infrastructure; assist the region in obtaining job skills training; provide assistance to severely economically distressed and underdeveloped areas that lack financial resources for improving basic health care and other public services; promote resource conservation; promote the development of renewable and alternative energy sources; and other measures to achieve the purposes of this subtitle.

The Commission will allocate at least 40 percent of any grant amounts provided for transportation, public, or telecommunications infrastructure for the region. The Commission may use amounts appropriated to carry out this subtitle to fund a project or activity under a Federal grant program in the region in an amount that is above the fixed maximum portion of the cost of the project otherwise authorized by applicable law, but may not exceed 50 percent of the costs of the project, except for distressed counties or regional projects. The maximum contribution for a project or activity to be carried out in a distressed county may be increased to 80 percent. A Commission may increase the maximum grant for a project from 50 percent to 60 percent under the normal criteria of section 15501 and from 80 percent to 90 percent for a distressed county if the project or activity involves three or more counties or more than one State and the Commission determines that the project or activity will bring significant inter-state or multi-county benefits to a region.

An application to a Commission for a grant or any other assistance for a project is to be made through, and evaluated for approval by, the State member of the Commission representing the applicant. Upon certification by a State member of a Commission of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Commission shall be required for approval of the application.

Each Commission is required, in considering programs and projects to be provided assistance and in establishing a priority ranking of the requests for assistance, to consider: the relationship of the project or class of projects to overall regional development; the per capita income and poverty and unemployment and out migration rates in an area; the financial resources available to the applicants for assistance seeking to carry out the project; the importance of the project in relation to the other projects that may be in competition for the same funds; the prospects that the project will improve opportunities for employment, the average level of income, or the economic development of the area on a continuing basis; and the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

The Commission may make grants to a local development district to assist in the payment of development planning and administrative expenses. In the case of a State agency certified as a local development district, a grant may not be awarded to the agency under this section for more than 3 fiscal years. The contributions of a local development district for administrative expenses may be in cash or in-kind services including space, equipment, and services.

A local development district is to operate as a lead organization serving multi-county areas in the region at the local level and serve as a liaison between the State and local governments, nonprofit organizations, the business community, and citizens that are involved in multi-jurisdictional planning; provide technical assistance; and provide leadership and civic development assistance.

Supplements to Federal grant programs may be made because certain States and local communities, including local development districts, may be unable to take maximum advantage of Federal grant programs for which they are eligible because they lack the economic resources to provide the required State or local matching share. Supplemental funds may also provide necessary funding for a project to be carried out in the region when there are insufficient funds available under applicable Federal law.

A Commission, with the approval of the Federal cochairperson, may use amounts made available to carry out this subtitle for any part of the basic Federal contribution to projects or activities under the Federal grant programs authorized by Federal laws and to increase the Federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

For a project for which any part of the basic Federal contribution to the project or activity under a Federal grant program is proposed to be made under this subtitle, the Federal contribution is not to be made until the responsible Federal official administering the Federal law authorizing the Federal contribution certifies that the program, project, or activity meets the applicable requirements of the Federal law and could be

approved for Federal contribution under that law if amounts were available under the law for the program, project, or activity. Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

The Federal share of the cost of a project or activity receiving assistance under this subtitle shall not exceed 80 percent.

A State is not required to engage in or accept a program under this subtitle without its consent.

The Conference substitute establishes the designation of distressed, transitional, and attainment counties and isolated areas of distress in the region. Not later than 90 days after the date of enactment of this Act, and annually thereafter, each Commission is required to designate counties under 4 categories. The categories will include: (1) distressed counties, defined as counties that are the most severely and persistently economically distressed and underdeveloped and have high rates of poverty, unemployment, or out migration; (2) transitional counties, defined as counties that are economically distressed and underdeveloped or have recently suffered high rates of poverty, unemployment, or out migration; (3) attainment counties, which are counties that are not designated as distressed or transitional counties; and (4) isolated areas of distress, defined as areas, located in counties designated as attainment counties, that have high rates of poverty, unemployment, or out migration.

A Commission is to allocate at least 50 percent of the appropriations made available to the Commission to carry out this subtitle for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

No funds may be provided to a county designated as an attainment county except for funding the administrative expenses of local development districts, a multi-county project that includes participation of the attainment county, and other projects if a Commission determines that the project could bring significant benefits to areas of the region outside the attainment county.

For the isolated area of distress designation to be effective, the designation must be supported by the most recent Federal data available or if no recent Federal data are available, by the most recent data available.

Counties are not eligible for assistance in more than 1 region. A political subdivision included in the region of more than 1 Commission will select the Commission with which it will participate by notifying, in writing, the Federal cochairperson and the appropriate State member of the Commission. The selection of a Commission by a political subdivision will apply in the fiscal year in which the selection is made and will apply in each subsequent fiscal year unless the political subdivision, at least 90 days before the first day of the fiscal year, notifies another Commission in writing that the political subdivision will participate in that Commission and also transmits a copy of such notification to the Commission in which the political subdivision is currently participating. In this section, the term ''Commission'' includes the Appalachian Regional Commission.

An Inspector General for Commissions, appointed in accordance with the Inspector General Act of 1978, is established for each Commission. All of the Commissions are to be subject to a single Inspector General. Each Commission is to maintain accurate and complete records of all transactions and activities of the Commission and make them available to the Inspector General for audit and examination. The Inspector General will audit the activities, transactions, and records of each Commission annually.

Representatives of each Commission, the Appalachian Regional Commission, and the Denali Commission will meet biannually to discuss issues confronting regions suffering from chronic and continuous distress as well as successful strategies for promoting regional development. The chair of each meeting will rotate among the Commissions, with the Appalachian Regional Commission to host the first meeting.

The region of the Southeast Crescent Regional Commission is defined as consisting of all counties of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already served by the Appalachian Regional Commission or the Delta Regional Authority.

The region of the Southwest Border Regional Commission is defined as consisting of the following political subdivisions:

(1) ARIZONA—The counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona.

(2) CALIFORNIA—The counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California.

(3) NEW MEXICO—The counties of Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico.

(4) TEXAS—The counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

The region of the Northern Border Regional Commission is defined to include the following counties:

(1) MAINE—The counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Oxford, Penobscot, Piscataquis, Somerset, Waldo, and Washington in the State of Maine.

(2) NEW HAMPSHIRE—The counties of Carroll, Coos, Grafton, and Sullivan in the State of New Hampshire.

(3) NEW YORK—The counties of Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Seneca, and St. Lawrence in the State of New York.

(4) VERMONT—The counties of Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans in the State of Vermont.

An authorization of $30,000,000 is provided for each of fiscal years 2008 through 2012 for each Commission to carry out this subtitle; not more than 10 percent of the funds made available to a Commission in a fiscal year may be used for administrative expenses.

The Managers note that within the Southeastern region of the United States—defined for the purposes here to include the coastal and central portions of the seven Southeastern States from Virginia to Mississippi—approximately 40 percent of the counties have had 20 percent or more of their citizens living in poverty, on average, during the last 30 years. Additionally, this region has experienced natural disasters at a rate of 2 to 3 times greater than any other region of the U.S. The Southeastern United States is one of the last areas of the country without a Federal authority dedicated to ending poverty and strengthening communities. The Southeast Crescent Authority will be a valuable tool to assist State and local officials, county development organizations, and many others in providing resources and leveraging additional funds to assist communities with the greatest need.

With regards to the Southwest border, an Interagency Task Force on the Economic Development of the Southwest Border found that 20 percent of the residents in this region live below the poverty level. Unemployment rates often reach as high as 5 times the national unemployment rate and a lack of adequate access to capital has created economic disparities that have made it difficult for businesses to start up in the region. Border communities have long endured a depressed economy and low-paying jobs. The Southwest Border Regional Commission will help foster planning to encourage infrastructure development, technology development and deployment, education and workforce development, and community development through entrepreneurship.

Finally, the Northern Border region, while abundant in natural resources and rich in potential, lags behind much of the nation in its economic growth. In this region, 12.5 percent of the population lives in poverty. Furthermore, the median household income in this region is more than $6,500 below the national average. Due to this region's historic reliance on a few basic industries and agriculture, unemployment through layoffs in traditional manufacturing industries is persistent. In addition, the population growth in this region increased by only 0.6 percent between 1990 and 2000, while the U.S. population rose by 13.2 percent during that same period. The Northern Border Regional Commission will assist in supporting traditional industries while fostering new industry in the region.

*(29) Multijurisdictional regional planning organizations*

The Senate amendment reauthorizes section 306(a) of the Con Act through fiscal year 2012. (Section 6005)

The House bill contains no comparable provision.

The conference substitute deletes the Senate provision.

*(30) Rural Economic area partnership zones*

The Senate amendment amends section 310B of the Con Act by requiring the Secretary to continue to carry out the existing rural economic area partnerships in New York, North Dakota, and Vermont in accordance with terms and conditions contained in the memorandums of agreement entered into by the Secretary through 2012. (Section 6019)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to ensure that only those rural economic area partnership zones in effect on date of enactment are to be extended to 2012. (Section 6017)

*(31) SEARCH grants*

The Senate amendment amends section 306(a) of the Con Act by authorizing the Secretary to make grants to eligible communities for feasibility study, design, and technical assistance under the water and waste disposal and wastewater facilities grant program. The grants are to fund up to 100 percent of the eligible project cost and are to be subjected to the least documentation requirements practicable.

An ''eligible community,'' for the purposes of this section, is defined as a community that has a population of 2,500 or fewer inhabitants and is financially distressed. Not more than 4 percent of funds available for water, waste disposal and essential community facilities are to be used to carry out this program. (Section 6010)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to ensure that the program is modeled after the existing pre-development planning grants. (Section 6002)

The Managers expect that a community will meet the definition of ''financially distressed'' if the median household income of the probable area to be served by the proposed project is either below the poverty line or below 80 percent of the statewide nonmetropolitan median household income based on available historic statistical information going back to the last decennial census if no more recent data is available. It is the Managers' intent that the latest data on income be used without the taking of an income survey that would escalate the cost.

*(32) Grants to broadcasting systems*

The Senate amendment reauthorizes current law through fiscal year 2012. (Section 6016)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6014)

*(33) Geographically disadvantaged farmers and ranchers.*

The Senate amendment establishes a new program to provide geographically disadvantaged farmers and ranchers direct reimbursement payments to transport agricultural commodities, or inputs used to produce the commodities.

To be eligible for direct reimbursement payments the farmer or rancher must provide the Secretary proof that transportation or agricultural commodity or inputs occurred over the distance of more than 30 miles. The total amount of direct reimbursement payments provided by the Secretary is not to exceed $15,000,000 for each fiscal year. Necessary sums are authorized to be appropriated to carry out this program. (Section 6021)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with technical changes. (Section 1620 of the Commodity Title)

The Managers recognize the barriers to competition associated with the high transportation costs incurred by geographically disadvantaged farmers and ranchers. The Managers expect the Secretary to develop, in consultation with the eligible areas, an equitable allocation of the funds for such areas. The Managers also expect the Secretary to consult with eligible areas on administration of the program.

*(34) Artisanal cheese centers*

The Senate amendment amends Subtitle D of the Con Act by requiring the Secretary to establish artisanal cheese centers for education and technical assistance for the manufacturing and marketing of artisanal cheese by small and medium-sized producers and businesses. Necessary sums are authorized to be appropriated for each of the fiscal years 2008 through 2012 . (Section 6023)

The House bill contains no provision.

The Conference substitute deletes the Senate provision.

*(35) Grants to train farmworkers in new technologies and to train farm workers in specialized skills necessary for higher value crops.*

The Senate amendment extends section 379(c) of the Con Act through fiscal year 2012. (Section 6027)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(36) Grants for expansion of employment opportunities for individuals with disabilities in rural areas*

The Senate amendment amends the Con Act by adding a new section, 379E, which authorizes a new grant program to nonprofit organizations to expand employment opportunities for individuals with disabilities in rural areas.

To be eligible to receive a grant under this section the eligible entity must have: a significant focus on serving the needs of individuals with disabilities; demonstrated knowledge and expertise in employment of and advising on accessibility issues for individuals with disabilities; expertise in removing barriers to employment for individuals with disabilities; existing relationships with national organizations focused on the needs of rural areas; affiliates in a majority of the States; and a working relationship with USDA.

Grants are to be used to expand or enhance employment opportunities, or self-employment and entrepreneurship opportunities, of people with disabilities. An appropriation of $2,000,000 for each of the fiscal years 2008 through 2012 is authorized. (Section 6028)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with minor modifications that strike the requirements that the entity have affiliates in a majority of States and a working relationship with USDA. (Section 6023)

*(37) Rural Business Investment Program*

The Senate amendment extends the Rural Business Investment Program authorization through 2012 with the following modifications: debentures may be prepaid at any time, distributions may be made to cover tax liability, USDA fees are limited to a $500 application fee and USDA will not be required to operate the program with other Federal agencies. (Section 6031)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, but removes the provision allowing distributions to be made to cover tax liability. The limitation on funding from certain financial institutions is maintained and raised 25 percent. (Section 6027)

*(38) Funding of pending rural development loan and grant applications*

The Senate amendment provides $135,000,000 in mandatory funding to fund applications that are pending for water systems, waste disposal systems and emergency community water assistance grants. (Section 6033)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a modification to provide $120,000,000 in mandatory funds for this purpose. (Section 6029)

*(39) Expansion of 911 areas*

The House bill extends through 2012 section 315(a) of the Rural Electrification Act (REA), which authorizes the Secretary to make telephone loans to State or local governments, Indian tribes, or other public entities for the expansion of rural 911 access and integrated emergency communication in rural areas. (Section 6022)

The Senate amendment also amends section 315 of the REA by expanding eligibility to emergency communications providers, State or local governments, Indian tribes, or other public entities for facilities and equipment to expand or improve 911 access, interoperable emergency communications, homeland security communications, transportation safety communication and location technologies used outside urbanized areas. Funds made available for telephone or broadband loans are authorized to be used for the program for each of the fiscal years 2008 through 2012. Government-imposed fees to emergency communications providers are allowed as security for a loan. (Section 6107)

The Conference substitute adopts the Senate provision with modifications to allow emergency communications equipment providers to apply for loans on behalf of municipalities where they serve when those municipalities are unable to incur such debt. The Conference substitute also adds clarifying language to ensure that the program operates only in rural areas. (Section 6107)

*(40) Access to broadband telecommunications services in rural areas*

The House bill provides for several modifications of section 601 of the REA, which authorizes the Secretary to provide loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

The House bill changes the definition of an ''eligible rural community'' to include any area in the United States that is not: included within the boundaries of any city, town, borough, or village, whether incorporated or unincorporated, with a population of more than 20,000 inhabitants; and the urbanized area contiguous and adjacent to such a city or town. The term ''incumbent service provider'' is defined to mean an entity that is providing broadband service to at least 5 percent of the service area proposed in the application.

The House bill requires priority to be given to applications proposing to serve communities in the following order: (1) no incumbent service provider; (2) 1 incumbent service provider; or (3) 2 incumbent service providers who, together, serve not more than 25 percent of the households in the service area proposed in the application.

This section prohibits the Secretary from making a loan under 2 conditions: (1) the loan is to any community where there are more than 3 incumbent service providers, unless;

(a) the loan is to an incumbent service provider of the community;

(b) the other providers in that community are notified of the application before approval by the Secretary, and have sufficient time to comment on the application; and

(c) the application includes substantially increasing the quality of broadband service in the community and the provision of broadband service to unserved households inside and outside the community; or

(2) the loan is for new construction (i.e. the construction or acquisition of broadband facilities and equipment by a new entrant into the community) in any community in which more than 75 percent of the households may obtain affordable broadband service, on request, from at least 1 incumbent service provider.

The House bill authorizes the Secretary to take steps to reduce the costs and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants, particularly those who are smaller and start-up Internet providers. It also mandates that not more than 25 percent of loans are to be made available, in a single fiscal year, to entities that serve more than 2 percent of the telephone subscriber lines in the United States.

The House bill provides that the period of a loan or loan guarantee cannot exceed 35 years, as the borrower may request, so long as the Secretary determines that the loan is adequately secured; the Secretary is to consider whether the recipient is, or would be, serving an area that is not receiving broadband services.

This section also requires the Secretary to ensure that the type, amount, and method of security used to secure a loan or loan guarantee is commensurate to the risk involved with the loan or loan guarantee, particularly when the loan or loan guarantee is issued to a financially healthy, strong, and stable entity. The Secretary is also required, in determining the amount and method of security, to consider reducing the security in areas that do not have broadband service.

The Secretary must annually report to Congress by December 1 of each fiscal year on the rural broadband loan and loan guarantee program. The annual report is to include information pertaining to the loans made, communities served, speed of broadband service offered, and types of services offered by applicants and recipients, length of time taken to approve applications submitted, and outreach efforts undertaken by USDA.

The House bill establishes a ''National Center for Rural Telecommunications Assessment'' to assess the effectiveness of the rural broadband loan and loan guarantee program, increase broadband penetration and purchase in rural areas; and develop assessments of broadband availability in rural areas. An appropriation of $1,000,000 is authorized for each of the fiscal years 2008 through 2012 for the Center.

The House bill mandates that the Secretary is required to set aside 10 percent of appropriated funds for eligible tribal communities. Unobligated amounts contained in the reserve for tribal communities will be released by June 30 of each fiscal year. (Section 6023)

The Senate amendment maintains current law, with respect to the purposes for which loans and loan guarantees may be made, but provides that they should be provided to ''rural areas,'' as defined in section 6105 of this Act. All references to eligible rural communities have been changed to rural areas.

The Senate amendment defines the term ''mobile broadband'' to mean any ''broadband service'' that is provided over a licensed spectrum through the use of a mobile station or receiver communicating with a land station or other mobile stations communicating among themselves.

Under the Senate amendment, highest priority is to be given to applicants that offer to provide broadband service to the greatest proportion of households currently without broadband service. A provider is considered to offer broadband service to a rural area if the provider makes the service available to households in the rural area at not more than average prices as compared to the prices at which similar services are made available in the nearest urban area, as determined by the Secretary. Eligible entities are required to: submit a proposal to the Secretary that meets the requirements for a project to offer to provide service to a rural area; offer to provide broadband service to at least 25 percent of households in a specified rural area that do not currently have such service offered to them; and agree to complete buildout of the broadband service within 3 years.

The Senate amendment prohibits the Secretary from making or guaranteeing loans for projects in areas where 3 or more existing providers already offer to provide comparable service.

The Secretary is given the discretion to require an entity to provide a cost-share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee. The Secretary is also given the discretion to require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband market in a rural area to submit a market survey. However, the Secretary is prohibited from requiring a market survey from an entity that projects to have less than 20 percent of the broadband market.

State, local governments, and Indian tribes are eligible to receive loans or loan guarantees available under this section.

No entity may acquire more than 20 percent of the resources of the program outlined under this section in a fiscal year.

The Senate amendment requires the Secretary to include a notice of applications on the Secretary's website for 90 days, post information relating to the broadband proposal on the website, establish a timeline on the website to track applications, and establish procedures for processing loan and loan guarantee applications (including requests for additional information). Not later than 45 days after the date on which the Secretary approves an application the documents necessary for closing the loan or loan guarantee are to be provided to the applicant. Not later than 10 business days after the date of receipt of a valid documentation requesting disbursement of the approved, closed loan, the disbursement of the loan funds is to occur.

The Senate amendment requires the Secretary to establish an optional pre-application process under which an applicant may apply to RUS for a binding determination of whether the area proposed to be served is eligible prior to preparing a full loan application.

An application for a loan or a loan guarantee under this section, or a petition for reconsideration of a decision on such an application, is to be considered under eligibility and feasibility criteria that are no less favorable to the applicant than the criteria in effect on the original date of submission of the application.

The Senate amendment establishes the annual rate of interest as the lower of: (i) the cost of borrowing to the Treasury Department for comparable obligations; or (ii) 4 percent. The loan or loan guarantee may not exceed 30 years. The type, amount, and method of security used to secure a loan or loan guarantee is commensurate to the risk involved with the loan or loan guarantee, particularly when the loan or loan guarantee is issued to a financially healthy, strong, and stable entity.

Similar to the House bill, the Senate amendment provides for a National Center for Rural Telecommunications Assessment. The authorization of appropriations for the Center is the same as the House bill. The Center is required to submit an annual report that describes its activities, the results of the research it has carried, and any additional information that the Secretary may request.

The Senate amendment allows the Secretary to provide the proceeds of any loan made or guaranteed under the REA for the purpose of refinancing another telecommunications-related loan made under REA.

An appropriation of $25,000,000 is authorized for each of the fiscal years 2008 through 2012. (Section 6110)

The Conference substitute adopts the Senate amendment with modifications. The definition of incumbent service provider is retained from the House bill.

The Conference substitute maintains the definition of rural area from the Senate amendment. The Conference substitute prohibits the Secretary from making a loan in any area where there are more than 3 incumbent service providers unless the loan meets all of the following requirements: (1) the loan is to an incumbent service provider that is upgrading service in that provider's existing territory; (2) the loan proposes to serve an area where not less than 25 percent of the households are offered service by not more than 1 provider; and (3) the applicant is not eligible for funding under another provision of the REA.

The Conference substitute also prohibits the Secretary from making a loan in any area where not less than 25 percent of the households are offered broadband service by not more than 1 provider unless a prior loan has been made in the same area under this section.

The Conference substitute provides that the highest priority is to be given to applicants that offer to provide broadband service to the greatest proportion of households currently without broadband service. Eligible entities are required to submit a proposal to the Secretary that meets the requirements for a project to offer to provide service to a rural area and agree to complete buildout of the broadband service within 3 years.

The Conference substitute prohibits any eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States from receiving an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated for the broadband loan program.

The Conference substitute allows the Secretary to require an entity to provide a cost-share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee. The Secretary is also allowed to require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit a market survey. However, the Secretary is prohibited from requiring a market survey from an entity that projects to have less than 20 percent of the broadband market.

The Conference substitute requires public notice of each application submitted, including the identity of the applicant, the proposed area to be served, and the estimated number of households in the application without terrestrial-based broadband. The Conference substitute authorizes the Secretary to take steps to reduce the costs and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants, particularly those who are smaller and start-up Internet providers.

The Conference substitute allows the Secretary to establish a pre-application process under which a prospective applicant may seek a determination of area eligibility.

The Conference substitute provides that an application, or a petition for reconsideration of a decision on such an application, that was pending on the date 45 days before enactment of this Act and that remains pending on the date of enactment of this Act is to be considered under eligibility and feasibility criteria in effect on the original date of submission of the application.

The current law rate of interest for direct loans—which is the rate equivalent to the cost of borrowing to the Department of Treasury for obligations of comparable maturity or 4 percent—is retained. The Secretary is to consider existing recurring revenues at the time of application in determining an adequate level of credit support.

The Conference substitute requires the Secretary to ensure that the type, amount, and method of security used to secure a loan or loan guarantee is commensurate to the risk involved with the loan or loan guarantee, particularly when the loan or loan guarantee is issued to a financially healthy, strong, and stable entity. The Secretary is also required, in determining the amount and method of security, to consider reducing the security in areas that do not have broadband service.

The Conference substitute requires that the Secretary report to Congress by December 1 of each fiscal year on the rural

broadband loan and loan guarantee program. The annual report is to include information pertaining to the loans made, communities served and proposed to be served, speed of broadband service offered, types of services offered by the applicants and recipients, length of time to approve applications submitted, and outreach efforts undertaken by USDA.

The Conference substitute authorizes the program at $25,000,000 to be appropriated for each of fiscal years 2008 through 2012. (Section 6110)

The Conference substitute provides for a National Center for Rural Telecommunications Assessment and criteria for the Center. The Center is to assess the effectiveness of programs carried out under this section, work with existing rural development centers to identify appropriate policy initiatives, and provide an annual report that describes the activities of the Center, the results of research carried out by the Center, and any additional information that the Secretary may request. An appropriation of $1,000,000 is authorized for each of the fiscal years 2008 through 2012. (Section 6111)

The Managers expect the Secretary to consider the unique way of life in rural America and to be mindful that mobile broadband technologies are applicable to farmers, ranchers, and small rural business owners. Fixed broadband service will continue to be important in rural homes and offices, but mobile technologies also may have a role to play in expanding broadband access to rural residents. The Managers expect the Secretary to weigh all appropriate technologies, including the unique characteristics of mobile broadband service and technologies, during consideration of applications.

With respect to applications not described in Section 601(c)(2) of the REA, as amended by this section, the Managers expect the Secretary to incorporate the new criteria as soon as practicable, taking into consideration the need to act upon pending applications within a reasonable time.

The Managers expect the Secretary to provide the necessary resources to expedite the processing of applications under this section. The Managers also expect that the notice of applications will be posted on the Agency's website in a manner that will be easy for interested members of the public to find the information described and would be posted in a manner consistent to the way similar notices are currently posted on the Agency's website. It is intended that such notices shall not contain any proprietary information as defined by section 552(b)(4) of title 5 of the United States Code. Finally, the Managers also intend that in addition to the notice, the Agency will also post on its website with respect to each loan and loan guarantee application the status of the Agency's consideration of the application and an estimate of when the Agency's consideration will be concluded which shall be regularly updated.

*(41) Study of Federal Assistance for Broadband Infrastructure*

The Senate amendment instructs the Comptroller General of the U.S. to conduct a study and review of the Rural Utilities Service (RUS) administration of Federal broadband programs with recommendations for changes. (Section 6113)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(42) Comprehensive rural broadband strategy*

The House bill requires the Secretary to submit to the President and the Congress a report describing a comprehensive rural broadband strategy that includes:

(1) recommendations to:

(A) promote interagency coordination of Federal agencies and improve and streamline policies, programs, and services;

(B) coordinate among Federal agencies regarding existing broadband or rural initiatives that could be of value to rural broadband development;

(C) address both short- and long-term solutions and needs for a rapid buildout of rural broadband solutions and applications for Federal, State, regional, and local government policy makers;

(D) identify how specific Federal agency programs and resources can best respond and overcome obstacles that currently impede rural broadband deployment; and

(E) promote successful model deployments and appropriate technologies being used in rural areas so that State, regional, and local governments can benefit from the success of other State, regional, and local governments; and

(2) a description of goals and timeframes to achieve the strategic plans and visions identified in the report. (Section 6031)

The Senate amendment requires the Secretary of Agriculture and the Chairman of the Federal Communications Commission (FCC) to submit a report to the Committees on Energy and Commerce and Agriculture of the House and the Committees on Commerce, Science, and Transportation and Agriculture, Nutrition and Forestry of the Senate describing a comprehensive rural broadband strategy with recommendations for improvement.

The Senate amendment includes recommendations to: (A) promote interagency coordination of Federal agencies and improve and streamline policies, programs, and services; (B) coordinate among Federal agencies regarding existing broadband or rural initiatives that could be of value to rural broadband development; (C) address both short- and long-term solutions and needs for a rapid buildout of rural broadband solutions and applications for Federal, State, regional, and local government policy makers; (D) identify how specific Federal agency programs and resources can best respond and overcome obstacles that currently impede rural broadband deployment.

This Senate amendment stipulates that the Chairman of the FCC, in coordination with the Secretary of Agriculture, is to update and evaluate the report required under this section on an annual basis.

The Senate amendment modifies section 306(a)(20)(E) of the Con Act by striking the reference to dial-up Internet access. (Section 6111)

The Conference substitute adopts the Senate provision to require a report on Federal broadband strategy with technical changes and a modification to require the update of the report required under this section in the third year following enactment. (Section 6112)

The Conference substitute adopts the Senate provision striking an obsolete reference to dial-up Internet and places the provision in a separate section. (Section 6005).

*(43) Community connect grant program*

The House bill amends the REA by authorizing the Secretary to provide financial assistance to eligible applicants for the provision of broadband transmission service that fosters economic growth and delivers enhanced services. The Secretary is authorized to prioritize grants that will enhance community access to telemedicine and distance learning. Grant applicants are required to provide a matching contribution of at least 15 percent of the grant amount requested.

An appropriation of $25,000,000 is authorized for fiscal years 2008 through 2012. (Section 6024)

The Senate amendment contains no comparable provision.

The Conference substitute strikes the House provision

*(44) Connect the Nation*

The Senate amendment provides that the subtitle of this section is to be cited as the ''Connect the Nation Act.'' (Section 6201)

The Senate amendment also creates a competitive, matching grant program (80 federal/20 state) called the ''Connect the Nation Act of 2007'' to be housed at Department of Commerce for eligible statewide public-private partnerships to benchmark current access and use, build detailed GIS maps of service, and create demand through grassroots teams. Eligible entities would be limited to 4 years of participation. Grant applications would be reviewed through a peer review process. Collaboration is required between State agencies, service providers, and relevant labor organizations, and community organizations to be considered eligible. An appropriation of $40,000,000 for each of the fiscal years 2008 though 2012 is authorized. (Section 6202)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(45) Distance Learning and Telemedicine*

The House bill amends the Food, Agriculture, Conservation, and Trade Act (FACT Act) by authorizing the Secretary to provide grants to noncommercial education television broadcast stations that serve rural areas for the purposes of developing digital facilities, equipment, and infrastructure to enhance digital services to rural areas. (Section 6028)

The House bill amends section 2335A of the FACT Act by extending the authorization of appropriations to fiscal year 2012. (Section 6029)

The Senate amendment permits as allowable purposes for receiving financial assistance library connectivity and public television station digital conversion. The Secretary is required to establish, by notice, the amount of financial assistance available to applicants in the form of grants, costs of money loans, combinations of grants and loans, or other financial assistance. Libraries or library support organizations, public television stations and parent organizations of public television stations, and schools, libraries, and other facilities operated by the Bureau of Indian Affairs or Indian Health Service are added as eligible for assistance. In prioritizing financial assistance the Secretary may also consider the cost and availability of high-speed network access.

The Senate amendment allows the following as eligible purposes under this section: the development, acquisition, and digital distribution of instructional programming to rural users; the development and acquisition of computer hardware and software, audio and visual equipment, computer network components, telecommunications transmission facilities, date terminal equipment, or interactive video equipment, teleconferencing equipment, or other facilities that would further telemedicine services, library connectivity, or distance learning services; the provision of technical assistance and instruction for the development or use of the programming, equipment, or facilities; the acquisition of high-speed network transmission equipment or services that would not otherwise be available or affordable to the applicant; costs relating to the coordination and collaboration among and between libraries on connectivity and universal service initiatives, or the development of multi-library connectivity plans that benefit rural users; and competitive

grants, for public television stations or a consortium of public television stations, to provide education, outreach, and assistance, in cooperation with community groups, to rural communities and vulnerable populations with respect to the digital television transition, and particularly the acquisition, delivery, and installation of the digital-to-analog converter boxes.

The Senate amendment reauthorizes appropriations through 2012. (Section 6302)

The Conference substitute adopts the Senate provision with modifications to provide that only libraries are added as eligible entities, clarifying current law. No additional uses are added. However, the Managers direct that public television entities are eligible to receive assistance under this section for high-speed telecommunication services in rural areas to provide educational programming for schools and communities in rural areas. (Section 6201)

*(46) Agricultural innovation center demonstration grants*

The House bill provides for an extension of section 6402 of the Farm Security and Rural Investment Act of 2002 (FSRIA) by authorizing an appropriation of $6,000,000 for each of the fiscal years 2008 through 2012. (Section 6025)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 6203)

*(47) Rural firefighters and emergency services assistance program*

The House bill amends section 6405 of the FSRIA by authorizing the Secretary to award grants to eligible entities to enable such entities to provide for improved emergency medical services (EMS) in rural areas. Grants may be used to pay the cost of training firefighters and emergency medical personnel in firefighting and emergency medical practices in rural areas.

Eligible entities must be: a State EMS office or association; a State office of rural health; a local government entity; an Indian tribe; or any other entity determined appropriate by the Secretary. To receive a grant under this section the eligible entity must prepare and submit an application to the Secretary that includes: a description of the activities to be carried out under the grant and an assurance that the applicant will comply with the grant program's matching fund requirement.

Under the House bill, eligible entities are to use grant funds only in rural areas to: (1) hire, recruit or train EMS personnel; (2) recruit or retrain emergency EMS personnel; (3) fund training to meet State or Federal certification requirements; (4) provide training for firefighters and emergency medical personnel for improvements to the training facility, equipment, and personnel; (5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods; (6) acquire EMS vehicles and equipment; (7) acquire personal protective equipment for EMS personnel as required by the Occupational Safety and Health Administration (OSHA); (8) educate the public concerning CPR, first aid, injury prevention, safety awareness, illness prevention, and other emergency preparedness topics. Preference is to be given to applications that reflect a collaborative effort by 2 or more eligible entities and are submitted by eligible entities who intend to use grant funds to: hire, recruit, or train EMS personnel; recruit or retrain volunteer EMS personnel; fund training to meet State or Federal certification requirements; or develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods. Appropriations of not more than $30,000,000 are authorized for each of the fiscal years 2008 through 2012; no more than 10 percent of appropriated funds in a fiscal year may be used for administrative expenses. (Section 6026)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with minor changes. The funds made available under this section are not to go to entities operating on a for-profit basis. Additionally, the amount allowed for administrative expenses is decreased to 5 percent. (Section 6204)

*(48) Value-added agricultural product market development grants*

The House bill extends the program through fiscal year 2012 and provides $30,000,000 in mandatory funding for each fiscal year. Of the mandatory funds, 10 percent is to be set aside for projects benefiting beginning farmers and ranchers or socially disadvantaged farmers or ranchers and 10 percent is to be set aside for applications that propose to develop mid-tier value chains, which are defined in this section as local and regional supply networks that link independent producers with business and cooperatives that market value-added agricultural products. Should viable applications for these 2 purposes not meet the full 10 percent set-aside, amounts unobligated by June 30 may be reallocated. The House bill requires the Secretary, in awarding grants under this section, to consider applications more favorably, when compared to other applications, to the extent that the project proposed in the application contributes to increasing opportunities for operators of small and medium-sized farms and ranches structured as ''family farms''—as defined in the regulations prescribed under section 302 of the Con Act. (Section 6027)

The Senate amendment provides for an extension of the program through 2012 and updates the definitions of ''assisting organization,'' ''technical assistance,'' and ''value-added agricultural product.'' Under the Senate amendment, a grant recipient can receive no more than $300,000 in the case of grants including working capital or $100,000 in the case of all other grants. The amount of grant funds provided to an assisting organization for research, training, technical assistance, and outreach for a fiscal year may not exceed 10 percent of the total funds that are used to make grants.

The Senate amendment requires that grants made under this section be limited to a 3-year term. The Secretary is authorized to offer a simplified application form and process for project proposals that request less than $50,000. The Secretary is also authorized, to the maximum extent practicable, to provide grants to projects that provide training and outreach activities in areas that have received relatively fewer grants. The Senate amendment adds a priority for projects that contribute to increasing opportunities for beginning farmers or ranches, socially disadvantaged farmers or ranchers, and operators of small and medium-sized farms and ranches that are not larger than family farms and support new ventures that do not have well-established markets or product development staffs and budgets, including the development of local food systems and the development of infrastructure to support local food systems. (Section 6401)

The Conference substitute adopts the Senate provision with modifications. The Secretary is required to reserve 10 percent of funds for projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers and 10 percent of funds for projects proposing to develop mid-tier value-chains. Priority in awarding grants should go for projects that contribute to increasing opportunities for beginning farmers and ranchers, socially disadvantaged farmers or ranchers, and operators of small and medium-sized farms and ranches that are structured as family farms. Mandatory funding of $15,000,000, to remain available until expended, is to be provided in fiscal year 2009. The authorization of appropriations for the program is extended through 2012. (Section 6202)

The Managers are aware of the increasing producer interest in mid-tier value chains that are strategic alliances between small and mid-sized farms and ranches and other supply chain partners that deal in significant volumes of high-quality, differentiated food products and distribute rewards equitably across the supply chain. The Managers expect that awards under this new mid-tier value chain component of the program will support strategic alliances in which the producer, producer group, farmer cooperative, or majority-controlled producer based venture participate in developing the overall framework and specific rules for the alliance.

*(49) Guarantees for bonds and notes*

The House bill extends guarantees for bonds and notes issued for electrification or telephone purposes through 2012. (Section 6030)

The Senate amendment extends eligibility for guarantees for telephone installation purposes; expands the funds available for guarantees to $1,000,000,000; requires the annual fee paid for the guarantee of a bond or note to be equal to 30 basis points of the amount of the unpaid principal; and requires a lender to pay fees required on a semi-annual basis on a schedule structured by the Secretary.

The Senate amendment also extends the Secretary's authority to guarantee payments to September 30, 2012. (Section 6106)

The Conference substitute adopts the Senate provision, with a modification to allow the provision expanding the funds available for guarantees to apply immediately upon enactment. (Section 6106)

*(50) Study of rural transportation issues*

The House bill authorizes the Secretary of Agriculture, in coordination with the Secretary of Transportation, to conduct a study, and submit a report to Congress on the results of the study within 9 months of the date of enactment of this Act, on railroad issues, with respect to the movement of agricultural products, domestically produced renewable fuels and domestically produced resources for the production of electricity in rural America.

The study includes an examination of the importance of freight railroads to: the delivery of equipment, seed, fertilizer, and other products important to the development of agricultural commodities and products; the movement of agricultural commodities and products to market; the delivery of ethanol and other renewable fuels; the delivery of domestically produced resources for use in the generation of electricity in rural America; the location of grain elevators, ethanol plants, and other facilities; the development of manufacturing facilities; the vitality and economic development of rural communities; the sufficiency in rural America of railroad capacity, the sufficiency of rail competition, the reliability of rail service, and the reasonableness of rail prices; and the accessibility to rail customers in rural America of Federal processes for the resolution of rail customer grievances with the railroad. (Section 6032)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment expanding the study to include other modes of

transportation, including truck and barge. (Section 6206)

*(51) Energy efficiency programs*

The Senate amendment amends sections 2(a) and 4 in the REA by authorizing the Secretary to extend loans to energy efficiency programs. (Section 6101)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6101)

The Managers note that assistance is authorized under this section for renewable energy, including geo-thermal ground loops, under sections 2 and 4 of the REA as amended. The Managers expect that applications for such assistance will be properly considered and when meritorious, that they should be funded.

*(52) Loans and grants for electric generation and transmission*

The Senate amendment amends section 4 of the REA by requiring the Secretary to make loans and grants for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing and improving of electric services to persons in rural areas if appropriated funds are made available. (Section 6102)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

If funds are appropriated for Section 4 of the REA, the Managers expect the Secretary to make funds available for baseload generation.

*(53) Fees for electrification baseload generation loan guarantees*

The Senate amendment amends the REA by adding a new section, 5, which allows the Secretary to charge an upfront fee to cover the cost of loan guarantees. The fee is to be at least equal to the costs of the loan guarantee. The Secretary is given the authority to establish a separate fee for each loan. (Section 6103)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision, but adopts an amendment to require a study on the electric power generation needs in rural areas. (Section 6113)

*(54) Deferment of payments to allow loans for improved energy efficiency and demand reduction*

The Senate amendment amends section 12 of the REA by requiring the Secretary to allow borrowers to defer payment of principal and interest on any direct loan to enable the borrower to make loans to residential, commercial, and industrial consumers to install energy efficient measures or devices that reduce the demand on electric systems for 60 months. (Section 6104)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to allow energy efficiency and use audits as an eligible purpose under the program. (Section 6103)

The Conference substitute also makes technical changes to allow for direct lending from the U.S. Department of Treasury for RUS financing. Under the authority conferred to it under section 4 of the REA, RUS has the ability to guarantee loans made by the Federal Financing Bank (FFB), an agency of the U.S. Department of the Treasury (Treasury), to rural electric providers. Through approval of both the Office of Management and Budget and the appropriations process, direct loans from the Treasury have been used in addition to the FFB loan guarantees for several years. Language is included in a new section authorizing the loan rate program through Treasury with a requirement that cost of money loans be made with 1/8 of 1 percent added to the interest rate. This will effectively take the place of the FFB program. The loans should continue to be scored at a negative subsidy. (Section 6102)

The Managers expect that this language will enable the loans to be processed more efficiently and still protect the taxpayer investment in a strong, modern infrastructure in rural America.

*(55) Rural electrification assistance*

The Senate bill amends the definition of ''rural area'' to mean an area that excludes: (1) cities of 50,000 or more; (2) any urbanized area contiguous and adjacent to a city of 50,000 or more, except for narrow strips of urbanized areas; and (3) any collection of contiguous census blocks with a housing density of 200 housing units per square mile that is adjacent to a city of 50,000 or adjacent to an urbanized area, except for narrow strips of such territory. The definition is also amended to include any area within the service area of a borrower for which a borrower has an outstanding loan made under titles I through V of the REA. (Section 6105)

With respect to loans and loan guarantees made under the rural broadband program, the term rural area also excludes a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with modifications. Rural area is defined to mean an area that excludes a city or town of 20,000 or more, or is an area within the service area of a borrower for which a borrower has an outstanding loan made under titles I through V of the REA. (Section 6104)

*(56) Electric loans for renewable energy*

The Senate amendment amends Title III of the REA by adding a new section, 317, which allows the Secretary to make loans to rural electric cooperatives for purposes of electric generation and transmission of renewable energy. Renewable energy source is defined as a qualified energy resource under section 45(c)(1) of the Internal Revenue Code of 1986. (Section 6108)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications. The provision to allow transmission under this section is deleted with the understanding that the agency currently possesses authorization to make loans for such transmission. Additionally, the definition of renewable energy source is redefined to mean ''an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.'' (Section 6108)

The Managers expect the Secretary to make electric loans under this title for electric generation from renewable energy resources to rural and nonrural residents.

*(57) Bonding requirements*

The Senate amendment amends Title III of the REA by adding agency procedures for loans or grants under this Act. The amendment: (1) requires that loan applicants are contacted at least once each month by RUS regarding the status of any pending loan applications; (2) requires the Secretary to ensure that applicants for any RUS grants have the opportunity to present a case for financial need and that these special economic circumstances are considered in determining the grant status of the applicant; (3) allows the Secretary to adjust population limitations related to digital mobile wireless service; and (4) requires the Secretary to review bonding requirements for all programs administered by RUS. (Section 6109)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision to require the Secretary to review bonding requirements for all programs administered by RUS, but strikes the other provisions in the Senate amendment. (Section 6109)

The Managers are aware of significant annual increases in the cost of labor and materials in major electric generation and transmission projects resulting in parallel increases in cost for Surety and Performance Bonds. The cost of Surety and Performance Bonds precludes some contractors from bidding on projects successfully. The Managers therefore request the Secretary give consideration to other measures that will ensure more contractors can bid on projects and simultaneously protect the government's investment in these projects. Suggestions have been made that lines of credit or parent company guarantees are examples of methods that could provide such protection for both the borrowers and the government.

*(58) Substantially underserved trust areas*

The Senate amendment provides that Native American trust lands, where more than 20 percent of the population does not have electric, telecommunications, broadband or water service, are to be considered substantially underserved trust areas. The Secretary may make programs administered by RUS available to such areas at lower loan rates and may waive non-duplication requirements. (Section 6112)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to ensure that only the restrictions and requirements specified under this section are waived with this authority. The authority of the Secretary to waive non-duplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by RUS to facilitate the construction, acquisition, or improvement of infrastructure is not to affect any loan or grant program administered by the U.S. Environmental Protection Agency. In addition, the language in this section is not intended to amend, alter, or affect any statutory provisions contained in the Safe Drinking Water Act or any regulations promulgated under that Act, including any orders or guidance issued pursuant to that authority. (Section 6105)

*(59) Rural electronic commerce extension*

The Senate amendment reauthorizes section 1670(e) of the FACT Act through 2012. (Section 6301)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(60) Insurance of loans for housing and related facilities for domestic farm labor*

The Senate amendment amends section 514 (f)(3) of the Housing Act of 1949, by extending the definition of ''domestic farm labor'' to include any person who receives a substantial portion of their income from the processing of agricultural or aquaculture commodities. (Section 6402)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6205)

*(61) Housing Assistance Council*

The Senate amendment provides for the ''Housing Assistance Council Authorization Act of 2007.'' (Section 6501)

This section authorizes the Secretary of Housing and Urban Development (HUD) to provide financial assistance to the Housing Assistance Council (HAC) for the purpose of supporting community-based housing development organizations' community development and affordable housing projects and programs in rural areas. (Section 6502)

The Senate amendment requires the Comptroller General to audit any institution receiving funds from HAC and a GAO report on the use of any funds appropriated to HAC over the past 10 years. (Section 6503)

The Senate amendment prohibits funds from subtitle D of this Act from being used to provide housing assistance to persons not lawfully present in the United States. (Section 6504)

The Senate amendment prohibits funds from being used to lobby or retain a lobbyist. (Section 6505)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment, with modifications to allow the GAO to use private, independent audits for the review of HAC. (Sections 6301, 6302, 6303, 6304, and 6305)

*(62) Interest rates for water and waste disposal*

The Senate amendment amends section 307(a)(3) of the Con Act to ensure that interest rates for intermediate and poverty rate loans are tied to the current market rate. The poverty rate is set at 60 percent of the market rate and the intermediate rate is set at 80 percent of the market rate. (Section 12602)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment, with modifications to exclude from the interest rate change, those loans that have been approved prior to the enactment of this Act. (Section 6011)

TITLE VII—RESEARCH

*(1) Definitions*

The House bill defines terms necessary to implement this Act: capacity program, competitive program, capacity program critical base funding, competitive program critical base funding, ASCARR Institution, Secretary, Directors, Under Secretary, and Hispanic-serving agricultural college and university. (Section 7101)

The Senate amendment amends the Department of Agriculture Reorganization Act of 1994 to define the terms: advisory board, competitive program, director, infrastructure program, and institute (Section 7401). The Senate amendment amends Section 1404 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (NARETPA) to define the terms Hispanic-serving agricultural colleges and universities, and Hispanic-serving institution, and to expand 'college' and 'university' to include research foundations maintained by a college or university. (Section 7001)

The Conference substitute adopts the House provision with an amendment to include the terms defined in the House bill and the Senate amendment.

The Conference substitute defines the following terms necessary to implement this Act: capacity and infrastructure program, capacity and infrastructure program critical base funding, competitive program, competitive program critical base funding, Hispanic-serving agricultural colleges and universities, NLGCA Institution (non-land-grant colleges of agriculture), 1862 Institution, 1890 Institution, and 1994 Institution. (Section 7501)

The Conference substitute amends section 1404 of the NARETPA to define Hispanic-serving agricultural colleges and universities, Hispanic-serving institutions, and NLGCA Institutions (non-land-grant colleges of agriculture), and to expand the definition of ''college'' and ''university'' to include research foundations maintained by a college or university. (Section 7101)

The Conference substitute amends section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) to define the terms ''capacity and infrastructure program'' and ''competitive program''. (Section 7511)

*(2) Budget submission and funding*

The House bill requires the President to submit with the annual budget request a single line item reflecting the total funding requested for competitive programs for the fiscal year and the previous five fiscal years. The capacity program critical base funding request should be apportioned among programs based on priorities established by the Under Secretary of Research, Education, and Economics, and the Directors of the National Agricultural Research Program Office (NARPO). Additional funds requested should enhance 1890 institutions, 1994 institutions, small 1862 institutions, ASCARR institutions, and Hispanic-serving agricultural colleges and universities. The competitive program critical base funding request should be apportioned among programs based on priorities established by the Under Secretary and Directors of NARPO. Additional funds requested should support the study of emerging problems and their solutions. Necessary funds are authorized to be appropriated. Competitive programs under this section include only those requested by the President for funding. (Section 7102)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to include the total amount requested by the President for the research, extension, and education activities of the Research, Education, and Economics (REE) mission area of the Department in a single budget line item. The Conference substitute recommends that out of funds above the capacity and infrastructure critical base funding level, budgetary emphasis should be placed on certain institutions; and out of funds above the competitive program critical base funding level, budgetary emphasis should be placed on emerging problems. (Section 7506)

The Managers recognize the numerous benefits of competitive research programs and have supported the expansion of funding for these programs. The Managers encourage the Department to make every effort to increase support for competitive programs while maintaining the needs of capacity and infrastructure programs when making budgetary decisions.

The Managers expect the Secretary to review, in conjunction with the consultative panel on the Extension Indian Reservation Program (also known as the Federally Recognized Tribes Extension Programs), the demand for and status of extension services on Indian reservations and reflect that need in their budget submission.

*(3) Additional purposes of agricultural research and extension*

The House bill amends section 1403 of the NARETPA to add the following to the purposes of agricultural research and extension: integrating and organizing agricultural research, extension, education, and related programs to respond to 21st century challenges; continuing to meet the needs of society from a local, tribal, State, national, and international perspective; minimizing duplication and maximizing coordination of the program at all levels; positioning the research, extension, education, and related programs to expand the portfolio to increase its contribution to society. (Section 7103)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(4) National Agriculture Research Program Office*

The House bill establishes six research Program Offices, collectively known as the ''National Agricultural Research Program Office'' (NARPO) within the office of the Under Secretary of Agriculture for Research, Education, and Economics. The NARPO will coordinate the programs and activities of the research agencies within the mission area to the maximum extent practicable. The NARPO will include the following offices:

(1) Renewable energy, resources, and environment;

(2) Food safety, nutrition, and health;

(3) Plant health and production and plant products;

(4) Animal health and production and animal products;

(5) Agriculture systems and technology; and

(6) Agriculture economics and rural communities.

Each research program office will have a director appointed by the Under Secretary. The requirements to qualify for one of the director positions include performance of outstanding research, extension, or education in agriculture or forestry, a doctoral-level degree, and other standards as required for appointment to a senior level of the competitive service.

The Directors will formulate programs, assess workforce needs, cooperate with the National Agricultural Research, Extension, Education, and Economics Advisory Board (NAREEE Advisory Board) in planning for personnel needs, develop strategic planning and priorities for Department-wide research, extension, education, and related activities, and communicate with program beneficiaries.

The Under Secretary, along with the Directors, and in consultation with the NAREEE Advisory Board, will direct and coordinate programs within relevant departmental agencies to focus on understanding program problems and opportunities, and addressing those problems along with national, regional, and local priorities.

The Under Secretary will coordinate with the Directors and receive the advice of the NAREEE Advisory Board to ensure that programs are integrated and coordinated.

The Under Secretary will fund each Program Office with appropriated funds made available to the agencies within the mission area. The total number of staff for all Program Offices will not exceed 30 full time positions and will have to be filled by current positions.

The Under Secretary will integrate leadership functions from existing program offices to ensure that program offices are the primary program leaders.

The Under Secretary will develop and implement specialty crop research activities, facilitate information delivery, and ensure coordination among research initiatives related to specialty crops. (Section 7104)

The Senate amendment requires coordination between the Agricultural Research Service (ARS) and the National Institute of Food and Agriculture (NIFA)—formerly the Cooperative State Research, Education, and Extension Service (CSREES). The Under Secretary for Research, Education, and Economics will coordinate the programs under the authority of the Administrator of ARS and the Director of NIFA. The staff of the Administrator and the Director, including

national program leaders, are required to meet on a regular basis to: increase coordination and integration of research programs at ARS and the research, extension, and education programs of NIFA; coordinate responses to emerging issues; minimize unnecessary duplication of work and resources at the staff level of each agency; use the extension and education program to deliver knowledge to stakeholders; address critical needs facing agriculture; and focus the research, extension, and education funding strategy of the Department. An annual report to Congress is required on efforts to increase coordination between ARS and NIFA.

The Undersecretary for Research, Education, and Economics is charged with undertaking a roadmap to identify major opportunities and gaps in agricultural research, extension, and education and to use this roadmap to set the research agenda and recommend funding levels for programs in this mission area of the Department.

Such sums necessary for activities undertaken to develop the roadmap are authorized. (Section 7402)

The Conference substitute adopts the House provision with an amendment to change the name of the office to the Research, Extension, and Education Office (REEO) and to integrate it into the office of the Under Secretary for Research, Education, and Economics. The Conference substitute also captures the roadmap from the Senate amendment.

The Conference substitute requires the Under Secretary for Research, Education, and Economics to have specialized training or significant experience in agricultural research, education, and economics. The Under Secretary is designated as the chief scientist of the Department and is tasked with the coordination of the research, education, and extension activities of the Department.

The Conference substitute organizes the REEO into six Divisions:

(1) Renewable energy, natural resources, and environment;

(2) Food safety, nutrition, and health;

(3) Plant health and production and plant products;

(4) Animal health and production and animal products;

(5) Agriculture systems and technology; and

(6) Agriculture economics and rural communities.

Each Division will be led by a Division Chief. The Division Chiefs are to be selected by the Under Secretary to promote leadership and professional development, to enable personnel to interact with other agencies of the Department, and to allow for the rotation of Department personnel into the position of Division Chief. Each Division Chief is required to have conducted exemplary research, extension, or education in the field of agriculture or forestry and is required to have earned an advanced degree at an institution of higher education. Each Division Chief is limited to a four-year term of service. The duties of each Division Chief include addressing the agricultural research, extension, and education needs and priorities within the Department and communicating with stakeholders, as well as the development of the roadmap as described in section 7504 of this Act. (Section 7511 and Section 7504)

The Managers expect the REEO to be staffed and funded from appropriations made available to the agencies within the REE mission area. There is concern that the REEO will evolve into a new layer of bureaucracy. To address this, the Managers have included language to limit the number of staff positions for the REEO to 30 full-time current positions.

The Managers expect the REEO Divisions to coordinate the research, extension, and education activities across the Department. The Managers expect the Division Chiefs of each office to: coordinate the functions of intramural and extramural research, extension, and education programs to ensure the maximum integration of activities; and to formulate programs, assess workforce needs, and cooperate with the agencies of the REE mission area and the NAREEE Advisory Board in developing strategic planning and priorities for the Department.

The Managers expect that once REEO is operational, the Division Chiefs will be able to track, report, and identify research gaps, unnecessary duplication among programs, and assess the needs for immediate, emerging, and future needs for research, extension, and education programs.

*(5) Establishment of competitive grant programs under the National Institute for Food and Agriculture*

The House bill establishes the NIFA within CSREES to administer all competitive programs as defined in section 7101 of this Act. (Section 7105)

The Senate amendment transfers all authorities under CSREES to NIFA, and all programs currently under CSREES will continue under NIFA. NIFA will be headed by a Director, who is required to report to and consult with the Secretary on the research, extension, and education activities of NIFA. The Director will work with the Under Secretary for Research, Education, and Economics to ensure proper coordination and integration of all research programs that are within the responsibility of the Department.

The Senate amendment establishes four offices at NIFA to increase competitive grant opportunities and re-establish the importance of the land-grant college and university system. First, the Office of the Agricultural Research, Extension, and Education Network administers all infrastructure programs (also known as capacity programs) such as those funded by formula funds at state agricultural experiment stations and the extension service. Second, the Office of Competitive Programs for Fundamental Research administers competitive programs that fund fundamental (basic) food and agricultural research, such as the National Research Initiative's basic research projects. Third, the Office of Competitive Programs for Applied Research administers competitive programs for applied food and agricultural research. Fourth, the Office of Competitive Programs for Education and Other Purposes administers competitive programs for education and other fellowships. The Director of NIFA has the discretion to divide programs that intersect more than one competitive program office.

The Senate amendment authorizes appropriations for NIFA, above the authorizations of individual programs, to be allocated according to recommendations in the roadmap to be developed by the Under Secretary of Research, Education and Economics under section 7402 of this Act.

The Senate amendment includes a series of conforming amendments to modify each place in current law to reflect the change from ''Cooperative State Research, Education, and Extension Service'' to ''National Institute of Food and Agriculture''. (Section 7401)

The Conference substitute adopts the Senate provision to modify the appointment, supervision, compensation, and authorities of the Director of NIFA and to modify the organization of offices under NIFA. It also modifies the programs under the definition of ''capacity and infrastructure program'' and ''competitive program'';

The Conference substitute provides that NIFA will be established by October 1, 2009. The Director of NIFA is required to be a distinguished scientist and will be appointed by the President. The Director is required to report to the Secretary or the designee of the Secretary and will serve a six-year term, subject to reappointment for an additional six-year term.

The Conference substitute also provides the Director with discretion to organize NIFA into offices and functions to administer fundamental and applied research and extension and education programs. The NIFA Director is required to ensure an appropriate balance between fundamental and applied research programs, and is required to promote the use and growth of competitively awarded grants.

The Conference substitute provides an authorization of appropriations for NIFA without fiscal year limitation, in addition to funds appropriated to each program administered by the Institute. The appropriated funding is required to be allocated according to recommendations in the roadmap described in section 7504 of this Act.

The Managers are concerned about the visibility of competitive research grants, the increasing demands placed on the land-grant system, and the weakening financial support of both competitive grants and formula funds. By restructuring CSREES, the Managers intend for NIFA to raise the profile of agricultural research, extension, and education. The Managers believe that NIFA will be commensurate in stature with other grant-making agencies across the Federal government, such as the National Institutes of Health and the National Science Foundation. The Managers intend for NIFA to be an independent, scientific, policy-setting agency for the food and agricultural sciences, which will reinvigorate our nation's investment in agricultural research, extension, and education.

The Managers are concerned about the balance between fundamental and applied research at the Department. The Managers note that the Conference substitute gives the Director of NIFA discretion to establish offices, to set appropriate policy, and to address problems that agricultural research, extension, and education can help solve. In particular, the Managers intend that the Director place emphasis on fundamental research because this type of research is the engine and cornerstone for all other types of research. Although fundamental research across the sciences is funded by the National Science Foundation, the Managers expect NIFA to play a larger role in funding this type of research. However, the Managers recognize that without applied research, the fruits of fundamental research would never be used to solve the pressing needs of the public. Therefore, the Managers intend for the Director to carefully analyze the needs of the agricultural research, extension, and education system and address them accordingly by allocating appropriate staff and resources within NIFA. (Section 7511)

*(6) Merging of IFAFS and NRI*

The House bill combines the Initiative for Future Agriculture and Food Systems (IFAFS) with the National Research Initiative (NRI) by repealing section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998, except for section 401(b)(3) of that Act which will remain in effect, and incorporating the priorities under section 401 into subsection (b) of the Competitive, Special, and Facilities Research Grant Act.

This section states that competitive grants authorized under the new program are to be available to State agricultural experiment

stations, all colleges, universities, university research foundations, research institutions and organizations, Federal agencies, national laboratories, private organizations, corporations, and individuals.

The term of any grant received under this program will not exceed 10 years. All grant awards are to be made on the basis of peer and merit review. Funds may not be used for construction.

Within the combined program, there will be two separate programs for basic and applied research, to be referred to as NRI and IFAFS respectively. Out of the funds made available to the combined program, 60 percent will fund NRI and 40 percent will fund IFAFS.

Within the NRI allocation, funding will be allocated as follows: 30 percent for multidisciplinary teams; 20 percent for mission-linked systems research; not less than 10 percent for education and research opportunities. The offer or availability of matching funds shall not be taken into account when making a grant. The match requirement may be waived in certain cases.

Matching funds will be required for IFAFS grants if the grant is for applied, commodity-specific research and not national in scope.

In addition to NRI grants, the Secretary may conduct a program in agricultural, food, and environmental sciences in a variety of specified categories. Funding made available under current law for IFAFS will be transferred to this new combined program. The House bill authorizes $500,000,000 to be appropriated and to remain available until expended for obligations incurred in that fiscal year.

This section repeals the authority for construction of non-Federal agricultural research facilities with appropriated Federal funds. (Section 7106)

The Senate amendment amends Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 to add sustainable and renewable agriculture-based energy production, ecosystem services, and beginning farmers and ranchers to the purposes of IFAFS.

This section strikes a provision allocating $200,000,000 per year in mandatory funds for IFAFS and provides $45,000,000 in mandatory funds for IFAFS to be obligated 30 days after the enactment of the farm bill. This section requires 32 percent of appropriated funds for the NRI to go towards IFAFS grants if funds are not appropriated or obligated for IFAFS. (Section 7201)

The Senate amendment amends the Competitive, Special, and Facilities Research Grant Act to add research on agricultural genomics and biotechnology, classical animal and plant breeding, beginning farmers and ranchers, and the judicious use of antibiotics to the research priorities of the NRI.

This section modifies the availability of grant funds for classical plant and animal breeding to ten years and establishes National Research Support Project–7 for research on drugs for use in minor animal species. (Section 7307)

The Conference substitute adopts the House provision with an amendment to replace subsection (b) of the Competitive, Special, and Facilities Research Grant Act to create a new program, titled the ''Agriculture and Food Research Initiative'' (AFRI), to award competitive grants for fundamental and applied research, extension, and education to address food and agricultural sciences. The program combines the priority areas of the NRI with the purposes and priority areas of IFAFS. There are six priority areas in AFRI:

(1) Plant health and production and plant products;

(2) Animal health and production and animal products;

(3) Food safety, nutrition, and health;

(4) Renewable energy, natural resources, and environment;

(5) Agriculture systems and technology; and

(6) Agriculture economics and rural communities.

The term of competitive grants awarded under AFRI may not exceed 10 years.

Under AFRI, the Secretary will seek proposals to conduct research, extension, or education activities in a specific priority area, determine the relevance and merit of proposals, and award grants on the basis of merit, quality, and relevance as determined by experts in the specific subject area.

AFRI funds are to be allocated in the following manner: 60 percent will be made available for fundamental research and 40 percent will be made available for applied research. Of the allocation for fundamental research, not less than 30 percent will be made available for multidisciplinary research and not more than two percent will be made available for equipment grants.

Grants awarded through AFRI may also be used to assist in the development of capabilities in the agricultural, food, and environmental sciences to certain institutions, investigators, and faculty members where such development is necessary.

Eligible entities that may receive grants through AFRI include State agricultural experiment stations, colleges and universities, university research foundations, other research institutions and organizations, Federal agencies, national laboratories, private organizations or corporations, individuals, or groups thereof.

AFRI funds are prohibited from being used for the construction, acquisition, remodeling, or alteration of a facility or building.

For equipment grants funded through AFRI, the cost of the equipment required may not exceed 50 percent of the Federal funds. The Secretary may waive this matching requirement under specified conditions. For grants awarded to conduct applied research that is commodity-specific and not of national scope, the grant is required to be matched with equal matching funds from a non-Federal source.

The authorization level for AFRI is set at $700,000,000 from fiscal year 2008 through fiscal year 2012, of which not less than 30 percent is required to be made available for integrated research. (Section 7406)

The Managers expect that in providing an annual authorization of appropriations of $700,000,000 that AFRI will receive substantial funding to carry out its purposes in the annual appropriations process. NRI and IFAFS have been consistently underfunded despite the growing list of identified needs in agricultural research, extension, and education.

The Managers created AFRI to enhance the work funded by NRI and IFAFS. As such, AFRI should receive the combined level of authorized and mandatory funding that NRI and IFAFS, respectively, were to receive in previous fiscal years. The Managers expect that AFRI be funded at increasing levels each fiscal year to meet identified priority agriculture research, extension and education demands.

The Managers are aware of the importance of supporting public sector conventional plant and animal breeding, as evidenced by the specific mention of this priority under the ''plant health and production and plant products'' and ''animal health and production and animal products'' priorities in AFRI. The Managers intend that the term ''conventional breeding,'' also known as ''classical breeding,'' refer to breeding techniques which rely on creating an organism with desirable traits through controlled mating and selection. Because conventional breeding is critical to the development of seeds and breeds that are well adapted to local conditions and changing environmental constraints, these efforts are important to the food and agriculture sector. The Managers are aware that participatory breeding programs, where producers are involved in the process of developing new plant varieties and animal breeds, yield varieties and breeds that are better adapted to local environments. The Managers encourage an emphasis on funding of conventional plant and animal breeding as part of the new AFRI.

The Managers are aware of the need for integrated research, extension, and education activities to stimulate entrepreneurship across rural America to support business development, improve skills of current and emerging entrepreneurs, expand access to capital, and build entrepreneurial networks. Under the priority area of ''agriculture economics and rural communities,'' AFRI includes ''rural entrepreneurship'' to increase competitive funding for integrated entrepreneurship activities. The Managers intend for this priority area to include both agricultural and rural development ventures, including strengthening non-farm, self-employment for farm and rural populations.

The Managers intend that most program areas within AFRI would have grant terms of short duration. However, the Managers are aware that there are areas of research where longer-term grants are needed, such as conventional plant and animal breeding, environmental research, and nutrition research. The Managers expect the Secretary to use 10-year grant terms only when it is critical for long-term systems research.

The Managers encourage the Director of NIFA to continue to support National Research Support Project-7 and to work cooperatively with the Center for Veterinary Medicine of the Food and Drug Administration to facilitate the development and approval of drugs for minor species and minor uses for major species. (Section 7406)

In order to improve the Department's capacity to develop programs designed to address critical and emerging issues, leverage Federal resources, and promote public and private sector participation, Congress created an Integrated Research, Education, and Extension Competitive Grants Program in 1998. The Managers continue to support this important competitive grants program and have extended the authorization for these activities in section 7306 of this Act. To further expand on these activities, the Managers have included a provision in this section which directs that not less than 30 percent of the funds made available to AFRI be used for integrated research, extension, and education competitive grants. It is the intent of the Managers that with these additional funds, the Department will be able to expand the number and scope of programs supported under this authority.

*(7) Capacity building grants for ASCARR Institutions*

The House bill establishes a competitive grant program for ASCARR Institutions to maintain and expand education, outreach, and research capacity relating to agriculture, renewable resources, and other similar fields. Necessary sums are authorized to be appropriated. (Section 7107)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to add a new section, 1473F, to NARETPA, and to replace the term ''ASCARR'' with the term ''NLGCA,'' an abbreviation for ''non-land-grant colleges of agriculture.'' (Section 7138)

*(8) Establishment of research laboratories for animal disease*

The House bill authorizes the Secretary to establish animal disease research laboratories, and to the extent that an animal disease constitutes a threat to the livestock industry, authorizes the Secretary to conduct research, diagnostics, and other activities. This section prohibits a person, State, or Federal agency from importing, transporting, or storing at a research facility a live virus that the Secretary determines to be a threat to livestock, such as Foot and Mouth Disease. The Secretary may, however, import, transport, or store such a live virus and may also allow for a person, State, or Federal agency to do the same if it is in the public interest. Necessary sums are authorized to be appropriated. (Section 7108)

The Senate amendment requires the Secretary to issue a permit to the Department of Homeland Security for work on live Foot and Mouth Disease virus at the National Bio- and Agro-Defense Laboratory. This section allows the Secretary to invalidate the permit if research is not conducted in accordance with its regulations. This section clarifies that the suspension, revocation, or impairment of the permit is only to be made by the Secretary of Agriculture and is a nondelegable function. (Section 11016)

The Conference substitute adopts the Senate provision with an amendment to replace the term ''National Bio- and Agro-Defense Laboratory'' with ''any facility that is a successor to the Plum Island Animal Disease Center and charged with researching high-consequence biological threats involving zoonotic and foreign animal diseases.'' (Section 7524)

*(9) Grazinglands Research Laboratory*

The House bill requires that Federal land and facilities currently administered by the Department as the Grazinglands Research Laboratory shall not be declared excess or surplus property. (Section 7109)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to sunset the provision at the end of fiscal year 2012. (Section 7502)

*(10) Research training*

The House bill requires plant genetic researchers that receive certain federal funds to complete an approved training program. (Section 7110)

The Senate has no comparable provision.

The Conference substitute deletes the House provision.

*(11) Fort Reno Science Park Research Facility*

The House bill allows the Secretary to lease land at the Grazinglands Research Laboratory to the University of Oklahoma. (Section 7111)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7503)

*(12) Assessing the nutritional composition of beef products*

The House bill allows the Secretary to award a grant, contract, or other agreement to a land-grant university to update the Nutrient Composition Handbook for Beef. Necessary sums are authorized to be appropriated. (Section 7112)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(13) Sense of Congress regarding funding for human nutrition research*

The House bill states that it is the sense of Congress that human nutrition research has the potential for improving the health of Americans. (Section 7113)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(14) Advisory Board*

The House bill amends Section 1408(g)(1) of NARETPA by increasing the maximum annual appropriations for the NAREEE Advisory Board to $500,000. (Section 7201)

The Senate amendment amends Section 1408 of NARETPA by increasing the maximum annual appropriations for the NAREEE Advisory Board to $500,000 and to change the membership of the board from 31 to 24 members. The Senate amendment mandates that members representing the following organizations are no longer to be members of the board: a national animal commodity organization; a national crop commodity organization; a national aquaculture association; a non-land grant college or university with a historic commitment to research in the food and agricultural sciences; the portion of the scientific community not closely associated with agriculture; an agency within the Department that lacks research capabilities; a research agency of the Federal Government other than the Department; and national organizations directly involved in agricultural research, extension, and education. One member actively engaged in aquaculture is added to compensate for the loss of a representative from a national aquaculture association. (Section 7002 and Section 7401)

The Conference substitute adopts the Senate provision with an amendment to include a member representing NLGCA institutions; a member actively engaged in the production of a food animal commodity recommended by a coalition of national livestock organizations; a member actively engaged in the production of a plant commodity recommended by a coalition of national crop organizations; and a member actively engaged in aquaculture recommended by a coalition of national aquaculture organizations. (Section 7102)

*(15) Advisory Board termination*

The House bill (section 7202) and the Senate amendment (section 7002) extend section 1408(h) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7102)

*(16) Renewable Energy Committee*

The House bill adds a new section, 1408B, to NARETPA that requires the executive committee of the NAREEE Advisory Board to establish and appoint initial members to a permanent renewable energy subcommittee responsible for studying the research, extension, and economics programs affecting the renewable energy industry. The renewable energy committee will submit annual reports to the Board with the committee's findings and recommendations.

This section states that the Renewable Energy Subcommittee shall coordinate with the Biomass Research and Development Act Technical Advisory Committee.

This section states also that when preparing the annual budget recommendations for the Department, the Secretary shall take into account the recommendations made by the committee and adopted by the NAREEE Advisory Board. (Section 7203)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to make technical changes in the Renewable Energy Committee. (Section 7104)

*(17) Specialty Crop Committee Report*

The House bill amends section 1408A(c) of NARETPA by expanding the list of recommendations the Specialty Crops Subcommittee must make annually to the NAREEE Advisory Board to include economic analyses of the specialty crops sector and data that provides applied information useful to specialty crop growers. (Section 7204)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to make technical changes. (Section 7103)

*(18) Inclusion of UDC grants and fellowships for food and agricultural sciences education*

The House bill amends section 1417 of NARETPA by adding the University of the District of Columbia (UDC) as an eligible university to compete for food and agricultural sciences education grants and fellowships. (Section 7205)

The Senate amendment is the same as the House provision with technical differences. (Section 7004)

The Conference substitute adopts the Senate provision. (Section 7106)

*(19) Grants and fellowships for food and agricultural sciences education*

The House bill amends section 1417(j) of NARETPA by adding agriculture programs for grades K–12 to the purposes of these grants. The current authorization of appropriations of $60,000,000 for each fiscal year is extended through 2012. This section requires a report on the distribution of funds to teaching programs. (Section 7206)

The Senate amendment is the same as House provision with technical differences. (Section 7007)

The Conference substitute adopts the House provision with an amendment to require a biennial report. (Section 7109)

*(20) Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products*

The House bill (section 7207) and the Senate amendment (section 7008) extend section 1419(d) of NARETPA through 2012.

The Conference substitute adopts the Senate provision with an amendment to repeal this section from current law. (Section 7110)

*(21) Policy research centers*

The House bill amends section 1419A of NARETPA by including the Food Agricultural Policy Research Institute (FAPRI) and the Agricultural and Food Policy Center (AFPC) as eligible to receive grants under the policy research center authorization and extending the authorization of appropriations through 2012. (Section 7208)

The Senate amendment amends section 1419A of NARETPA by including FAPRI, the AFPC, the Rural Policy Research Institute, and the Community Vitality Center as eligible to receive grants under the policy research center authorization and extending the authorization of appropriations through 2012. (Section 7009)

The Conference substitute adopts the Senate provision with an amendment to remove the Community Vitality Center, add the Drought Mitigation Center, and clarify that the specialty crops sector should be covered by the centers. (Section 7111)

The Managers recognize specialty crops are a vital component of agriculture in the Midwestern region of the United States and encourage the development of a collaborative research program at a land-grant university to support specialty crop research focused on genetic resource development, sustainable production practices, and improved marketing systems. The Managers recognize the resources and expertise available among the Midwestern land-grant universities, such as Purdue University, and encourage the Secretary to support continued expansion of the

specialty crop research, extension, and education capabilities of these institutions.

*(22) Human Nutrition Intervention and Health Promotion Research Program*

The House bill (section 7209) and the Senate amendment (Section 7010) extend section 1424(d) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7114)

*(23) Pilot Research Program to combine medical and agricultural research*

The House bill (section 7210) and the Senate amendment (section 7011) extend section 1424A(d) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7115)

The Managers recognize the potential for the development of pharmaceuticals for human use through the use of bovine blood products. e usefulness of bovine blood products has resulted from a number of technical advances. These advances ensure the proper and necessary level of control of the animal-based raw materials so that they can now meet or exceed the requirements to develop safe and efficacious pharmaceuticals for human use. The Managers encourage the Secretary to fund pilot projects through this authorization to accelerate the development of pharmaceuticals for human use from bovine blood products.

*(24) Nutrition Education Program*

The House bill authorizes appropriations of $90,000,000 for each fiscal year through 2012 to carry out the food and nutrition education program. (Section 7211)

The Senate amendment has no comparable provision. (Section 7012)

The Conference substitute deletes the House provision.

*(25) Continuing animal health and disease research programs*

The House bill (section 7212) and the Senate amendment (section 7014) extend section 1433(a) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7117)

*(26) Cooperation among eligible institutions*

The House bill requires the Secretary to encourage cooperation among institutions eligible for funding under continuing animal health and disease research programs in setting research priorities. (Section 7213)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7118)

*(27) Appropriations for research on national or regional problems*

The House bill (section 7214) and the Senate amendment (section 7015) extend section 1434(a) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7119)

*(28) Authorization level of extension at 1890 land-grant colleges*

The House bill (section 7215) and the Senate amendment (section 7017) modify section 1444(a)(2) of NARETPA by increasing from 15 to 20 percent the Smith-Lever (extension) formula funding allocated to 1890 institutions.

The Conference substitute adopts the House provision. (Section 7121)

*(29) Authorization level for agricultural research at 1890 land-grant colleges*

The House bill (section 7216) and the Senate amendment (section 7018) modify section 1445(a)(2) of NARETPA by increasing from 25 to 30 percent the Hatch Act (research) formula funding that is allocated to 1890 institutions.

The Conference substitute adopts the Senate provision. (Section 7122)

*(30) Grants to upgrade agriculture food sciences facilities at the District of Columbia Land-Grant University*

The House bill (section 7217) and the Senate amendment (section 7020) amend NARETPA by adding an authorization of $750,000 in annual appropriations for grants to be made to UDC to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

The Conference substitute adopts the Senate provision. (Section 7124)

*(31) Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.*

The House bill (section 7218) and the Senate amendment (section 7019) extend section 1447(b) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7123)

*(32) National research and training virtual centers.*

The House bill (section 7219) and the Senate amendment (section 7021) extend section 1448 of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7126)

*(33) Matching funds requirement for research and extension activities of 1890 institutions*

The House bill (section 7220) and the Senate amendment (section 7022) extend section 1455 of NARETPA through 2012.

The Conference substitute adopts the House provision with an amendment to update current law and clarify the current requirement of providing equal matching funds from non-Federal sources. (Section 7127)

*(34) Hispanic-serving institutions*

The House bill extends section 1455(c) of NARETPA through 2012. (Section 7221)

The Senate amendment amends section 1455 of NARETPA by removing the ability to receive a grant without a competitive application process. The modification also allows single institutions to receive grants. The annual appropriation is increased from $20,000,000 to $40,000,000 and the authorization of appropriations is extended through 2012. (Section 7023)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7128)

*(35) Hispanic-serving agricultural colleges and universities*

The House bill adds a new section, 1456, to NARETPA which establishes an endowment fund, an institutional capacity building grant program, and a competitive grant program to benefit Hispanic-serving agricultural colleges and universities (HSACUs).

This section defines Hispanic-serving agricultural colleges and institutions as institutions that qualify as Hispanic-serving institutions under the Higher Education Act and offer an associate, bachelor, or other accredited degree in agricultural fields of study.

This section authorizes necessary funds to be appropriated for the endowment fund, extension, and institutional capacity building, and competitive grants through 2012. A formula for the distribution of appropriations is authorized for the endowment and maintenance of Hispanic-serving agricultural colleges and universities in the same manner prescribed under the Second Morrill Act. (Section 7222)

The Senate amendment is similar to the House provision with technical differences. (Section 7024)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7129)

*(36) International agricultural research, extension, and education*

The House bill (section 7223) and the Senate amendment (section 7025) modify section 1458(a) of NARETPA by allowing the Secretary to give priority under this program to institutions with existing memoranda of understanding or agreements with U.S. institutions or State or Federal agencies. This section includes HSACUs as organizations the Secretary may enter into agreements with to help develop a sustainable global agricultural system. This section adds HSACUs to the list of universities eligible for support to do collaborative research with other countries on U.S. agricultural competitiveness. This section also adds HSACUs to the list of colleges and universities where Federal scientists are involved with research conducted internationally. This section establishes a program to provide fellowships to U.S. or foreign students to study at foreign agricultural colleges.

The Conference substitute adopts the Senate provision with an amendment to add anti-hunger and nutrition efforts and increased quantity, quality, and availability of food to the purposes of agreements between eligible institutions or organizations and the Department. (Section 7130)

*(37) Competitive grants for international agricultural science and education programs*

The House bill (section 7224) and the Senate amendment (section 7026) extend section 1459A(c) of the NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7131)

*(38) Limitation on indirect costs for agricultural research, education, and extension programs*

The House bill amends section 1462(a) of NARETPA to allow a recipient of any grant administered under the REE mission area, excluding those administered under the Small Business Act, to use up to 19 percent of Federal funds for indirect costs. (Section 7225)

The Senate amendment amends section 1462(a) of NARETPA by raising from 19 to 30 percent the allowance of indirect costs a recipient institution can use from a competitive grant awarded by the Department. (Section 7027)

The Conference substitute adopts the House provision with an amendment to increase the indirect cost limitation to 22 percent. (Section 7132)

*(39) Research equipment grants*

The House bill (section 7226) and the Senate amendment (section 7028) extend section 1462A(e) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7133)

*(40) University research*

The House bill (section 7227) and the Senate amendment (section 7029) extend section 1463 of NARETPA through 2012. (Section 7227)

The Conference substitute adopts the House provision. (Section 7134)

*(41) Extension service*

The House bill (section 7228) and the Senate amendment (section 7030) extend section 1464 of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7135)

*(42) Supplemental and alternative crops*

The House bill (section 7229) and the Senate amendment (section 7032) extend section 1473D(a) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7136)

*(43) Aquaculture assistance programs*

The House bill extends section 1477 of NARETPA through 2012. (Section 7230)

The Senate amendment extends section 1477 of NARETPA through 2012 and amends section 1475(f) of the Act to prioritize the

study and management of Viral Hemorrhagic Septicemia (VHS). (Section 7033)

The Conference substitute adopts the House provision and adds VHS research as a high-priority item in section 7203 of this Act.

The Managers are aware of the devastating impacts that VHS is having on freshwater fish populations in the United States. The Managers encourage the Department's Animal and Plant Health Inspection Service to coordinate its VHS management activities with State natural resource management agencies and tribes to research, develop, and implement a comprehensive set of priorities for managing VHS, including providing funds for research into the spread of the disease, surveillance, monitoring, risk evaluation, enforcement, screening, and management. (Section 7140)

*(44) Rangeland research*

The House bill extends section 1483(a) of NARETPA through 2012. (Section 7231)

The Senate amendment extends section 1483(a) of NARETPA through 2012 and amends section 1480(a) of the Act by authorizing pilot programs to address natural resources management issues and facilitate the collection of information and analysis to provide information for improved management of public and private rangeland. (Section 7034)

The Conference substitute adopts the House provision. (Section 7141)

*(45) Special authorization for biosecurity planning and response*

The House bill (section 7232) and the Senate amendment (section 7035) extend section 1484(a) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7142)

*(46) Resident Instruction and Distance Education Grants Program for Insular Area Institutions of Higher Education*

The House bill (section 7233) and the Senate amendment (section 7036) extend sections 1490(f) and 1491 of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7143)

*(47) Hispanic-serving institutions*

The House bill (section 7234) and the Senate amendment (section 7001) modify section 1404 of NARETPA to give the term ''Hispanic-Serving Institution'' The same definition as section 502(a) of the Higher Education Act of 1965.

The Conference substitute adopts the House provision with an amendment to move it into the definitions section of this Act. (Section 7101)

*(48) Specialty Crop Policy Research Institute*

The House bill amends section 1419A of NARETPA by establishing a Specialty Crop Policy Research Institute within FAPRI. The objectives are to produce and disseminate analyses of the specialty crop sector and an annual review on the state of the specialty crop industry. Necessary sums are authorized to be appropriated. (Section 7235)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to incorporate the purposes of this section into subsection (a)(1) of section 1419A of NARETPA. (Section 7111)

*(49) Emphasis of Human Nutrition Initiative*

The House bill amends section 1424(b) of NARETPA (7 U.S.C. 3174(b)) to add a new emphasis to the Human Nutrition Intervention and Health Promotion Research Program to examine the efficacy of agricultural programs in promoting the health of disadvantaged populations. (Section 7236)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7113)

*(50) Grants to upgrade agriculture and food sciences facilities at insular area land-grant institutions*

The House bill amends NARETPA by authorizing assistance to insular land-grant institutions to acquire, alter, or repair facilities or equipment for agricultural research. An appropriation of $8,000,000 is authorized for each fiscal year through 2012. (Section 7237)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7125)

*(51) Veterinary medicine loan repayment*

The Senate amendment amends section 1415A of NARETPA by setting a deadline for rulemaking to implement the National Veterinary Medical Services Act (NVMSA). This section amends NVMSA to prioritize large and mixed animal practitioner shortages in rural communities and prohibits funds to be used for the existing Federal employee loan repayment program under 5 U.S.C. 5379. (Section 7003)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to clarify the priorities within NVMSA and to disapprove of the transfer of funds from CSREES to the Food Safety and Inspection Service (FSIS). The funds are required to be transferred back CSREES from FSIS. (Section 7105)

The Managers continue to be frustrated by the lack of progress by the Department in implementing NVMSA. When developing this legislation, the House Committee on Agriculture worked closely with the various agencies of the Department to ensure that the legislation was drafted in a manner in which it could be implemented and administered. During Committee consideration, amendments were included at the Department's request to ensure quick and efficient implementation. In a legislative report submitted by the Secretary of Agriculture, with the consent of the Office of Management and Budget, the Department reiterated its support and recommended that the legislation be enacted. More than $2,000,000 has been appropriated for this program, yet the Department has not taken steps to develop regulations to implement it. Instead, the Managers note that CSREES, to which authority to administer NVMSA had been delegated, chose to transfer funds appropriated for this important program to another agency of the Department to assist in loan repayment for Federal employees. While this funding transfer was technically within the authority of the NVMSA legislation, it was not in line with the intent of Congress in developing this legislation. The Managers disapprove of this funding transfer and expect the full amount of funds that were transferred to be returned. Likewise, amendments have been included in NVMSA to prevent further funding transfers.

In a hearing held before the House Subcommittee on Livestock, Dairy, and Poultry on February 7, 2008, representatives of the Department were asked repeatedly if the Administration intended to propose legislation to amend NVMSA to speed its implementation. To date, no proposed legislation has been submitted, leading the Managers to conclude that the Department has sufficient funding and capability to implement and administer this law. The Managers have therefore included a deadline for the Department to propose regulations for NVMSA and expect the Department to meet this deadline without further delay.

*(52) Expansion of Food and Agricultural Sciences Award*

The Senate amendment amends section 1417(i) of NARETPA by expanding the current National Agricultural Teaching Award to include research and extension. (Section 7006)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7108)

*(53) Purposes and findings relating to animal health and disease research*

The Senate amendment amends Section 1429 of NARETPA to add a purpose supporting research on the judicious use of antibiotics. (Section 7013)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(54) Animal Health and Disease Research Program*

The Senate amendment amends section 1434(b) of NARETPA by clarifying that 1890 institutions are eligible for animal health and disease research grants under this section. (Section 7015)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7120)

The Managers are concerned about arthropod-borne diseases that increasingly affect the U.S. livestock industry and wildlife. Consequently, the Managers expect the Agricultural Research Service to update the March 2005 feasibility study on the modernization of the arthropod-borne animal disease research laboratory.

*(55) Farm management training and public farm benchmarking database*

The Senate amendment adds a new section, 1468, to NARETPA that establishes a National Farm Management Center to improve farm management knowledge and the skills of agriculture producers through an education program. It also authorizes the creation of a database that will allow for the comparison of farm management data among producers. This section authorizes annual appropriations for the center and database through 2012. (Section 7037)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act) and to allow the Secretary to make competitive research and extension grants for the purposes of the program. (Section 7208)

The Managers recognize that the Center for Farm Financial Management at the University of Minnesota has a proven record of providing farm financial planning, marketing, and credit analysis and encourage the Department to continue to support its benchmarking efforts.

*(56) Tropical and subtropical agricultural research*

The Senate amendment adds a new section, 1473E, to NARETPA that establishes a competitive program for research on tropical and subtropical agriculture. Annual appropriations for the program are authorized through 2012. (Section 7038)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds tropical and subtropical research as a high priority item in Section 7203 of this Act.

*(57) Regional centers of excellence*

The Senate amendment adds a new section, 1473F, to NARETPA that establishes regional

centers of excellence, including a Poultry Sustainability Center of Excellence, funded by Federal, State, and industry funds to research a specific commodity. Annual appropriations are authorized for the centers through 2012. (Section 7039)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and gives priority to regional centers of excellence that leverage funds from Federal, State, and private sector sources to research a specific agricultural commodity or concern under Section 7203 of this Act.

*(58) National Drought Mitigation Center*

The Senate amendment adds a new section, 1473G, to NARETPA that authorizes the Secretary to enter into an agreement with the National Drought Mitigation Center. Annual appropriations are authorized for the Center through 2012. (Section 7040)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds the National Drought Mitigation Center as one of the research institutions and organizations that is eligible to receive funding through the policy research center authorization in section 7111 of this Act.

*(59) Agricultural development in the American-Pacific region*

The Senate amendment adds a new section, 1473H, to NARETPA that establishes consortia of institutions in the American-Pacific region to carry out integrated research, extension, and instruction programs in support of food and agricultural sciences. Annual appropriations are authorized for the consortia through 2012. (Section 7041)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds agricultural development in the American-Pacific region as a high priority item in Section 7203 of this Act.

*(60) Farm and ranch stress assistance network*

The Senate amendment adds a new section, 1473K, to NARETPA that establishes a farm and ranch stress assistance network to provide behavioral programs to participants in the U.S. agricultural sector. Annual appropriations are authorized for the network through 2012. (Section 7044)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to clarify the activities covered under this authorization and to make technical changes. (Section 7522)

*(61) Rural entrepreneurship and enterprise facilitation*

The Senate amendment adds a new section, 1473L, to NARETPA to establish a program for the promotion of rural entrepreneurship, rural business development, and collaboration among rural entrepreneurs, local business communities, nonprofit organizations, and K–12 and higher education institutions. The program also provides rural entrepreneurs with technical assistance and access to capital, and it determines the best methods of entrepreneurial training. Annual appropriations for the program are authorized. (Section 7045)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(62) Seed distribution*

The Senate amendment adds a new section, 1473M, to NARETPA that establishes a program to distribute vegetable seeds to underserved communities free-of-charge. Annual appropriations are authorized for the program through 2012. (Section 7046)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to award grants on a competitive basis and to make technical changes. (Section 7523)

*(63) Farm and ranch safety*

The Senate amendment adds a new section, 1473N, to NARETPA that establishes a grant program to determine how to decrease the incidence of injury and death on farms and ranches. Annual appropriations for the program are authorized through 2012. (Section 7047)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds farm and ranch safety as a high priority item in section 7203 of this Act.

*(64) Women and minorities in STEM fields*

The Senate amendment adds a new section, 1473O, to NARETPA that establishes a grant program to increase participation by women and underrepresented minorities from rural areas in science, technology, engineering, and mathematics fields (STEM fields). Annual appropriations for the program are authorized through 2012. (Section 7048)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds women and minorities in STEM fields as a high priority item in section 7203 of this Act.

*(65) Natural Products Research Program*

The Senate amendment adds a new section, 1473P, to NARETPA that establishes a research program for the discovery, development, and commercialization of pharmaceuticals and agrichemicals from natural products, including those from plant, marine, and microbial sources. Annual appropriations are authorized for the program. (Section 7049)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7525)

*(66) International Anti-Hunger and Nutrition Program*

The Senate amendment adds a new section, 1473Q, to NARETPA that authorizes the Secretary to support nonprofit organizations that focus on promoting research concerning anti-hunger and improved nutrition efforts internationally and increased quantity, quality, and availability of food. (Section 7050)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds the purposes of the Senate amendment to section 7130 of this Act.

*(67) Consortium for Agricultural and Rural Transportation Research and Education*

The Senate amendment adds a new section, 1473R, to NARETPA that establishes a research program focusing on critical rural and agricultural transportation and logistics issues facing agricultural producers and other rural businesses. Annual appropriations of $19,000,000 are authorized for each fiscal year through 2012. (Section 7051)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to give priority to institutions that apply as a group and to make technical changes. (Section 7529)

*(68) Regional Centers of Excellence in Food Systems Veterinary Medicine*

The Senate amendment adds a new section, 1473S, to NARETPA that establishes a grant program for veterinary schools to support centers of emphasis in food systems veterinary medicine. Annual appropriations for the centers are authorized through 2012. (Section 7052)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision, adds food systems veterinary medicine as a high priority item in Section 7203 of this Act, and captures the purposes of the Senate amendment in the regional centers of excellence provision under section 7203 of this Act.

*(69) National Genetics Resources Program*

The House bill extends section 1635(b) of the FACT Act through 2012. (Section 7301)

The Senate amendment extends section 1635(b) of the FACT Act through 2012 and adds research on plant and animal breeding to the purposes and functions of this program as listed in section 1632 of the FACT Act. (Section 7101)

The Conference substitute adopts the House provision. (Section 7201)

*(70) National Agricultural Weather Information System*

The House bill extends section 1641(c) of the FACT Act through 2012. (Section 7302)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7202)

The Managers recognize the importance of creating a southern mesonetwork of weather stations to support applied research in solar and wind energy production. The Managers are aware of the capabilities and experience of the Center for Earth and Environmental Studies at Texas A&M International University in this area and believe this institution could prove to be a valuable resource in the Rio Grande Valley.

*(71) Partnerships*

The House bill amends section 1672(d) of the FACT Act by requiring that grant proposals received must be scientifically meritorious and involve cooperation of multiple entities in order to receive priority consideration under the High Priority Research and Extension Initiative. (Section 7303)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7203)

*(72) Aflatoxin Research and Extension*

The House bill amends section 1672(e)(3) of the FACT Act by changing the existing grant description contained in current law to improve and commercialize aflatoxin control in corn and other crops. (Section 7304)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7203)

*(73) High Priority Research and Extension Areas*

The House bill amends section 1672 of the FACT Act by adding the following to the High Priority Research and Extension Area Initiatives: farmed and wild cervid disease and genetic research; air emissions from livestock operations; swine genome project; cattle fever tick program; colony collapse disorder program; synthetic gypsum from power plants research; cranberry research program; sorghum research initiative; and a bean health research program. (Section 7305)

The Senate amendment amends section 1672 of the FACT Act by adding the following to the High Priority Research and Extension

Area Initiatives: Colony Collapse Disorder and Pollinator Research Program; Marine Shrimp Farming Program; Cranberry Research Program; Turfgrass Research Initiative; Pesticide Safety Research Initiative; Swine Genome Project; High Plains Aquifer Region; Cellulosic Feedstock Transportation and Delivery Initiative; Deer Initiative; Pasture-Based Beef Systems; Sustainable Agricultural Production for the Environment; Biomass-Derived Energy Resources; Brucellosis Control and Eradication; and Bighorn and Domestic Sheep Disease Mechanisms. (Section 7102)

The Conference substitute adopts the Senate provision with an amendment to add the following to the list of high-priority research and extension initiatives: Air Emissions from Livestock Operations; Swine Genome Project; Cattle Fever Tick Program; Synthetic Gypsum; Cranberry Research Program; Sorghum Research Initiative; Marine Shrimp Farming Program; Turfgrass Research Initiative; Agricultural Worker Safety Research Initiative; High Plains Aquifer Region; Deer Initiative; Pasture-Based Beef Systems Research Initiative; Agricultural Practices Relating to Climate Change; Brucellosis Control and Eradication; Bighorn and Domestic Sheep Disease Mechanisms; Agricultural Development in the American-Pacific Region; Tropical and Subtropical Agricultural Research; Viral Hemorrhagic Septicemia; Farm and Ranch Safety; Women and Minorities in STEM Fields; Alfalfa and Forage Research Program; Food Systems Veterinary Medicine; Biochar Research.

The Conference substitute also strikes the following from section 1672 of the FACT Act: Brown citrus aphid and citrus tristeza virus research and extension; Mesquite research and extension; Red meat safety research and extension; Grain sorghum ergot research and extension; Low-bush blueberry research and extension; Wild pampas grass control, management, and eradication research and extension; Sheep scrapie research and extension; Forestry research and extension; Wind erosion research and extension; Crop loss research and extension; Harvesting productivity for fruits and vegetables; Agricultural marketing; Beef cattle genetics; Dairy pipeline cleaner; Development of publicly held plants and animal varieties; and Specialty crop research. (Section 7204)

The Managers encourage the Secretary to support collaborative research focusing on the development of viable strategies for the prevention, diagnosis and treatment of infectious, parasitic, and toxic diseases of farmed deer and the mapping of the deer genome. This initiative may be carried out by a consortium that can include land-grant universities and veterinary schools with appropriate facilities and experience in husbandry and care of captive cervidae. The consortium may carry out research dedicated to developing vaccines for epizootic hemorrhagic disease and blue tongue disease in farmed deer and may work to map the deer genome with emphasis on the identification of genes that confer resistance or susceptibility to disease relevant to the production of farmed deer.

The Managers recognize the unique needs of the Appalachian region for the Pasture-Based Beef Systems Initiative.

The Managers intend that the term ''Caribbean and Pacific basins'' refers to the States of Hawaii and Florida, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

The Managers intend that the term ''American-Pacific region'' refers to the States of Hawaii and Alaska, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

*(74) High priority research and extension initiative*

The House bill extends Section 1672(h) of the FACT Act through 2012. (Section 7306)

The Senate amendment extends section 1672(h) of the FACT Act through 2012 and authorizes an annual appropriation of $20,000,000 for the Colony Collapse Disorder and Pollinator Research Program. (Section 7102)

The Conference substitute adopts the House provision. (Section 7204)

*(75) Nutrient management research and extension initiative*

The House bill amends section 1672A of the FACT Act by giving a priority to grant proposals that address unique regional concerns as eligible for priority treatment. The House bill also adds dairy cattle waste as a type of waste to be studied to develop new methods of managing air and water quality. The authorization of appropriations is extended through 2012. (Section 7307)

The Senate amendment: establishes a consortium of land grant colleges in the northeast region to perform research on dairy nutrient management and energy production (Section 9023); establishes a Southwest regional dairy, environment, and private land program for the research, development, and implementation of solutions for issues faced by the dairy industry (Section 11092); and extends section 1672A of the FACT Act through 2012. (Section 7103)

The Conference substitute adopts the House provision with an amendment to include the production of renewable energy from animal waste as an eligible activity to receive grants under this section. (Section 7205)

The Managers recognize that different regions of the country have varying needs for both energy development and nutrient management, and that cooperative efforts by institutions and States will leverage available resources to address problems and identify solutions. The Managers therefore encourage the development of regional consortia in which partners would work together to accomplish the goals of developing viable nutrient management systems, energy products from manure, and to assess these systems for cost, performance, and function among dairy, poultry, and swine operations.

*(76) Agricultural Telecommunications Program*

The House bill (section 7308) and the Senate amendment (section 7105) extend section 1673(h) of the FACT Act through 2012.

The Conference substitute adopts the House provision with an amendment to repeal section 1673 of the FACT Act. (Section 7209)

*(77) Assistive Technology Program for Farmers with Disabilities*

The House bill (section 7309) and the Senate amendment (section 7106) extend section 1680(c)(1) of the FACT Act through 2012.

The Conference substitute adopts the Senate provision. (Section 7210)

*(78) Organic research*

The House bill amends section 1672B of the FACT Act by expanding the Organic Agriculture Research and Extension Initiative to examine optimal conservation and environmental outcomes for organically produced agricultural products and to develop new and improved seed varieties that are particularly suited for organic agriculture. This section authorizes $25,000,000 in mandatory funding for each of fiscal years 2008 through 2012. Appropriations of $25,000,000 are authorized for each of fiscal years 2009 through 2012. The Director of NARPO is to coordinate this program to avoid duplication. (Section 7310)

The Senate amendment amends Section 1672B of the FACT Act by authorizing mandatory funds of $16,000,000 per year for fiscal years 2008 through 2012 for the Organic Agriculture Research and Extension Initiative. (Section 7104)

The Conference substitute adopts the House provision with an amendment to provide the initiative with a total of $78,000,000 in mandatory funds for fiscal year 2009 through fiscal year 2012. (Section 7206)

Organic farming has the potential to capture atmospheric carbon and store it in the soil in the form of soil organic matter. The Managers encourage continued support of the research at the Rodale Institute regarding this research as it relates to certified organic standards.

*(79) National Rural Information Center Clearinghouse*

The House bill (section 7311) and the Senate amendment (section 7107) extend section 2381(e) of the FACT Act through 2012.

The Conference substitute adopts the House provision. (Section 7212)

*(80) New Era Rural Technology Program*

The House bill establishes a grant program for community colleges to develop an agriculture-based renewable energy and timber industry workforce. Annual appropriations are authorized for the program through 2012. (Section 7312)

The Senate amendment adds a new section, 1473J, to NARETPA to establish a grant program for community colleges to develop an agriculture-based renewable energy and timber industry workforce and provides the definition of rural community college. Annual appropriations are authorized for the program through 2012. (Section 7043)

The Conference substitute adopts the House provision with an amendment to make technical changes and to add a new section, 1473E, to NARETPA. (Section 7137)

The Managers recognize the importance of developing a workforce to support the fields of bioenergy, agriculture-based renewable energy resources, and pulp and paper manufacturing. The Managers recognize that Alabama Southern Community College, Northeast Iowa Community College, Eastern Iowa Community College District, Hawkeye Community College, Neosho County Community College, Kennebec Valley Community College, Itasca Community College, York Technical College, Midstate Technical College, Jones County Junior College, Minnesota West Technical and Community College, Orangeburg-Calhoun Technical College, Horry-Georgetown Technical College, and Central Carolina Technical College are among the rural community colleges that have a proven record and the ability to develop and implement programs to supply certified technicians. The Managers encourage the Secretary to work with these community colleges to establish the New Era Rural Technology Program.

*(81) Partnerships for high-value agricultural product quality research*

The House bill (section 7401) and the Senate amendment (section 7202) extend section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) through 2012.

The Conference substitute adopts the Senate provision with an amendment to repeal section 402 of AREERA. (Section 7302)

*(82) Precision agriculture*

The House bill (section 7402) and the Senate amendment (section 7203) extend section 403(i)(1) of AREERA through 2012.

The Conference substitute adopts the House provision with an amendment to repeal section 403 of AREERA. (Section 7303)

*(83) Biobased products*

The House bill (section 7403) and the Senate amendment (section 7204) extend section 404(e)(2) of AREERA through 2012.

The Conference substitute adopts the House provision. (Section 7304)

*(84) Thomas Jefferson Initiative for Crop Diversification*

The House bill (section 7404) and the Senate amendment (section 7205) extend section 405(h) of AREERA through 2012.

The Conference substitute adopts the Senate provision with an amendment to repeal section 405 of AREERA. (Section 7305)

*(85) Integrated Research, Education, and Extension Competitive Grants Program*

The House bill (section 7405) and the Senate amendment (section 7206) extend section 406(f) of AREERA through 2012.

The Conference substitute adopts the Senate provision. (Section 7306)

*(86) Fusarium graminearum grants*

The House bill amends section 408 of AREERA to provide a technical correction and extends the authorization of appropriations through 2012. (Section 7406)

The Senate amendment extends section 408(e) of AREERA through 2012. (Section 7207)

The Conference substitute adopts the House provision. (Section 7307)

*(87) Bovine Johne's Disease Control Program*

The House bill (section 7407) and the Senate amendment (section 7208) extend section 409(b) of AREERA through 2012.

The Conference substitute adopts the Senate provision. (Section 7308)

*(88) Grants for youth organizations*

The House bill amends section 410 of AREERA to provide additional flexibility in content delivery and management of grant funds to recipient organizations under this section. The authorization of appropriations is extended through 2012. (Section 7408)

The Senate amendment extends section 410(c) of AREERA through 2012. (Section 7209)

The Conference substitute adopts the House provision. (Section 7309)

*(89) Agricultural research and development for developing countries*

The House bill (section 7409) and the Senate amendment (section 7210) extend section 411(c) of AREERA through 2012. (Section 7409)

The Conference substitute adopts the House provision. (Section 7310)

*(90) Agricultural bioenergy and biobased products research initiative*

The House bill adds a new section, 412, to AREERA that establishes a bioenergy and biobased products research initiative to enhance the production, sustainability, and conversion of biomass to renewable fuels and related products. The research initiative will be supported by a bioenergy and biobased product laboratory network that will focus research on improving biomass production and sustainability and improving biomass conversion in biorefineries. The Director of NARPO, established under section 7410 of the House bill, will coordinate projects and activities under the Biomass Research and Development Act of 2000 to coordinate and maximize the strengths of the Department and the Department of Energy. The Secretary is authorized to carry out research and award grants on a competitive basis. Appropriations are authorized at $50,000,000 for each of fiscal years 2008 through 2012. The Director of NARPO is to coordinate this program to avoid duplication of projects carried out under the Biomass Research and Development Act. (Section 7410)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to incorporate the purposes of sections 9010 and 9020 of the House bill, and sections 9010, 9011, 9022, and 9025 of the Senate amendment.

The Conference substitute, titled the ''Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative,'' establishes a program to award competitive grants for projects with a focus on supporting on-farm biomass crop research and the dissemination of results to enhance the production of biomass energy crops and the integration of such production with the production of bioenergy. The Conference substitute directs the Secretary to establish a best-practices database on the production of various biomass crops and on the harvesting, transport, and storage of biomass crops.

The Conference substitute authorizes competitive grants for on-farm energy efficiency research and extension projects aimed at improving the energy efficiency of agricultural operations. (Section 7207)

The Managers encourage the Secretary to consider the approach of the New Century Farm at Iowa State University as a model for integrated research in the areas of biomass crop research and the production of bioenergy and to use its established capabilities.

The Managers encourage the Secretary to consider the Future Farmsteads program at the University of Georgia as a model for on-farm energy efficiency research and to use its established capabilities.

Additionally, the Managers encourage the Secretary to use the capabilities of the Colorado Renewable Energy Collaboratory in carrying out this section.

The Managers recognize the significant work Arkansas State University is conducting in the area of plant cell wall structure and function and encourages the Secretary to continue to recognize the value of plant-produced, biotechnology-derived, enzymatic-developed products.

The Managers are aware of the work being done at the Pennsylvania State University on all aspects of biofuels development from plant transformation to production, harvest, and storage to fuel formulation and engine testing.

*(91) Specialty crop research initiative*

The House bill adds a new section, 413, to AREERA that establishes the Specialty Crop Research Initiative to develop and disseminate science-based tools to address the needs of specific crops and their regions, including work in plant breeding and genetics, safety, quality, and yield; efforts to identify and address threats posed by invasive species; marketing; pollination; and efforts to improve production. The Secretary is authorized to award competitive grants through this program. Appropriations are authorized at $100,000,000 for each of fiscal years 2008 through 2012. Additionally, $215,000,000 in mandatory funds is to be provided in fiscal year 2008 to remain available until expended. The Director of NARPO shall coordinate this program to avoid duplication. (Section 7411)

The Senate amendment adds a new section, 412, to AREERA that establishes a Specialty Crop Research Initiative. This section is similar to the House provision and has additional language to include in the purposes of the program the optimization of organic specialty crop production and research on methods to prevent, control, and respond to pathogen contamination of specialty crops, including fresh-cut produce. Mandatory funding is provided at $16,000,000 per year for fiscal years 2008 through 2012 for the initiative. (Section 7211)

The Conference substitute adopts the House provision with an amendment that adds a new section, 412, to AREERA. It expands the initiative to a research and extension initiative; incorporates the prevention, detection, monitoring, control, and response to food safety hazards in the production and processing of specialty crops, including fresh products; allocates 10 percent of the funds obligated through this initiative to each of the research and extension activities described in this section; and provides $230,000,000 in mandatory funds for fiscal years 2008 through 2012. (Section 7311)

The Managers intend that most activities funded by the initiative would have grant terms of short duration. However, the Managers are aware that there are areas of research where longer term grants are needed, such as research related to tree fruits. The Managers expect the Secretary to use 10–year grant terms only when it is critical for long-term systems research.

The Managers recognize the critical importance of research directed at food safety hazards in the production and processing of specialty crops including fresh fruits and vegetables. The Managers encourage the Secretary to select projects for funding this area at focus on applied research and technology transfer.

*(92) Office of Pest Management Policy*

The House bill extends section 614(f) of AREERA through 2012. (Section 7412)

The Senate amendment amends section 614 of AREERA by placing the Office of Pest Management Policy within the Office of the Chief Economist and extending the authorization of appropriations through 2012. (Section 7212)

The Conference substitute adopts the House provision. (Section 7313)

*(93) Food Animal Residue Avoidance Database Program*

The Senate amendment amends section 604 of AREERA by authorizing annual appropriations of $2,500,000 for the Food Animal Residue Avoidance Database program. (Section 7213)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that clarifies that the authorized funds are in addition to other funds available as specified in section 604(c) of AREERA. (Section 7312)

*(94) Critical Agricultural Materials Act*

The House bill (section 7501) and the Senate amendment (section 7301) extend section 16(a) of the Critical Agricultural Materials Act through 2012.

The Conference substitute adopts the Senate provision. (Section 7401)

*(95) Equity in Educational Land-Grant Status Act of 1994*

The House bill extends sections 533(b), 535, and 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (EELGSA) through 2012. (Section 7502)

The Senate amendment extends sections 533(b), 535, and 536(c) of EELGSA through 2012 and amends section 532 of the EELGSA to add Ilisagvik College in Alaska to the list of land-grant tribal colleges. (Section 7302)

The Conference substitute adopts the Senate provision with an amendment to redistribute endowment funds that would be paid to a 1994 Institution among other 1994 Institutions if that 1994 Institution declines to accept funds or fails to meet existing accreditation requirements. (Section 7402)

*(96) Agricultural Experiment Station Research Facilities Act*

The House bill (section 7503) and the Senate amendment (section 7305) extend section

6(a) of the Research Facilities Act through 2012.

The Conference substitute adopts the House provision. (Section 7405)

*(97) National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985*

The House bill (section 7306) and the Senate amendment (section 7306) extend section 1431 of the NARETPA Amendments of 1985 through 2012.

The Conference substitute adopts the Senate provision. (Section 7416)

*(98) Competitive, Special and Facilities Research Grant Act (National Research Initiative)*

The House bill amends section 2 of the Competitive, Special, and Facilities Research Grant Act (CSFRGA) to extend the authorization of appropriations through 2012 and to repeal the authority to limit allowable overhead costs. (Section 7505)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision but reauthorizes section 2 of the CSFRGA in section 7406 of this Act.

*(99) Agricultural Risk Protection Act of 2000 (Carbon Cycle Research)*

The House bill extends the section 221of the Agricultural Risk Protection Act of 2000 (ARPA) through 2012. (Section 7506)

The Senate amendment extends the section 221 of ARPA through 2012 and transfers authority for this program from that Act to the Farm and Energy Security Act of 2007. (Section 7315)

The Conference substitute adopts the House provision. (Section 7407)

*(100) Renewable Resources Extension Act of 1978*

The House bill (section 7507) and the Senate amendment (section 8201) extend section 6 of the Renewable Resources Extension Act of 1978 (RREA) and section 8 of RREA through 2012. (Section 7507)

The Conference substitute adopts the House provision. (Section 7413)

The Managers are aware of the U.S. Forest Service's (USFS) work one Fire Research and Management Exchange System, an Internet-based, centralized national portal for access to and exchange of science-based data, analysis tools, training materials, and other information lated to interagency wildland fire management. The Managers recognize that the system can make a major contribution to science-based understanding and response to wildland fires, which continue to threaten many areas of our nation. The Managers expect the USFS to continue to work with its partners to develop a plan for nationwide implementation by 2011.

*(101) National Aquaculture Act of 1980*

The House bill (section 7508) and the Senate amendment (section 7311) extend section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) through 2012. (Section 7508)

The Conference substitute adopts the Senate provision. (Section 7414)

*(102) Construction of a Chinese Garden at the National Arboretum*

The House bill amends the Act of March 4, 1927, (20 U.S.C. 191 et seq.) by authorizing the construction of a Chinese garden at the National Arboretum. (Section 7509)

The Senate amendment amends the Act of March 4, 1927, (20 U.S.C. 191 et seq.) by authorizing the construction of a Chinese garden at the National Arboretum, prohibiting federal funds from being used for the construction of the Chinese Garden, and requiring an annual report to Congress on the budget and expenditures of the National Arboretum. (Section 7312)

The Conference substitute adopts the House provision. (Section 7415)

*(103) Public Education Regarding Use of Biotechnology in Producing Food for Human Consumption*

The House bill extends section 10802 of the Farm Security and Rural Investment Act of 2002 (FSRIA) through 2012. (Section 7510)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision and repeals section 10802 of FSRIA. (Section 7411)

*(104) Fresh Cut Produce Safety Grants*

The House bill authorizes the Secretary to award competitive research and extension grants to improve and enhance the safety of fresh cut produce. Universities, colleges, and other entities that have relationships with producers of fresh cut produce are eligible. Grant recipients must provide an equal amount of matching funds or in-kind support from non-federal sources. The Director of NARPO is to coordinate this program to avoid duplication. Mandatory funding of $25,000,000 is provided for each of fiscal years 2008 through 2012. Additionally, an appropriation for necessary funds is authorized from fiscal year 2008 through fiscal year 2012. (Section 7511)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision and incorporates the purposes and priorities of this program and funding into section 7311 of this Act.

*(105) UDC/EFNEP eligibility*

The House bill (section 7512) and the Senate amendment (section 7313) amend Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) to make the UDC eligible for the Expanded Food and Nutrition Education Program.

The Conference substitute adopts the Senate provision. (Section 7417)

*(106) Hatch Act of 1887*

The House bill amends Section 3(d)(4) of the Hatch Act of 1887 by requiring a 50 percent match of funds from the District of Columbia in order for UDC to receive formula funds for agricultural research. The Secretary is allowed to waive the matching requirement if necessary. (Section 7513)

The Senate amendment amends Section 3(d)(4) of the Hatch Act of 1887 by requiring a 50 percent match of funds from the District of Columbia in order for UDC to receive formula funds for agricultural research. The Secretary is allowed to waive the matching requirement if necessary. This section also amends Section 6 of the Hatch Act of 1887 by eliminating Penalty Mail Authorities for State agricultural experiment stations and the extension service and making conforming amendments to NARETPA and to 39 U.S.C. 3202(a). (Section 7304)

The Conference substitute adopts the Senate provision. (Section 7404)

*(107) Smith-Lever Act*

The Senate amendment amends Section 3 of the Act of May 8, 1914 (7 U.S.C. 343) to allow 1890 institutions to participate in the Children, Youth, and Families Education and Research Network Program. This section also amends section 5 of the Act of May 8, 1914 (7 U.S.C. 345) to eliminate the Governor's Report requirement for the extension service. (Section 7304)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change programs authorized under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) into programs that award competitive grants and to add a conforming amendment to section 1444(a)(2) of NARETPA. (Section 7403)

*(108) Education grants to Alaska Native Serving Institutions and Native Hawaiian Serving Institutions*

The Senate amendment amends section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 by permitting consortia of Alaska Native and Native Hawaiian Serving Institutions to designate fiscal agents and allocate funds for their members. (Section 7308)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add this provision as a new section, 1419B, to NARETPA. (Section 7112)

*(109) McIntire-Stennis Cooperative Forestry Act*

The Senate amendment amends Section 2 of the McIntire-Stennis Cooperative Forestry Act (16 U.S.C. 582a–1) by authorizing the participation of 1890 institutions to participate in the McIntire-Stennis cooperative forestry program. (Section 7310)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7412)

*(110) Exchange or sale authority*

The Senate amendment adds Section 307 to Title III of the Federal Crop Insurance and Department of Agriculture Reorganization Act of 1994 by authorizing USDA to exchange, sell, or otherwise dispose of any qualified items of personal property and to retain and apply the sale or other proceeds to acquire any qualified items of personal property or to offset costs related to the maintenance, care, or feeding of any qualified items of personal property. (Section 7314)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7408)

*(111) Enhanced Use Lease Authority Pilot Program*

The Senate amendment adds a new section, 308, to Title III of the Federal Crop Insurance and the Department of Agriculture Reorganization Act of 1994 by establishing a pilot program that allows non-Federal entities to use and invest in capital improvements at the Beltsville Agricultural Research Center and the National Agricultural Library by leasing non-excess property of the Center or the Library. (Section 7316)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to limit the terms of leases established under this authority to 30 years, sunset this authority five years after the date of enactment of this Act, and make technical changes. (Section 7409)

*(112) Research and education grants for the study of antibiotic-resistant bacteria in livestock*

The Senate amendment establishes a competitive grant program for research and education on antibiotic-resistant bacteria in livestock. (Section 7317)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the purposes of this research program. (Section 7521)

The Managers are aware that resistance to antibiotics is a serious and growing public health concern in the United States and around the world. The Managers intend that section 7521 of this Act provide the necessary

research and information for livestock producers as well as the general public to minimize the use of such drugs while still ensuring healthy animals and people. The Managers encourage the Secretary to fund research that can minimize the development and spread of antibiotic-resistant bacteria and to make this a priority research area within relevant competitive research programs, including national programs related to animal production and water quality.

*(113) Merit review of extension and educational grants*

The House bill amends subsection (a)(2)(A) of section 103 of AREERA by inserting NIFA as the administering body for which merit review procedures must be established. (Section 7601)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(114) Review of plan of work requirements*

The House bill (section 7602) and the Senate amendment (section 7503) require a review of the Plan of Work requirements under NARETPA, the Hatch Act, and the Smith-Lever Act. They also require a report to Congress identifying measures to streamline the plan of work requirements.

The Conference substitute adopts the House provision with an amendment to remove the reporting requirement. (Section 7505)

*(115) Multistate and integration funding*

The House bill amends section 3 of the Hatch Act of 1887 and section 3 of the Smith-Lever Act by requiring that, of the federal formula funds States receive under these Acts, 25 percent must be spent on the integration of cooperative research and extension activities. (Section 7603)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

*(116) Expanded Food and Nutrition Education Program*

The House bill amends section 1425 of NARETPA by changing the allocation of funds in excess of the amount appropriated in fiscal year 1981. Funds in the amount of $100,000 are to be distributed to each land-grant college and university. The authorization of appropriations is increased to $90,000,000 through 2014. (Section 7604)

The Senate amendment is the same as House provision with technical differences. (Section 7012)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7116)

*(117) Grants to 1890 schools to expand extension capacity*

The House bill (section 7605) and the Senate amendment (section 7005) amend section 1417(b)(4) of NARETPA to add extension as one of the purposes for which grants may be made through this program.

The Conference substitute adopts the House provision. (Section 7107)

*(118) Borlaug International Agricultural Science and Technology Fellowship Program*

The House bill establishes a fellowship program that provides scientific training to individuals from eligible countries that specialize in agricultural research, extension, and education. Necessary sums are authorized to be appropriated without fiscal year limitation. (Section 7606)

The Senate amendment adds a new section, 1473I, to NARETPA that authorizes annual appropriations for the Borlaug International Agricultural Science and Technology Fellowship Program. The fellowship program brings scientists from developing countries to U.S. land-grant institutions to learn about improving agricultural productivity. (Section 7042)

The Conference substitute adopts the Senate provision. (Section 7139)

*(119) Cost recovery*

The House bill amends Section 1473A of NARETPA by raising the indirect cost cap for cost reimbursable agreements between the Secretary and State cooperative institutions or colleges and universities from 10 percent to 19 percent. (Section 7607)

The Senate amendment amends Section 1473A of NARETPA by raising the indirect cost cap for cost reimbursable agreements between the Secretary and State cooperative institutions or colleges and universities from 10 percent to 30 percent. (Section 7031)

The Conference substitute deletes both the House and Senate provisions.

*(120) Organic food and agricultural systems funding*

The House bill expresses a sense of Congress that a portion of the annual funding provided for ARS should support research specific to organic food and agricultural systems. (Section 7608)

The Senate amendment expresses a sense of the Senate that recognizes the need to increase funding at USDA for research specific to organic agriculture to keep pace with the expansion of the organic sector of U.S. agriculture. (Section 7505)

The Conference substitute deletes the House and Senate provisions.

*(121) Demonstration project authority for temporary positions*

The Senate amendment authorizes the demonstration project authority for temporary positions indefinitely. (Section 7502)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7528)

*(122) Modifications to information technology service*

The Senate amendment prohibits the Secretary from implementing any modification that reduces the availability or provision of information technology service, or administrative management control of that service, including data or center service agency, functions, and personnel at the National Finance Center and the National Information Technology Center service locations until a notification is received by Congress from the Department. This section requires the Secretary to report to Congress and the Government Accountability Office on specified administrative modifications made to the National Finance Center and National Technology Center service locations. (Section 7506)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

*(123) Studies and reports by the Department of Agriculture, the Department of Health and Human Services, and the National Academy of Sciences on food products from cloned animals.*

The Senate amendment requires studies on the safety and the impact on trade of allowing food products from cloned animals and their offspring into the food supply. The Secretary of Health and Human Services (HHS) is prohibited from issuing the final draft risk assessment on food from cloned animals and their offspring. The Secretary of HHS is also prohibited from lifting the voluntary moratorium on allowing food from cloned animals and their offspring from entering the food supply until after the studies are completed. (Section 7507)

The House bill has no comparable provision.

The Conference substitute deletes the Senate amendment.

*(124) Animal bioscience facility in Bozeman, Montana*

The Senate amendment authorizes appropriations of $16,000,000 for the construction of an animal bioscience facility in Bozeman, Montana. (Section 7508)

The House bill has no comparable provision.

The Conference substitute deletes the Senate amendment.

TITLE VIII—FORESTRY

*(1) National priorities for private forest conservation*

The House bill amends section 2 of the Cooperative Forestry Assistance Act of 1978 (CFAA) by requiring the Secretary to focus on a set of three national private forest conservation priorities when allocating appropriated CFAA funds: (1) conserving and managing working forest landscapes; (2) protecting forests from threats, including wildfire, hurricane, tornado, windstorm, snow or ice storm, flooding, drought, invasive species, or insect or disease outbreak, and restoring appropriate forest types in response to such threat [included because paragraphs (1) & (3) contain full list of items]; and (3) enhancing public benefits from private forests, including air and water quality, forest products, forestry-related jobs, production of renewable energy, wildlife and wildlife habitat, and recreation. The House bill requires the Secretary to submit a report to Congress describing how funding has been used under the CFAA, and through other programs administered by the Secretary, to address the three national priorities. (Section 8001)

The Senate amendment amends section 2 of the CFAA by adding a new subsection which requires the Secretary to focus on a set of three national private forest conservation priorities when allocating appropriated CFAA funds. The national priorities are: (1) conserving and managing working forest landscapes for multiple values and uses; (2) protecting forests from threats to forest and forest health including unnaturally large wildfires, hurricanes, tornadoes, windstorms, snow and ice storms, flooding, drought, invasive species, insect or disease outbreak, development, and restoring appropriate forest structures and ecological processes in response to such threats; and (3) enhancing public benefits from private forests including air and water quality, forest products, forest-related jobs, production of renewable energy, wildlife, enhancing biodiversity, the establishment of wildlife corridors and habitat, and recreation. The Senate amendment amends section 2 of the CFAA by adding a new subsection that requires the Secretary to submit a report to Congress describing how CFAA funds were used to address the three national priorities and the outcomes achieved in meeting the national priorities. (Section 8001)

The Conference substitute adopts the House provision with minor changes. (Section 8001)

*(2) Long-term, state-wide assessments and strategies for forest resources*

The House bill amends section 2 of the CFAA by adding a new section that requires, for a State to be eligible to receive CFAA funds, that the State forester—or equivalent State official—develop and submit a State-wide assessment of forest resource conditions and a State-wide forest resource strategy. The State-wide assessment of forest conditions is to encompass a number of factors, including: the conditions and trends of forest resources in the State; the threats to

forest lands and resources in the State, consistent with the three national priorities; any priority areas or regions in a State that are of priority; and any areas that are of priority to more than just that State. The State-wide forest resource strategy is to encompass a number of factors, including: strategies for addressing threats to forest resources in the State outlined in the State-wide assessment of forest conditions; and a description of the resources available to the State forester—or equivalent State official—from all sources to implement the State-wide forest resource strategy. The State forester—or equivalent State official—is required to submit the State-wide forest resource strategy on an annual basis. The State-wide assessment of forest resource conditions is to be updated as the Secretary or State forester—or equivalent State official—determines to be necessary. The State forester—or equivalent State official—is required in developing the State-wide assessment and annual strategy, to coordinate with the State Forest Stewardship Committee established for the State, the State wildlife agency, and the State Technical Committee. The Secretary is prohibited from using more than $10 million in a fiscal year to implement this section. (Section 8002)

The Senate amendment amends the CFAA by inserting after section 19 a new section entitled ''Comprehensive State-wide Forest Planning'' under which requires the Secretary to provide financial and technical assistance to States for use in the development and implementation of State-wide forest resource assessments and plans. For a State to be eligible for CFAA funding, the State forester or equivalent State official must develop a State-wide forest resource assessment and plan. At a minimum, the State-wide forest resource assessment and plan should identify each critical forest resource in the State consistent with national priorities; incorporate any current forest management plan in the State; address the needs of the region without regard to State borders; provide a comprehensive statewide plan for managing forestland that achieves the three national priorities; and include a multiyear forest management strategy for forest management. The State-wide forest resource and plan should include a multiyear integrated forest management strategy. The State Forester—or equivalent State official—is required to coordinate with the State Forest Stewardship Coordination Committee, State wildlife agencies, the State Technical Committee and other applicable Federal land management agencies in developing State-wide assessments and plans. Subsection (b)(3) requires the Secretary to review the state-wide assessments and plans established under this section. Subsection (d) authorizes $10,000,000 to be appropriated to carryout this section. (Section 8004)

The Managers adopt the House provision in the Conference substitute with amendment. The amendment allows the Secretary to require the long term State-wide assessment and strategy to be updated and resubmitted as the Secretary or State Forester or equivalent State official determines necessary. The Managers expect that the assessments and strategies will guide the annual allocation of Federal resources available under the authorities of the CFAA, to focus such resources on national priorities. In developing and updating the State-wide assessments and strategies, applicable Federal land management agencies are added to the list of organizations with which the State forester or equivalent State official is expected to coordinate. Existing forest management plans of the State are to be incorporated when developing State-wide assessments and strategies. The Conference amendment authorizes up to $10,000,000 to provide States financial and technical assistance needed for the development of the assessments and strategies under this section. The Conference amendment requires the State forester—or equivalent State official—to submit an annual report to the Secretary demonstrating how Federal resources under the CFAA were used to implement the State-wide strategy. (Section 8002)

The Managers intend that Multi-State areas that are a regional priority should reflect areas identified at both the national and State level through assessment and mapping efforts. The Managers recognize that there is a national assessment and mapping effort underway and encourage consideration be given to multi-State areas identified in this effort.

*(3) Community forest and open space program*

The Senate amendment amends the CFAA by adding a new section, 7A, entitled ''Community Forest and Open Space Conservation Program.'' The program provides Federal matching grants to help county or local governments, Indian tribes, or non-profit organizations acquire private forests that are threatened by conversion to non-forest uses and are economically, environmentally and culturally important to communities. The terms ''eligible entity,'' ''Indian tribe,'' ''local governmental entity,'' ''non-profit organization,'' ''program'' and ''Secretary'' are defined. The Federal cost share of a grant provided under the program is to equal not more than 50-percent of the cost to acquire one or more parcels of land. Eligible entities are permitted to provide a non-Federal match in cash, donation, or in kind equal to the outstanding amount. An application process is established whereby an eligible entity is required to submit to the State forester or equivalent official (or in the case of an eligible entity that is an Indian tribe an equivalent official of the Indian tribe) an application that includes a description of land to be acquired and a forest plan that includes a description of community benefits achieved from acquisition. Eligible entities must provide public access for recreational use consistent with the purposes of the program and are prohibited from converting the property to other uses. Eligible entities that sell or convert land acquired under this program to non-forest use must reimburse the Federal government in an amount equal to the greater of the sale price or current appraisal value of the land. Eligible entities that either sell or convert the land are prohibited from being eligible for additional grants under the program. The Secretary is authorized to allocate 10-percent of funds made available for the program to State foresters—or equivalent officials (or in the case of an eligible entity that is an Indian tribe an equivalent official of the Indian tribe)—for program administration and technical assistance. An appropriation of such sums as necessary is authorized to carryout the program. (Section 8002)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8003) The Managers strongly encourage eligible entities acquiring forestland with resources under this program to manage the forestland as ''working forests,'' generating economic benefits and providing jobs and economic stability to communities. The Managers encourage the Secretary to provide a level of oversight over these acquired forests, to see that these goals are met and maintained. The authorities in this program allow non-profit organizations to use funds to acquire properties under this program. The Managers intend such authorities to be used only when a non-profit organization's acquisition of forestland results in a clear benefit to the community, and where there is not a significant loss in the property-tax base for the community. Where a local government entity can perform the same functions as the non-profit, the Managers encourage the Secretary to work with the local government entity. Additionally, revenues generated by the non-profit in the management of forestland acquired under the program should be used for the direct benefit of the local community.

*(4) Assistance to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau*

The House bill amends section 13(d)(1) of the CFAA to specify that the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic are Palau are to be included in the terms ''United States'' or ''States'' for purposes of the CFAA. (Section 8003)

The Senate amendment is the same as the House bill. (Section 8005)

The Conference substitute adopts the House provision. (Section 8004)

*(5) Changes to Forest Resource Coordinating Committee*

The House bill amends section 19(a) of the CFAA by revising the Forest Resource Coordinating Committee (FRCC).

The House bill states the FRCC is to be composed of the following: the Chief of the Forest Service, the Chief of the Natural Resources Conservation Service, the Director of the Farm Service Agency; and the Administrator of the Cooperative State Research, Education, and Extension Service.

The House bill states the FRCC is to be composed of the following persons: at least three State foresters or equivalent State officials from geographically diverse regions of the United States; a representative of a State fish, a private nonindustrial forest landowner, a forest industry representative, a conservation organization representative, a land grant university or college representative, a representative of a State Technical Committees, and such other persons as the Secretary determines appropriate.

The House bill states the FRCC is to perform a number of duties, including: (1) providing direction to the United States Department of Agriculture (USDA) and enabling coordination with State agencies and the private sector to address the three national priorities; (2) clarifying individual agency responsibilities for each agency represented on the FRCC regarding the three national priorities; (3) providing advice on the allocation of funds, including competitive funds; and (4) assisting in developing a report on efforts to address the three national priorities.

The House bill requires the FRCC to meet twice a year to discuss the national priorities and issues regarding nonindustrial private forest land. (Section 8004)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with minor changes. (Section 8005)

*(6) Changes to State Forest Stewardship Coordinating Committees*

The House bill amends section 19(b)(1)(B)(ii) of the CFAA by specifying that a representative from a State Technical Committee is to be on the State Forest Stewardship Coordinating Committee (SFSCC). It also amends section 19(b)(2)(C) of the CFAA by mandating that the SFSCC is to make recommendations for the State-wide assessments and strategies. The House bill strikes section 19(b)(3) and 19(b)(4) of the CFAA. (Section 8005)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8006)

*(7) Forest legacy applications*

The House bill maintains current law.

The Senate amendment amends section 19(b)(2)(D) of the CF AA by stating that applications submitted by Indian tribes do not have to pass through the State Coordinating Committee. (Section 8003)

The Conference substitute deletes the Senate provision.

*(8) Competition in programs under Cooperative Forestry Assistance Act of 1978*

The House bill authorizes the Secretary to competitively allocate a portion of CFAA funds to State foresters or equivalent State officials. The Secretary is required to consult with the FRCC when determining the allocation of funds. The Secretary is also required to give priority for funding to States in which the strategies listed in the Statewide assessments best promote the three national priorities. (Section 8006)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8007)

*(9) Cooperative forest innovation partnership projects*

The House bill states the Secretary is authorized to competitively allocate not more than 5 percent of CFAA funds to support innovative national, regional, or local education, outreach, or technology projects that the Secretary determines would increase the ability of USDA to address the national priorities outlined in section 8001. State or local governments, Indian tribes, land-grant colleges or universities, or private entities are authorized to compete for the funds. The House bill states the Secretary is prohibited from covering more than 50 percent of the total cost of a project. The Secretary is required, in calculating the total cost of a project and the contributions made with regard to the project, to include in-kind contributions. (Section 8007)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8008)

*(10) Healthy forest reserve program*

The House bill amends section 508(2) of the Healthy Forests Restoration Act by extending the Healthy Forests Reserve Program to 2012, and providing $10 million in mandatory funding for each of the fiscal years 2008 through 2012. (Section 8101)

The Senate amendment moves the Healthy Forests Reserve Program into the Food and Security Act of 1985. An authorization of such sums as necessary are authorized for fiscal years 2008 through 2012 to carry out the program. The 99-year easement option is eliminated and replaced with a permanent easement option. Indian tribes are encouraged to participate in the program by being allowed to enroll in 30-year contracts. The Senate amendment strikes section 502(e) of the Healthy Forests Restoration Act, which limits the amount of acreage that can be enrolled in the program to 2 million acres. (Section 2331)

The Managers agree to adopt the House provision in the Conference substitute, with amendment. The current 99-year easement option is replaced with a permanent easement option. Indian tribes are allowed to enter into 10-year cost-share agreements or 30-year contracts that are equivalent to the value of a 30-year easement. Of the funds expended in a fiscal year, not more than 40 percent of the funding can be used for cost-share agreements while not more than 60 percent can be used for easements. A repooling date of April 1 is put in place to address potential high demand for a particular enrollment method. The Managers provide $9.75 million each of fiscal years 2009 through 2012, in mandatory funding for the program. The Managers adopted the changes in the Senate amendment regarding Indian tribes, to ensure tribes can participate in the program. The Managers intend that tribal land enrolled in the program should be land held in private ownership by a tribe or an individual tribal member. Tribal lands held in trust or reserved by the U.S. government or restricted fee lands should not be enrolled in the program, regardless of ownership. (Section 8205)

*(11) Emergency forest restoration program*

The House bill amends title VI of the Agricultural Credit Act (ACA) by authorizing the Secretary to provide financial and technical assistance to owners of nonindustrial private forest lands who have suffered a loss due to a number of events, including wildfires, hurricanes, drought, and windstorms, to assist with the development and implementation of plans that: (1) provide for the restoration and the rehabilitation of the nonindustrial private forest land; (2) restores the land and its related natural resources; (3) use best management practices on the forest land; and (4) incorporate good stewardship and conservation practices on the land.

The House bill provides for a cost share of up to 75 percent, and limits the amount that an owner of nonindustrial forest lands may receive to $50,000 per year. Nonindustrial private landowners are eligible under the House bill if the Secretary determines that their lands are under an imminent threat of loss or damage by insect or disease and immediate action would help them avoid loss or damage.

The House bill defines nonindustrial private forest land to mean rural lands, as determined by the Secretary that: (1) have existing tree cover or had tree cover within the preceding 10 years; and (2) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe or entity has definitive decision-making authority over the lands.

The House bill requires the Secretary of Agriculture to issue regulations to carry out the section within one year of enactment. (Section 8102)

The Senate amendment establishes a new emergency landscape restoration program to rehabilitate cropland, grasslands, and private nonindustrial forest lands adversely affected by natural catastrophic events such as fire, drought, flood, excessive wind, ice, or other natural events. Entities eligible for assistance are community-based associations and city, county or regional governments, including watershed councils and conservation districts. Individuals eligible for assistance include producers, ranchers, operators, private nonindustrial forest landowners, and landlords on working agricultural land.

The Senate amendment provides a source of financial assistance for restoring and protecting natural resources and preventing further impairment of land and water, allows the Secretary to purchase floodplain easements, prioritizes applications that protect human health and safety, and provides technical assistance and cost-share payments up to 75 percent of the cost of remedial activities to rehabilitate watersheds.

The Senate amendment defines ''remedial activities'' to include debris removal, stream bank stabilization, establishment of cover, restoration of fences, construction of conservation structures, providing livestock water in drought situations, restoring nonindustrial private forestland. Discretionary funding is authorized.

The Senate amendment provides for the temporary administration of current emergency programs until final regulations are formulated. (Section 2398)

The Conference substitute adopts the House provision with amendment. The amendment clarifies that Secretary is authorized to make payments to owners of nonindustrial private forest land to carry out specific emergency measures on their land following natural disasters. To receive assistance owners will be required to demonstrate that their land had tree cover prior to the natural disaster. The amendment includes a separate authorization of appropriations, at such sums as necessary.

The Managers include a definition of natural disasters, with an allowance for Secretarial discretion in determining if other resource-impacting events other than those specifically mentioned, constitute a natural disaster. The Managers intend the discretion to be used to help forest owners recover from events such as catastrophic insect or disease infestations, if the Secretary determines that such events are far outside normal ranges and did not result from a lack of forest management. Infestations can include outbreaks of non native forest pests including Emerald Ash Borer, Hemlock Woolly Adelgid, and Sudden Oak Death. (Section 8203)

The Managers recognize that the Forest Service has significant experience in responding to natural disasters including assessment of resource damage and responding to a wide range of incidents and emergencies. The Managers encourage the Secretary of Agriculture to utilize this expertise in implementing this section, where appropriate.

*(12) Office of International Forestry*

The House bill maintains current law, and extends the authorization of appropriation to 2012. (Section 8103)

The Senate amendment is the same as the House bill. (Section 8203)

The Conference substitute adopts the House provision. (Section 8202)

*(13) Rural revitalization technologies*

The House bill maintains current law, and extends the authorization through 2012. (Section 8014)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8201)

*(14) Renewable Resources Extension Act*

The House bill extends authorization through fiscal year 2012 and makes provisions of the Renewable Resources Extension Act effective through September 30, 2012. (Section 7507)

The Senate amendment is the same as the House bill. (Section 8201)

The Conference substitute adopts the House provision. (Section 7413)

*(15) Definitions*

The Senate amendment provides definitions for ''Indian'', ''Indian Tribe'' and ''National Forestry System'' that will be used under Subtitle B of this bill—Tribal-Forest Service Cooperative Relations. (Section 8101)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(16) Indian Tribes participation in the Forest Legacy Program*

The Senate amendment amends section 7(a) of the CF AA by including Indian tribes as direct participants in the Forest Legacy Program. Section 7(l) of the CFAA is amended to allow Indian tribes to receive grants

from the Secretary to carry out the Forest Legacy Program. The Secretary is prohibited from providing grant for any project on land held in trust by the United States. Additionally, land acquired using grant funds cannot be converted to land held in trust by the United States on behalf of any Indian tribe. (Section 8111)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(17) Indian Tribes assistance*

The Senate amendment authorizes the Secretary to provide financial, technical, educational and related assistance to Indian tribes for consultation and coordination with the U.S. Forest Service on issues relating to: (1) access to Forest Service land by members of a tribe for traditional, religious and cultural purposes; (2) coordinated or cooperative management of resources shared by the tribe and the Forest Service; (3) the provision of expertise or knowledge; (4) projects and activities for conservation education and awareness with respect to forestland and grassland that is eligible Indian land; and (5) technical assistance for forest resources planning, management, and conservation on eligible Indian land. Indian tribes are only allowed to participate in one approved activity that receives assistance under this section or the Forest Stewardship Program under section 5 of the CFAA. The Secretary is required to promulgate regulations relating to assistance under this section within 180 days of enactment, including rules for determining the distribution of assistance. The Secretary is also required to coordinate with the Secretary of the Interior to ensure that activities authorized under this section do not conflict with Indian tribal programs at the Department of the Interior and achieve the goals established by affected Indian tribes. (Section 8112)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(18) Purposes of cultural and heritage cooperative authorities*

The Senate amendment: permits the reburial of human remains and cultural items, including items repatriated under the Native American Graves Protection and Repatriation Act, on National Forest System land; prevents the unauthorized disclosure of information regarding burial sites; authorizes the Secretary to allow Indians and Indian tribes to access National Forest System land for traditional and cultural purposes; and authorizes the Secretary to protect the confidentiality of certain information that is culturally sensitive to Indian tribes. (Section 8121)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8101)

*(19) Definitions*

The Senate amendment provides definitions for ''adjacent site,'' ''cultural items,'' ''human remains,'' ''lineal descendant,'' ''reburial site,'' and ''traditional and cultural purpose.'' (Section 8122)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8102)

*(20) Authorization for reburial of human remains and cultural items on National Forest System land*

The Senate amendment provides that the Secretary may allow the use of National Forest System land for reburial of human remains or cultural items in possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or adjacent site. The Senate amendment allows the Secretary to recover or rebury human remains and cultural items on National Forest System land at Federal expense when done with the consent of the affected Indian tribe or lineal descendent. It also allows the Secretary to authorize such uses on reburial sites, or the area immediately surrounding the reburial sites, as the Secretary determines necessary for management of the National Forest System land. The Secretary is required to avoid adverse impacts to cultural items and human remains to the maximum extent practicable. (Section 8123)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with minor changes. (Section 8103)

*(21) Temporary closure of National Forest System land for traditional and cultural purposes*

The Senate amendment requires the Secretary to ensure, to the maximum extent practicable, that Indian tribes have access to National Forest System land for traditional and cultural purposes. It provides that the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes on the smallest practicable area for a minimal period of time. (Section 8124)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8104)

*(22) Forest products for traditional and cultural purposes*

The Senate amendment allows the Secretary to provide Indian tribes with forest products from National Forest System land if the forest products are for traditional and cultural purposes and are not used for commercial purposes. (Section 8125)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8105)

*(23) Disclosure*

The Senate prohibits the Secretary from disclosing information under the Freedom of Information Act relating to: human or cultural items reburied on National Forest System land or a site used for traditional and cultural purposes by an Indian tribe; and resources, cultural items, uses or activities that have a traditional and cultural purpose and are provided to the Secretary by an Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out by the Forest Service. The Secretary is not required to disclose information concerning the identity, use or specific location of a site or resource used for traditional and cultural purposes by an Indian tribe; or certain cultural items. The Secretary may disclose information about the location of human remains or cultural items if the Secretary consults with an affected Indian tribe or lineal descendant before disclosure and determines that the disclosure is necessary to protect human remains or cultural items from harm, theft, or destruction and mitigates any adverse impacts that may result from disclosure. The Secretary may disclose information regarding human remains or cultural items if the Secretary determines that disclosing the information to the public would not create an unreasonable risk of harm, theft or destruction of the resource, site or object; and would be consistent with other applicable laws. (Section 8126)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with minor changes. (Section 8106)

*(24) Severability and savings provisions*

The Senate amendment provides that if any provision in Subtitle B of the amendment is deemed invalid it will not affect the remainder of the subtitle. It also provides a savings clause that covers trust responsibility, agreements between the Forest Service and Indian tribes, rights of an Indian tribe, and rights relating to National Forest System land or other public land. (Section 8127)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 8107)

*(25) Hispanic-Serving Institution Agricultural Land National Resources Leadership Program*

The House bill authorizes the Secretary to establish an undergraduate scholarship program to assist Hispanic-serving institutions in the retention, recruitment, and training of Hispanics and other under-represented groups in forestry and related fields. An appropriation of such sums as necessary is authorized for fiscal years 2008 through 2012 to carry out the program. (Section 8201)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8402)

*(26) Green Mountain boundary adjustment*

The Senate amendment authorizes modification of the boundary of the Green Mountain National Forest in Vermont to include 13 designated expansion units depicted on forest maps Green Mountain Expansion Area Map I and Green Mountain Expansion Area Map II, which is on file with the Chief of the Forest Service. (Section 8203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8301)

*(27) Illegal logging*

The Senate amendment amends section 2(f) of the Lacey Act Amendments of 1981 to change the definition of ''plant.'' Section 2(j) of the Lacey Act is amended to define the terms taken and taking. Section 3(a)(2)(B) of the Lacey Act is amended to make it illegal for any plant: to be taken, possessed, transported or sold in violation of any State or foreign law that protects plants or regulates the theft of plants; to be taken from a park or forest reserve, or other officially protected area; and to be taken from an officially designated area or without, or contrary to, required authorization. The Senate amendment also makes it illegal to take, possess, transport or sell plants without the payment of royalties, taxes, or stumpage fees or in violation of any limitation under any State or any foreign law. Section 3(a)(3) of the Lacey Act is amended to make it illegal, within the special maritime and territorial jurisdiction of the United States, for any plant to be taken, possessed, transported or sold in violation of any state or foreign law that regulates the theft of plants. The taking of plants from a park or forest reserve, or other officially protected area and the taking of plants from an officially designated area or without, or contrary to, required authorization are also made illegal. Additionally, the amendment makes it illegal to take, possess, transport or sell plants without the payment of royalties, taxes, or stumpage fees or in violation of any limitation under any State or any foreign law, governing the export or transshipment of plants.

A new subsection (f) is created in the Lacey Act to require a plant declaration to be filed upon importation of a plant. The plant declaration must include the scientific name of any plant, a description of the value, quantity (including the unit of measure) of the plant, and the name of the country from where the plant was taken. If a plant species or country of origin cannot be determined, the plant declaration is to include a list of possible plant species that could be found in the product or a list of possible countries from which the plant originated. An exclusion is provided for plants used exclusively as packing material unless the packing materials are the items being brought in. The Secretary is required to review the plant declaration. The Secretary is also required to review the exclusion for wood and paper packing and to limit the scope of the exclusion if the Secretary determines that such a limitation in scope is warranted. The Secretary is required to issue a report with analyses and recommendations on the affects of these new requirements.

Section 4 of the Lacey Act is amended by making conforming technical changes to the penalties and sanctions section of the Act. The forfeiture provisions in Section 5 of the Lacey Act are amended by adding a new subsection (d) which reaffirms, as has been the case since 2002, that civil forfeitures under this section shall are to be governed by chapter 46 of title 18, United States Code. (Section 8204)

The House bill contains no comparable provision.

The Managers agree to include the Senate provision in the Conference substitute, with an amendment to modify the definition of plant, exclude recycled material from the plant declaration, clarify the application of section 3 paragraph (B)(iii) of the Lacey Act to regulations or laws pertaining to the export or transshipment of plants, and to require the Secretaries of Agriculture and the Interior to develop regulations to further define the term ''plant.''

The Managers understand illegal logging undermines responsible forest enterprises by distorting timber markets with unfair competition and price undercutting. Illegal logging also threatens the conservation of forest resources, wildlife, and biodiversity, by facilitating forest conversion to non-forest uses and depleting or completely eliminating certain forest ecosystems or the habitat of certain forest dependent wildlife. Finally, illegal logging results in a loss of revenue when taxes or royalties are not paid that could otherwise be invested in sustainable forest management or economic development.

There are several relevant multilateral and international agreements intended to address illegal logging and the illegal timber trade, ranging from voluntary to legally binding multilateral agreements that enable signatory governments to seize illegal products. Yet, despite these many efforts, the problems of illegal logging continue to persist, driven by the demand for products that are developed from illegally harvested wood and the lack of adequate regulatory mechanisms in both exporting and consumer countries.

According to the Department of Justice there is no legal mechanism that currently exists in U.S. law to preclude the importation of wood and wood products known to be illegally harvested in other countries. Currently under the Lacey Act, it is unlawful for any person to: (1) import, export, sell, acquire, or purchase any fish, wildlife or plants taken, possessed, transported, or sold in violation of U.S. law or regulation or in violation of any Indian tribal law; or (2) to import, export, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife, taken, possessed, transported, or sold in violation of State or foreign law or any plant taken, possessed, transported or sold in violation of any State law. There are misdemeanor felony criminal and civil penalties for violations of the Act, and strict liability is established for forfeiture of illegal fish, wildlife or plants.

Current law applies to all fish and wildlife and their parts, but is much narrower in its application of plants. The Lacey Act currently only applies to species of plants that are native to the United States and that are specifically protected either under State law or the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It currently does not apply to plants that are protected under foreign laws.

Because the Lacey Act does not extend to plants that are taken, transported, or sold in violation of foreign laws, the U.S. government is not able to use the criminal and civil penalties of the Act to preclude the importation of wood and wood products or other plants and plant products harvested in violation of the laws of foreign governments designed to protect such plants, or to seize such illegally harvested plants and products when they enter the United States. According to Justice Department enforcement officials, changes to the Lacey Act that would extend its coverage to plants taken in violation of foreign laws would allow law enforcement officers to initiate actions similar to those they now use for fish and wildlife taken in violation of foreign laws.

Section 8204 of the Senate amendment amends the prohibited acts section of the Lacey Act by making it unlawful to import any plant or plant product taken in violation of foreign laws related to the harvest, taking and protection of plants or fees or taxes applicable to the plants.

The Conference substitute amends the Senate amendment to clarify the definition of the term ''plant.'' This definition clarifies that ''wild'' members of the plant kingdom include trees, whether they are naturally or artificially regenerated. The inclusion of trees, whether in natural or planted forest stands, is consistent with the longstanding interpretation of the Lacey Act to cover wild species whether the specimens are taken from the wild or captive bred.

The exclusions to the term ''plant'' in section 2, subsection (f)(2), of the Lacey Act are meant to maintain the exclusions in current law with respect to cultivars and food crops.

The exclusion to the definition of ''plant'' in the new subsection (f)(2)(C) of section 2 of the Lacey Act applies to plants (as that term is defined in new subsection (f)(1)) that are to remain planted or to be planted or replanted, and should include related or preparatory uses such as grafting or plant breeding. Thus, consistent with subsection (f)(1) of the Act, any member of the plant kingdom, including roots, seeds, germplasm, cuttings, parts, or products thereof, and including trees from either natural or planted forest stands, that is to remain planted or to be planted or replanted is covered under the exclusion.

The Conference substitute adds a new section 7(c) to the Lacey Act which authorizes the Secretaries of Agriculture and the Interior to promulgate regulations to define the terms used in section 2(f)(2)(A). The Managers added this new section to clarify the scope of what constitutes common cultivars and common food crops. The Managers are aware that some plant species produced in agricultural settings as cultivars or for food, food supplements, or medicines, also continue to be taken from the wild in volumes that threaten the conservation of these species. For example, the Court in United States v. McCullough, 891 F. Supp. 422 (N.D. Ohio 1995) read the current Lacey Act exclusion from the definition of plant for ''common food crops and cultivars'' as applying to American ginseng, a species that is artificially produced but also threatened in the wild by unsustainable exploitation. Therefore, the Managers added section 7(c) to the Act to help clarify the terms of this exclusion such that trade in cultivars and common food crops is not unduly burdened, while wild plant species threatened with extinction (which may also be artificially produced) are adequately protected from illegal and unsustainable exploitation.

The Managers are aware that the exclusion to the definition of ''plant'' in section 2, subsection (f)(2)(A), could capture some commonly cultivated trees, grown on very short rotation, in a farm or nursery and not in a forest stand, that are harvested (as compared with those that are replanted) but do not typically face problems with illegal logging. Such trees could include conifers grown and harvested for Christmas trees or trees not typically grown in forest stands grown and harvested for floral arrangements. It is the intention of the Managers to allow the Secretaries of Agriculture and the Interior, through the promulgations of regulations as provided in section 7(c), to clarify the application of this Act and minimize the burden on growers of Christmas trees and other flowering trees, for which the Secretaries have determined there is little risk of illegal harvesting.

It is the Managers' intention that in developing any regulations pursuant to this Act, the Secretaries of Agriculture and the Interior minimize the cost and regulatory burden placed on importers and consumers of plants and plant products covered by this Act. The Managers note in particular that the statutory language creating the requirement for a plant declaration does not include, or reference any authority to impose user fees to administer this provision. The Managers intend that the administration of the plant declaration requirement be carried out using appropriated funds and urge caution on the part of the Administration in seeking to interpret other laws to enable the taxation of importers of plants and plant products for this purpose. Additionally, the Managers urge the Secretaries of Agriculture and the Interior to develop a system to allow electronic filing of plant declarations required under this Act.

It is the Managers' intention that with regards to ''plants,'' in this Act, the term ''Secretary,'' as clarified in paragraph (a), subparagraph (2), means primarily the Secretary of Agriculture. The addition of the term ''also'' is meant to ensure that the Secretary of Agriculture consults with the Secretary of the Interior and the Secretary of Commerce in the implementation of this Act. This modification should not be interpreted to remove the Secretary of Agriculture as the lead authority with respect to plants. (Section 8204)

*(28) Green Mountain land exchange/sale*

The Senate amendment authorizes the Secretary to sell or exchange a few specific parcels in the Green Mountain National Forest designated on the map entitled ''Proposed Bromley Land Sale or Exchange'' dated April 7, 2004. Funds from the sale of this land are to be used to relocate small portions of the Appalachian Trail or purchase additional land within the boundary of the Green Mountain National Forest. (Section 8205)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8303)

*(29) Timber contracts*

The Senate amendment authorizes the Secretary to cancel or re-determine rates of

qualifying timber contracts if the rate at which a qualifying contract would be advertised on the date of enactment of this language is at least 50 percent less than the original purchased rate of the contract. The Secretary is also authorized to substitute the Producer Price Index for other authorized producer price indexes for a qualifying contract. The Secretary is authorized to extend re-determined contracts by one year. The provision is to have the effect of surrendering any claim by the United States against any timber purchaser that arose under a qualifying timber contract before the date of enactment of the provision. (Section 8301)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to allow the Secretary to adjust the terms of certain hardwood lumber contracts, if the Secretary does not substitute the Producer Price Index. The Secretary is also allowed to apply market-related contract term additions, consistent with regulations, to contracts awarded before January 1, 2007. (Section 8401)

The Managers appreciate the efforts of the Forest Service to provide certain contractual relief to timber sale purchasers within their legal abilities under the timber sale contract and through existing regulations during these times of difficult markets. In that context, the provisions within this section provide additional help to timber sale purchasers. The Forest Service is encouraged to implement this section as quickly as possible. Because the provision in paragraph (c) is limited in scope, i.e. contracts awarded prior to January 1, 2007, the Managers encourage the Forest Service to revise the existing regulations within 90 days of enactment of this Act to reflect provisions of this section for future market problems. The Forest Service should modify existing contracts upon the request of the purchaser to include these revised regulations so that purchasers will not have similar problems with Market Related Contract Term Adjustments in the future.

*(30) Land conveyances, New Mexico and Virginia*

The Senate amendment authorizes the conveyance, without consideration, of certain lands in New Mexico, to the Chihuahuan Desert Nature Park. (Section 11075)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize the conveyance, without consideration, of certain lands in the George Washington National Forest. (Section 8302)

TITLE IX—ENERGY

*(1) Table of contents*

The House bill provides a table of contents. (Section 9001)

The Senate amendment provides a substitute amendment to title IX of FSRIA of 2002. The amendment makes the new section 9001 the definitions section and includes definitions for: Administrator, Advisory Committee, advanced biofuel, biobased product, biofuel, biomass conversion facility, biorefinery, board, Indian Tribe, Institute of Higher Education, intermediate ingredient or feedstock, renewable biomass, renewable energy, rural area and Secretary. (Section 9001)

The Conference substitute adopts the Senate approach of amending title IX of the FSRIA of 2002 and accepts the Senate definitions with amendments. (Section 9001, new section 9001 of FSRIA)

The Managers intend that the term ''advanced biofuel'' includes home heating fuels and aviation and jet fuels made from cellulosic biomass.

*(2) Federal procurement of biobased products*

The House bill clarifies that products with at least 5 percent of intermediate ingredients and feedstocks, that are biobased, should be considered for a procurement preference. (Section 9002(a))

The Senate amendment changes the name of this section to Biobased Markets Program and clarifies that products to be considered for procurement preference should be composed of at least 5 percent of biobased intermediate ingredients and feedstocks, or a lesser percentage that the Secretary determines to be appropriate. (Section 9001)

The Conference substitute deletes both of these provisions.

*(3) Designation and information provided*

The Senate amendment provides for designation of items for which there is only one product or manufacturer in the category and automatic designation of items composed of at least 50 percent biobased intermediate ingredients or feedstocks. It also specifies that information provided for a biobased intermediate ingredient or feedstock shall be considered to be provided for an item composed of that ingredient or feedstock. This subsection also specifies that the Secretary may not require more information from manufacturers or vendors of biobased products than is required from other vendors or manufacturers. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. (Section 9001, new Section 9002 of FSRIA)

The Managers recognize that USDA and its contractors have developed considerable capabilities in the designation of biobased products and have established an extensive network of biobased industry contacts. The Managers encourage USDA to continue to utilize those capabilities and resources in carrying out the biobased products procurement and labeling programs.

*(4) State procurement models*

The Senate amendment directs the Secretary to offer models for States for procurement of biobased products within 180 days of enactment. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Managers encourage the Secretary to make models for the procurement of biobased products available to States upon request.

*(5) Procurement guideline considerations*

The House bill clarifies that the Secretary should consider life cycle costs only to the extent that information on life cycle costs is appropriate and available. (Section 9002(b))

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(6) Labeling requirement and revised deadline*

The House bill requires the Secretary to issue new regulations for the program within 90 days of enactment with criteria for finished products and intermediate ingredients and feedstocks. It also requires the Secretary to consult with other Federal agencies and non-governmental groups with an interest in biobased products, including small and large producers of biobased materials and products, industry, trade organizations, academia, consumer organizations, and environmental organizations. (Section 9002(c))

The Senate amendment is the same as the House bill, except consultation is with the Administrator and representatives from small and large businesses, academia, other Federal agencies and such other persons as the Secretary considers appropriate. (Section 9001)

The Conference substitute adopts the Senate provision. (Section 9001, new Section 9002 of FSRIA)

*(7) Biobased Markets Program—Establishment*

The Senate amendment establishes a voluntary program under which the Secretary is directed to recognize agencies, contractors and persons that use significant amounts of biobased products. (Section 9002(b)(4))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 9001, new Section 9002 of FSRIA)

*(8) Biobased Markets Program—Applicability*

The Senate amendment requires that Capitol Complex procurement shall comply with the biobased product mandate within 90 days of enactment. The Senate amendment also requires the secretary to sponsor or support a biobased products showcase annually. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute does not require that the Capitol Complex procurement comply with the biobased product mandate, but encourages the Capitol procurement agencies to consider products designated under this program when making their procurement decisions. (Section 9001, new Section 9002 of FSRIA)

The Managers also encourage the Secretary to continue outreach activities to the applicable agencies that may include an annual showcase of biobased products to meet the requirements of this section.

*(9) Biobased Markets Program—Testing centers*

The Senate amendment permits the Secretary to establish one or more national testing centers for biobased products, giving preference to entities with established biobased testing capabilities. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute directs the Secretary to create a national registry of biobased product testing centers. (Section 9001 new Section 9002 of FSRIA)

The Managers intend that the registry should include entities with expertise in performance testing, verifying conformance with long-term performance standards, establishing biobased contents, evaluating uniformity of product quality, and other biobased product characteristics that producers may require. The Managers believe that the University of Northern Iowa is an example of an appropriate entity for listing in the national registry because of its biobased product testing activities.

*(10) Biobased Markets Program—Education and awareness*

The Senate amendment establishes a new Education and Awareness campaign for bioenergy (other than biodiesel) and biobased products, which is to be carried out through competitive grants to eligible entities. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(11) Authorization of appropriations; Federal procurement*

The House bill caps the currently unlimited authorization at $1,000,000 annually for 2008–13 to implement the section (other than the labeling provisions). (Section 9002(d))

The Senate amendment provides for mandatory funding of $3,000,000 annually for 2008

through 2012 to carry out mandatory testing and implement the bioenergy education and awareness campaign. Any additional sums, as necessary, are authorized. (Section 9001)

The Conference substitute provides for mandatory funding $1,000,000 in fiscal year 2008 and $2,000,000 annually for 2009 through 2012 to carry out mandatory testing and labeling. The Conference substitute authorizes an additional $2,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new Section 9002 of FSRIA)

*(12) Authorization of appropriations—Labeling*

The House bill authorizes $1,000,000 annually for 2008–2013 for labeling. (Section 9001)

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

*(13) Report requirements—Report by agencies to administrator for Federal procurement policy*

The House bill requires procurement agencies to assist the Administrator for Federal Procurement by submitting annual reports and requires the Secretary of Agriculture to submit a report to Congress on implementation 6 months after enactment and annually thereafter. (Section 9002 (e))

The Senate amendment provides that the Office of Federal Procurement Policy submit a report to Congress every 2 years describing implementation progress, including information provided by the Agencies with specific data related to the biobased procurement requirement. It requires the Secretary to report to Congress on program implementation within 180 days and each year thereafter. (Section 9001)

The Conference substitute adopts the Senate provision with amendments. The substitute requires a report on program implementation progress and program details once every 2 years, and deletes the requirement to report to Congress after the first 180 days. (Section 9001, new Section 9002 of FSRIA)

*(14) Grants and loan guarantees for biorefineries and biofuel production plants.*

The House bill provides for loan guarantees to help pay for development and construction of biorefineries and biofuel production plants and retrofitting of other facilities to demonstrate the commercial viability of converting biomass to fuels or chemicals. (Section 9003(3))

The Senate amendment renamed this section as the Biorefinery and Repowering Assistance Program. It establishes grants for pilot or demonstration scale biorefineries, for repowering projects, and for repowering feasibility studies. It establishes loan guarantees for commercial scale biorefineries and repowering projects. Biorefineries are limited to advanced biofuels production. Repowering projects replace fossil fuel energy systems with renewable energy systems for biorefineries (including corn ethanol plants), power plants, or manufacturing facilities. (Section 9001)

The Conference substitutes a provision entitled ''Biorefinery Assistance,'' which provides for grants and loan guarantees for construction and retrofitting of biorefineries for the production of advanced biofuels. The substitute provides for grants for constructing demonstration-scale biorefineries, and loan guarantees for the development and construction of commercial-scale biorefineries that use technologies that are either precommercial or commercially available. (Section 9001, new section 9003 of FSRIA)

The Managers believe that it is in the nation's interest to accelerate the commercialization of the production of advanced biofuels. The Managers also are aware that several commercial biorefinery projects are at the advanced planning stages and are ready for construction as soon as loan guarantees can become available through this program.

Therefore, the Managers expect the Secretary to implement this program as soon as possible in fiscal year 2009. The Managers have provided specific funding for this program for fiscal year 2009 to emphasize the need to implement this program as soon as possible. To enable expedited implementation of this program, the Managers expect that the Secretary consider issuing a Notice of Funds Availability (NOFA) to initiate the program as was done in the case of the section 9006 grants program after passage of the Farm Security and Rural Investment Act of 2002. The Managers expect that the NOFA will comply with, and be consistent with the spirit of, the provisions contained in section 9003 of this Act. At the same time of the release of the NOFA, the Managers expect the Secretary will issue an Advanced Notice of Proposed Rulemaking (ANPR) to offer the public an opportunity to provide comments regarding the development of an Interim Rule for this program. Specifically, the Managers expect the ANPR will solicit comments with respect to critical issues regarding the implementation of section 9003, such as whether the program loan guarantee will cover construction of the facility or be limited to post construction financing. It is expected that comments received will be included in the record of subsequent rulemaking regarding this program and will be considered by the Secretary during the development of such regulations. To further facilitate the rapid implementation of this program, the Managers expect that the Secretary consider using the processes and aspects developed for existing USDA loan guarantee programs including the Business and Industry Program and the Rural Energy for America Program (including its predecessor the section 9006 program), in the initial development of this program, especially if the Secretary intends to initiate implementation through the use of a NOFA.

To ensure that proposals that are not yet in their final development stage can be considered, the Managers expect the Secretary to reserve funds for the second half of each fiscal year and reserve a portion of funds to be made available over the life of the Farm Bill.

The Managers also expect the Secretary to take steps to evaluate the credit worthiness and the technical merit of proposals to make decisions regarding the responsible use of funds.

It is the intent of the Managers that the Secretary use the approach for defining precommercial and commercially available technologies that were adopted in the regulations for Section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) prior to the date of enactment of this Act.

It is the intent of the Managers that, to the maximum extent practicable, preference be given to applicants seeking assistance for development and construction of biorefineries planning to convert cellulosic biomass feedstocks into advanced biofuels. It is also the intent of the Managers that for the purpose of ranking applications under the Biorefinery Program, the level of financial participation by the applicant from non-federal sources could include direct financial support, technical support, and contributions of in-kind resources, including such kinds of support from state governments.

The Managers expect that demonstration or pilot-scale facilities will demonstrate the potential of a technology for commercial application at a biorefinery, including operational characteristics such as throughput rates and process yields.

It is the intent of the Managers that the Secretary use the approach for defining precommercial and commercially available technologies that were adopted in the regulations for Section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) prior to the date of enactment of this Act.

The Managers understand that over the life of this Act, it is likely that mandatory funding provided for loan guarantees will be awarded to commercial projects that are first-of-a-kind. This may include the commercial application of a technology that is: expanded to new regions, modified to utilize different feedstocks, or substantially improved such that it represents a significant technological risk.

It is the intent of the Managers that existing facilities including wood products facilities and sugar mills seeking to retrofit the facility with technologies to produce advanced biofuels be eligible for assistance under this section.

The Conference substitute establishes a new section to support the repowering of existing biorefineries by making payments for the installation of new systems that use renewable biomass or for the new production of energy from renewable biomass. (Section 9001, new section 9004 of FSRIA)

It is the intent of the Managers that this repowering program should focus on biorefineries whose primary product is liquid transportation biofuels. The Managers encourage the Secretary to consider providing payments over time to help to ensure that repowering projects are operated as intended and produce the reduction in fossil fuels projected. The Managers also intend that new energy production need not come from a new energy system in order to be eligible for new production payments. The Managers also intend that no support should be given for installation or operation of repowering facilities that use feed grains that receive Title I payments, such as corn, as their energy source.

*(15) Grants—Limitations*

The Senate amendment provides for grants for pilot or demonstration scale biorefineries limited to 50 percent of project costs, grants for repowering projects limited to 20 percent of project costs and grants for repowering feasibility studies limited to the lesser of 50 percent of study costs and $150,000. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute authorizes grants for pilot or demonstration scale biorefineries for up to 30 percent of project costs. (Section 9001, new section 9003 of FSRIA)

*(16) Loan guarantees—Limitations*

The House bill requires that loan guarantees not exceed 90 percent of the principal and interest due on the loan. It provides that the total amount of principal and interest guaranteed may not exceed $1,000,000,000 for relatively small plants (up to $100,000,000) and may not exceed $1,000,000,000 for larger plants ($100,000,000—$250,000,000). The Secretary determines the maximum loan term. (Section 9003(3))

The Senate amendment authorizes the Secretary to guarantee up to 100 percent of the principal and interest on such loans. The principal amount of a loan guaranteed for commercial biorefineries is limited to $250,000,000. The principal amount of a loan guaranteed for repowering projects is limited to $70,000,000. A loan guaranteed for a commercial biorefinery or repowering a biomass conversion facility shall not exceed 80 percent of project costs. (Section 9001)

The Conference substitute limits guarantees to 90 percent of the principal and interest on loans. The maximum principal

amount of a loan guaranteed may not exceed $250,000,000 or 80 percent of project costs. The substitute requires that the amount of the loan guaranteed by the Department be reduced by the amount of other direct Federal funding going toward the project. (Section 9001, new section 9003 of FSRIA)

*(17) Loan guarantees (and grants)—Priority*

The House bill provides selection criteria for loans which follow those for the existing grants program in section 9003 of FSRIA. Two new selection criteria are added to address the level of local ownership and the impact on other users of feedstocks. (Section 9003(4))

The Senate amendment's selection criteria for grants follow those for the existing grant program in Section 9003 of FSRIA. One new selection criterion is added: whether the distribution of funds would have minimal impact on existing manufacturing and other facilities that use similar feedstocks. Selection criteria for grants for repowering projects include the change in energy efficiency, the reduction in fossil fuel use, and the volume of biomass feedstock within a proximity to make local sourcing economically practicable. Preference for grants and loan guarantees is to be given to projects that receive financial support from the State in which they are located and priority is given to projects with significant local ownership. (Section 9001)

The Conference substitute requires a feasibility study conducted by a third party be submitted as part of any application. Ranking criteria for grants include: the potential market for the biofuel and by-products; the level of financial participation by the applicant including other non-Federal and private sources; whether the applicant is proposing to use a feedstock not previously used in advanced biofuel production; whether the applicant is proposing to work with producer associations or cooperatives; whether the process will have a positive impact on resource conservation, public health and the environment; the potential for rural economic development; whether the area where the proposed facility will be located has other similar facilities; whether the project can be replicated; and the scalability of the proposed technology to commercial production.

Ranking criteria for the loan guarantees include the same criteria as for the grants, with several changes and additions, including: whether the applicant has an established market for the biofuels and by-products; whether the applicant can establish that, if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing and other facilities that use similar feedstocks; and the level of local ownership proposed in the application. The scalability of the project is not included in the loan guarantee criteria. (Section 9001, new section 9003 of FSRIA)

In considering the level of financial participation by the applicant from non-federal sources, it is the intent of the Managers that such support could include direct financial support, technical support, and contributions of in-kind resources, including such kinds of support from state governments.

*(18) Loan guarantees (and grants) condition of assistance*

The House bill requires prevailing wages for workers on projects financed under the section. (Section 9003(5))

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 9001, new section 9003 of FSRIA)

*(19) Requirement for commitment*

The Senate amendment states conditions for assistance in the form of a loan guarantee include a binding commitment to cover at least 20 percent of project costs from non-Federal funds, demonstration of technology readiness, and demonstration that investment opportunities have been offered to local investors. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(20) Loan guarantees (and grants) funding*

The House bill extends the grant program in section 9003 of FSRIA through fiscal year 2012 and specifies mandatory funding levels for loan guarantees that total $800,000,000 over the period fiscal year 2008 through fiscal year 2012. (Section 9003 (6)(7))

The Senate amendment provides mandatory funding of $300,000,000 for fiscal year 2008 to remain available until expended. (Section 9001)

The Conference substitute provides mandatory funding of $75,000,000 for fiscal year 2009 to remain available until expended and $245,000,000 for fiscal year 2010 to remain available until expended for loan guarantees. It also authorizes $150,000,000 annually for fiscal year 2009 through fiscal year 2012. (Section 9001, new section 9003 of FSRIA)

*(21) Energy audit and renewable energy development program*

The House bill extends the energy audit and renewable energy development program through 2012. (Section 9004)

The Senate amendment folds the energy audit program into the new REAP program. (Section 9001)

The Conference substitute adopts the Senate provision with amendments as presented below. (Section 9001, new Section 9007 of FSRIA)

*(22) Rural Energy for America Program—Name*

The House bill renames program under section 9006 the ''Rural Energy for America Program.'' (Section 9005(2)(3))

The Senate amendment is the same as the House bill, except that section 9006 is renumbered to become section 9007. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new Section 9007 of FSRIA)

*(23) Rural Energy for America Program—Eligible participants—Grants, loans and loan guarantees*

The House bill expands program eligibility, which currently extends to farmers, ranchers, and rural small businesses, to also include ''other agricultural producers''. (Section 9005(2)(3))

The Senate amendment provides for grants or loan guarantees for renewable energy systems and energy efficiency improvements for agricultural producers and rural small businesses. The Senate amendment excludes direct loans. (Section 9001)

The Conference substitute adopts the Senate provision. (Section 9001, new Section 9007 of FSRIA)

*(24) Rural Energy for America Program—Eligible participants—Energy audit and renewable energy development assistance*

The Senate amendment adds State agencies and public power entities to eligible participants in the Energy Audit and Renewable Energy Assistance Program. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to make units of State, tribal, or local governments eligible. (Section 9001, new section 9007 of FSRIA)

The Managers expect the definition for the term public power entity used in this section to be the same as the definition of state utility as defined in section 217(a)(4) of the Federal Power Act (16 U.S.C. 824q(a)). The Committee intends that in carrying out subsection 9007(b), the Secretary may conduct a merit review process through the solicitation of input regarding applications from qualified experts either individually or collectively.

*(25) Rural Energy for America Program—Eligible participants—Energy from animal manure*

The Senate amendment specifies the following as eligible participants: Agricultural producers; rural small businesses; rural cooperatives; and other similar entities. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. It is the intent of the Managers that the Rural Energy for America Program continue to provide significant support for projects that convert animal manure to energy, including both on-farm and community projects.

*(26) Rural Energy for America Program—Eligible activities—Grants, loans and loan guarantees*

The House bill expands to include sale of electricity generated by new renewable energy systems. (Section 9005(2))

The Senate amendment adds production-based incentives for renewable energy to eligible activities, eliminates direct loans and renewable energy systems. (Section 9001)

The Conference substitute deletes both provisions.

*(27) Rural Energy for America Program—Eligible activities—Energy from animal manure*

The Senate amendment provides for grants and loan guarantees for facilities to convert animal manure to energy, including associated feedstock gathering systems and gas pipelines, as well as first-year operating costs. For new technologies, the first 2 years of operation are eligible. This section also directs extension of the Energy Star program to address equipment and facilities for the agricultural sector. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers encourage the Secretary to compile and submit a list of equipment commonly used by agricultural producers to the Environmental Protection Agency and the Department of Energy for consideration in the existing Energy Star program.

*(28) Rural Energy for America Program—Criteria and preferences—grants, loans and loan guarantees*

The award considerations in the Senate amendment for energy efficiency improvements and renewable energy systems (section 9007(c)(2)) include: The type of renewable energy system; estimated quantity of renewable energy to be produced; expected environmental benefits; quantity of energy savings expected; expected energy savings payback time; and expected system's energy efficiency. Preferences for grants and loan guarantees under section 9007 are to be given to projects that receive financial support from the state in which they are located. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate award considerations, but deletes the Senate provision that gives preference to projects receiving state funds. (Section 9001, new Section 9007 of FSRIA)

The Managers encourage the Secretary to continue funding animal manure digester projects. The Managers believe these projects have and will continue to be an important tool to produce renewable energy in rural areas, create value for agricultural producers, and address environmental concerns surrounding manure management.

It is the Managers' intent that funding under this section may be used for the construction of infrastructure for collection and transportation of feedstocks and biogas for manure digesters, including community digesters. The Managers also intend that bioenergy production and utilization projects that also produce useful byproducts, such as fertilizer or biochar to be used as a soil conditioner, are eligible for support under the Rural Energy for America program.

The Managers encourage the Secretary to use the references to energy efficiency and renewable energy sources in this section to include geothermal heat pump systems using ground loops and that small hydroelectric systems (as determined by the Secretary) be considered renewable energy systems for the purpose of receiving financial assistance under this program.

*(29) Rural Energy for America Program—Criteria and preferences—energy from animal manure*

The Senate amendment states selection considerations for energy from animal manure projects include quality of energy produced, net energy conversion efficiency, environmental issues, net impact on greenhouse gas emissions, diversity factors, and proposed costs. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(30) Rural Energy for America Program—Cost sharing*

The House bill increases the limit on the maximum amount of the combined loan and grant from 50 percent to 75 percent of the funded activity. It limits the maximum amount of loan guaranteed to 75 percent of the funded activity and not more than $25,000,000. (Section 9005(4))

The Senate amendment states that for energy from animal manure projects: Grants are limited to 50 percent of project costs for smaller systems costing less than $500,000; for larger projects, grants are limited to the greater of $250,000 or 25 percent of project costs, with a cap of $2,000,000; loan guarantees are limited to loans not exceeding $25,000,000 and 80 percent of developer's project costs. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new section 9007 of FSRIA)

*(31) Rural Energy for America Program—Feasibility studies*

The House bill allows the Secretary to use up to 10 percent of funds available under the section to provide assistance to eligible participants to conduct feasibility studies for eligible projects, but provides that if such assistance is provided, the participant is ineligible for assistance under other laws for such assistance. (Section 9005(6))

The Senate amendment is the same as the House provision. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new section 9007 of FSRIA)

*(32) Rural Energy for America Program—Reserve*

The House bill reserves 15 percent of funds for projects costing $50,000 or less. (Section 9005(6))

The Senate amendment directs the Secretary to develop a streamlined process for projects seeking less than $20,000, and it directs that not less than 20 percent of the funds for this section be made available for such projects. (Section 9001)

The Conference substitute sets aside not less than 20 percent of the funds for this section for grants of less than $20,000, with any remaining funds reverting to the general pool of funding on June 30 of each fiscal year. The substitute directs the Secretary to perform outreach at the State and local levels. This outreach should include local Rural Development, Farm Service Agency, Natural Resources Conservation Service and Extension offices. (Section 9001, new Section 9007 of FSRIA)

*(33) Rural Energy for America Program—Funding*

The House bill reauthorizes the program and provides mandatory funding of $50,000,000 in fiscal year 2008; $75,000,000 in fiscal year 2009; $100,000,000 in fiscal year 2010; $125,000,000 in fiscal year 2011; and $150,000,000 in fiscal year 2012. (Section 9005(7))

The Senate amendment provides mandatory funding of $230,000,000 in fiscal year 2008, to remain available until expended, for audits, loan guarantees and grants for energy efficiency improvements and renewable energy systems and loan guarantees and grants for animal manure facilities. It specifies that not less than 5 percent of the funding is to be used for Energy Audit and Renewable Energy Development Program and not less than 15 percent is to be used for animal manure facilities. It also authorizes additional funds as necessary to carry out this section from fiscal year 2008 through fiscal year 2012. (Section 9001)

The Conference substitute provides mandatory funding of $50,000,000 in fiscal year 2009, $60,000,000 in fiscal year 2010, and $70,000,000 annually in fiscal year 2011 and fiscal year 2012. It also specifies that 4 percent is to be used for the Energy Audit and Renewable Energy Development Assistance portion of the program. The Conference substitute authorizes an additional $25,000,000 annually from fiscal year 2009 through fiscal year 2012. (Section 9001, new section 9007 of FSRIA)

*(34) Biomass Research and Development Act of 2000*

The House bill modifies findings to include biodiesel. It increases the number of individuals affiliated with an environmental or conservation organization on the Advisory Committee from 1 to 2. It adds an individual with expertise in agronomy, crop science, or soil science to the Advisory Committee. The provision includes language to improve dried distillers grain quality and clarifies the role of commercial applications in the objectives of the Biomass Research and Development Initiative. It requires the Secretary to submit a management plan to Congress every five years evaluating the success of the Initiative. It also provides mandatory funding of $35,000,000 for fiscal year 2008; $60,000,000 for fiscal year 2009; $75,000,000 for fiscal year 2010; $100,000,000 for fiscal year 2011; and $150,000,000 for fiscal year 2012. The House bill does not change the current law provision that authorizes an additional annual appropriation of $200,000,000 through fiscal year 2015. It amends technical study areas to clarify that research areas include sugar processing and refining plants and self-processing crops that express enzymes capable of degrading cellulosic biomass. (Section 9006)

The Senate amendment removes findings from the language. It changes ''biobased fuel'' to ''biofuel'' and ''biomass'' to ''renewable biomass'' for consistency across the Title. It also adds an individual with expertise in plant biology and biomass feedstock development. The provision adds language to emphasize research on harvest, collection, transport and storage of renewable biomass feedstocks. It removes specific funding allocations to the different technical areas and instead requires that at least 15 percent of funds go to each technical area. The Senate language requires the Secretary to submit a management plan to Congress every five years evaluating the success of the Initiative. It provides mandatory funding of $15,000,000 for fiscal year 2008; $25,000,000 for fiscal year 2009; and $35,000,000 for fiscal year 2010. The Senate amendment authorizes an additional annual appropriation of $85,000,000 through fiscal year 2012. (Section 9001)

The Conference substitute moves the Initiative in statute to Title IX of the FSRIA of 2002. It removes findings from the language and changes ''biobased fuel'' to ''biofuel'' and ''biomass'' to ''renewable biomass'' for consistency across the Title. The substitute increases the number of individuals affiliated with an environmental or conservation organization on the Advisory Committee from 1 to 2, adds an individual with expertise in plant biology and biomass feedstock development and adds an individual with expertise in agronomy, crop science, or soil science to the Advisory Committee. The substitute reduces the number of technical areas from 6 to 3 and streamlines considerations for grant selection. The new technical areas include feedstock development, biofuels and biobased products development, and biofuels development analysis. At least 15 percent of the available funding is required to be allocated to each of the three technical areas. The substitute also increases the minimum cost-share requirements for demonstration projects from 20 percent to 50 percent and for research projects from 0 percent to 20 percent, with a provision that allows the Secretary to waive the matching requirement for research if a waiver is determined to be necessary and appropriate.

The substitute provides mandatory funding of $20,000,000 in fiscal year 2009, $28,000,000 in fiscal year 2010, $30,000,000 in fiscal year 2011, and $40,000,000 in fiscal year 2012. It authorizes $35,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new section 9008 of FSRIA)

The substitute replaced language that was included in the Energy Independence and Security Act of 2007 (P.L. 110–140) (EISA) at amended Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(d)). In order to ensure the sustainable production of biofuels, the Managers want to clarify that intention of Sec. 9008(e)(3)(C)(ii) is to improve and develop analytical tools to facilitate the analysis of life-cycle energy and greenhouse gas emissions, including emissions related to resource management, associated with all potential biofuel feedstocks and production processes.

The Managers encourage the Board to consider funding projects that address the critical need for integrated research and technology development in the area of biofuels. Funded projects should consider an integrated approach along the full biofuels and biobased products value chain and should serve as a platform for both technology transfer and workforce development. The Managers recognize that the New Century Farm project at Iowa State University specifically includes integrated research and development activities ranging from cropping practices and feedstock production, to biomass harvest and handling, and including biorefinery conversion processes. The Managers also are aware that Pennsylvania State University is working on all aspects of biofuels development from plant transformation to production, harvest, and storage; and from biomass pretreatment to fuel formulation and engine testing in collaboration with private industry and the government. The Managers are aware that Claflin

University has been undertaking work in the area of biofuels and biobutanol and hope they can continue that work. The Managers recognize that these are viable models which can provide invaluable feedback and systematic improvement to development of a national biofuels infrastructure.

The Managers recognize the tremendous potential market that exists in this country for renewable aviation and jet fuel, and acknowledges that while much research and development has been directed toward the development of biofuels for ground transportation, the development of renewable aviation fuels has lagged far behind. For this reason, the Managers encourage the Secretary of Agriculture and the Secretary of Energy to give equal consideration to projects under this initiative that would perform innovative and beneficial research and commercial development of renewable aviation fuels.

The Managers are aware of the use of algae to create biodiesel fuels, and believe this technology will contribute to relieving the U.S. of its dependence on fossil fuels. The Managers understand that algal-based oil yields are 2–3 times that of the highest yielding land plants and that algae can be cultured on land unfit for traditional commercial crops. The Managers encourage the Department to support existing algaculture laboratories that have the ability to develop algal-based feedstocks for the biodiesel industry. The Managers request the Department to report back within 90 days, or as soon as practicable on the status of this effort.

The Managers hope that scientists and students at minority serving institutions, such as the Nation's historically black colleges and universities and Hispanic-serving institutions will utilize this program and other research and development programs in this title to continue the development of biofuels and biobased products in all regions of the country.

The Managers also believe that this program plays a critical role in bridging the funding gap that many promising technologies face after university basic research is completed and before becoming attractive to venture capitalists and commercialized in the market. The Managers believe that support between basic research and commercialization is important for quickly bringing new technologies to market, and the Managers urge the Secretary to make sufficient funds available to address this issue.

The Managers encourage consideration of collaborative research on corn and cellulosic genomics to support improved biofuels conversion processes.

The Managers recognize the need for research and development to convert forest biomass to advanced biofuels and encourage USDA and DOE, in implementing the authorities in this section, work in partnership with the Forest Service to develop new techniques, technologies and methods toward this goal. The Managers do not intend the additional authority in section 9012 to preclude these activities under this section.

*(35) Adjustments to the bioenergy program—Eligibility*

The House bill clarifies that the term ''bioenergy'' also includes the production of heat and power at a biofuels plant, biomass gasification, hydrogen made from cellulosic commodities for fuel cells, and renewable diesel. The provision excludes corn starch from the list of eligible feedstock under the program. (Section 9007)

The Senate amendment clarifies that this program is intended to support increased production of advanced biofuels, which includes fuels derived from renewable biomass excluding those derived from corn starch. (Section 9001)

The Conference substitute directs the Secretary to make payments to producers of advanced biofuels to support a stable and expanding production base. The payments are to be based on the quantity and duration of production, the net non-renewable energy content of the advanced biofuel, and other factors as determined by the Secretary. (Section 9001, new section 9005 of FSRIA)

It is the intent of the Managers that the Secretary support existing advanced biofuel production, as well as encourage new production. The Managers recognize that, with respect to forest biomass, the feedstock for the production of advanced biofuels is often the same feedstock used by forest products facilities, include pulp and paper mills. The Managers encourage the Secretary to consider competing market outlets when establishing the payment rate for such feedstocks.

*(36) Adjustments to the bioenergy program—Renewable diesel*

The House bill defines renewable diesel. (Section 9007)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(37) Adjustments to the bioenergy program—Payment rate and priority*

The House bill provides for a priority based on factors listed in section 9003(e)(2)(B) of FSRIA. (Section 9007(2))

The Senate amendment directs the Secretary to base payments on: level of production; price of feedstock; net nonrenewable energy content; and other appropriate factors. It restricts the payment to producers that do not receive the small producer tax credits and to production from facilities with capacity of less than 150,000,000 gallons per year. (Section 9001)

The Conference substitute directs the Secretary to base payments on the quantity and duration of production, the net non-renewable energy content of the advanced biofuel, and other appropriate factors as determined by the Secretary. (Section 9001, new Section 9005 of FSRIA)

*(38) Adjustments to the bioenergy program—Project viability*

The House bill requires Secretary to review project viability before renewing contracts. (Section 9007(2))

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(39) Adjustments to the bioenergy program—Funding*

The House bill provides mandatory funds of $225,000,000 for fiscal year 2008; $250,000,000 for fiscal year 2009; $275,000,000 for fiscal year 2010; $300,000,000 for fiscal year 2011; and $350,000,000 for fiscal year 2012. (Section 9007(3))

The Senate amendment provides mandatory funds of $245,000,000 for fiscal year 2008 to remain available until expended. (Section 9001)

The Conference substitute provides mandatory funding of $55,000,000 in fiscal year 2009, $55,000,000 in fiscal year 2010, $85,000,000 in fiscal year 2011, and $105,000,000 in fiscal year 2012. It authorizes $25,000,000 per year for fiscal year 2009 through fiscal year 2012. It stipulates that no more than 5 percent of each year's funding may be for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year. (Section 9001)

*(40) Research, extension and educational programs on biobased energy technologies and products*

The House bill extends current authorization for appropriations at a level of $75,000,000 through 2012. It provides a research focus for insular and Pacific areas. (Section 9008)

The Senate amendment provides for mandatory funding of $5,000,000 for fiscal year 2008; and $10,000,000 for fiscal year 2009 and fiscal year 2010 and provides for authorization for appropriations at an annual level of $70,000,000 from fiscal year 2008 through fiscal year 2012. It provides for a ''subcenter'' at the University of Hawaii with a research focus for insular and Pacific areas. (Section 9001)

The Conference substitute adopts the Senate provision with amendments and moves the provision in statute to the Research Title of this Act. No mandatory funding is provided. The Conference substitute authorizes $75,000,000 per year for fiscal year 2008 through fiscal year 2010. (Section 7526)

*(41) Regional biomass crop experiments*

The Senate amendment establishes a program of regional biomass crop experiments at 10 geographically dispersed and competitively selected land-grant universities. Crop experiments are to include all appropriate biomass species, including perennials, annuals, and woody biomass species. Selection criteria include crop experiment capabilities and experience, species and cropping practices proposed, crop experiment plan, and commitment of adequate acreage and resources. The provision calls for coordination among participants, with the Biomass Research and Development Board and with the Sun Grant Centers, and the establishment of a ''best practices'' database on all aspects of biomass crop production. It provides mandatory funding of $40,000,000 over the life of the bill, to be allocated as $1,000,000, $2,000,000, and $1,000,000 per institution for years fiscal year 2008, fiscal year 2009, and fiscal year 2010, respectively. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

*(42) USDA Energy Council*

The House bill creates an Energy Council in the Office of the Secretary at USDA to coordinate energy policy at the Department and consult with other agencies. (The existing Office of Energy Policy and New Uses will support the activities of the Council.) (Section 9009)

The Senate amendment directs the Secretary to assign coordination of projects and information, liaison work with other agencies and public outreach on USDA's energy programs to one entity within the Department. (Section 9001)

The Conference substitute deletes both provisions.

It is the intent of the Managers that the Department should implement the actions outlined in the Senate bill using existing authorities. It is also the Managers' intent that a single entity in the Department be responsible for coordinating energy policy activities in the Department and with other agencies.

*(43) Farm energy production pilot program*

The House bill establishes a pilot program to provide grants to farmers for the purpose of demonstrating the feasibility of making a farm energy neutral using existing technologies. It authorizes $5,000,000 for fiscal years 2008 through 2012. (Section 9010)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

The Managers believe that the purposes of this Section can be carried out through Section 7207 of the Research title.

*(44) Rural energy self-sufficiency initiative and rural energy systems renewal*

The House bill authorizes the Secretary to make cost-share grants to enable eligible rural communities to develop renewable energy systems to increase their energy self-sufficiency. The provision authorizes appropriations of $5,000,000 in fiscal year 2008 and such sums as necessary in fiscal year 2009 through fiscal year 2012. (Section 9011)

The Senate amendment: (1) establishes a program of competitive cost-shared grants for rural communities to assess their energy systems, and to formulate and implement strategies for improvements; (2) specifies appropriate activities; (3) requires a 50 percent cost share; (4) directs the USDA in consultation with DOE to provide technical assistance; and (5) authorizes $5,000,000 per year for fiscal year 2008 through fiscal year 2012. (Section 9001)

The Conference substitute authorizes $5,000,000 per year for fiscal year 2009 through fiscal year 2012 for a program of cost-shared grants to enable rural communities to assess their energy usage, formulate strategies for improvements and install and utilize integrated renewable energy systems. (Section 9001, new Section 9009 of FSRIA)

It is the intent of the Managers that energy assessments will include total energy usage by all members and activities of the community, including an assessment of energy used in community facilities, energy for heating, cooling, lighting, and energy for all other building and facility uses; energy used in transportation by community members; current sources and types of energy used; energy embedded in other materials and products; and the major impacts of the energy usage, including the impact on the quantity of oil imported, total costs, the environment, and greenhouse gas emissions.

Energy system improvement strategies are intended to reduce conventional energy usage and greenhouse gas emissions by the community through adoption or use of measures such as building insulation, automatic controls on lighting and electronics, zone energy usage, and building energy conservation practices; transportation alternatives, vehicle options, transit options, transportation conservation, and walk- and bike-to-school programs; community configuration alternatives to provide pedestrian access to regular services; and community options for alternative energy systems, including alternative fuels, photovoltaic electricity, wind energy, geothermal heat pump systems, and combined heat and power.

*(45) Agricultural biofuels from biomass internship pilot program*

The House bill authorizes an internship program to encourage students to pursue employment in renewable energy related jobs. (Section 9012)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(46) Feedstock flexibility program for bioenergy producers.*

The House bill amends the energy title of FSRIA to require the Secretary to purchase sugar to produce bioenergy if necessary to avoid forfeitures of sugar to the Commodity Credit Corporation, and to ensure that the sugar loan program operates at no cost to the Federal government. (Section 9012)

The Senate amendment is the same as the House bill. (Section 1501(f))

The Conference substitute adopts the House provision with amendments. (Section 9001, new Section 9010 of FSRIA)

Since the Feedstock Flexibility Program is a new program involving many interests, the Managers expect the program to be implemented following a public notice and comment period, providing an opportunity for all parties affected by the program to have input into its operations.

*(47) Biomass inventory report*

The House bill requires the Secretary to conduct an inventory of biomass resources on a county by county basis and report to Congress within 1 year of enactment. (Section 9014)

The Senate amendment requires the Secretary to conduct an assessment of the growth potential for cellulosic material on a state-by-state basis, and to report to Congress within 18 months. (Section 9001)

The Conference substitute deletes both provisions.

The Managers believe that adequate biomass resource assessments are underway or planned. The Economic Research Service (ERS) in the Department is working on a biomass resource inventory and the Managers encourage the Secretary to continue this important work.

*(48) Future farmsteads program*

The House bill establishes a program to advance farm energy use efficiencies and on farm production of renewable energies. (Section 9015)

The Senate amendment is the same as the House bill. (Section 9001)

The Conference substitute deletes both provisions.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

*(49) Sense of Congress on renewable energy*

The House bill provides a sense of Congress on renewable energy. (Section 9016)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

*(50) Biodiesel fuel education program*

The House bill doubles funding to $2,000,000 annually for fiscal year 2008 through fiscal year 2012. (Section 9017)

The Senate amendment is the same as the House bill except it adds oil refiners, automotive companies and owners and operators of watercraft fleets to the list of entities targeted for education about biodiesel. (Section 9001)

The Conference substitute adopts the House provision except that it funds the program at $1,000,000 annually for fiscal year 2008 through fiscal year 2012. (Section 9001, new Section 9006)

*(51) Biomass energy reserve*

The House bill establishes a biomass energy reserve (BER) and provides financial and technical assistance to landowners and operators to produce energy crops and harvest, store, and transport cellulosic material. BER project areas must be within a 50 mile radius of an existing bioenergy facility.

Under the House provision, BER eligible crop land must have been tilled in the current or immediately preceding crop year, and does not include Federal land, certain forest land, or land enrolled in specified conservation programs (unless biomass harvest occurs in accordance with a conservation plan outside of nesting and rearing season, and payments under the conservation program are reduced—subsection (h)). (Forest land is covered in subsection (e), which provides $5,000,000 for grants to help owners develop plans for sustainable management of biomass from forest land.)

Groups of owners and operators, energy and agricultural companies, and Agricultural Innovation Centers (AICs) are all ''Eligible Applicants'' that may submit proposals for BER project areas. AICs have a dual role in the program, and may also serve as ''Qualified Organizations'', which assist other Eligible Applicants in developing proposals for approval by USDA.

Under the House provision, the Secretary selects 10 qualified organizations across the country. Qualified organizations, which may also be colleges and universities, help eligible applicants structure projects that will advance the goal of sustainable production of dedicated energy crops. Specifically, a qualified organization will help eligible applicants to identify suitable land and crop mixtures and get a commitment from a bioenergy facility. Program crops and invasive or noxious species are ineligible. Qualified organizations then rate the various project area applications according to a ranking system established by the Secretary, based on criteria set out in subsection (d)(5). The Secretary selects at least one project area in each of the 10 qualified organizations, which are regionally dispersed.

Under the House provision, the Secretary enters into 5-year contracts with owners and operators (Eligible Participants) in the BER project area. Such contracts must comply with certain conservation requirements and provide for information sharing. The Secretary makes Establishment Payments to eligible participants to cover seeds, stock, and the cost of planting, and annual Rental Payments in an amount to be determined by the Secretary.

Under the House provision, the Secretary may also provide Matching Payments of not more than $45 per ton for collecting, harvesting, storing, and transporting biomass. (Matching Payments are at a rate of $1 for every $1 per ton paid by the bioenergy facility for the biomass. The Secretary must reduce Rental Payments if making a Matching Payment to an eligible participant.) Forest land owners are eligible for this Matching Payment if acting under a forest stewardship plan. (Section 9018)

The Senate amendment establishes a Biomass Crop Transition Assistance Program (BCTAP) to provide transitional assistance (including grants) for the establishment and production of eligible crops to be used in the production of advanced biofuels. The program includes assistance for the harvesting, transportation and storage of renewable biomass. Producers are not eligible to receive assistance for the establishment and production of crops eligible to receive benefits under Title I and that are invasive or noxious. Eligible land is defined as private agriculture or forest land planted or considered to be planted for at least 4 of the 6 years preceding enactment.

The Senate amendment provides that contract requirements include adherence to conservation compliance and implementation of a conservation plan approved by the local soil conservation district. The conservation plans should advance the goals and objectives of fish and wildlife conservation plans and initiatives and comply with mandatory environmental requirements for a producer under Federal, State and local law.

Eligible participants under the Senate amendment include individual agricultural producers, forest land owners or other individuals holding the right to collect or harvest the crop. Farmer-owned cooperatives, agricultural trade associations (or similar entitles on behalf of producer members) may serve as aggregators and enter into contracts as eligible participants. The Secretary is directed to provide planning grants of up to $50,000 (with a required 100 percent match) to

assist in assessing the viability for, or assembling of, a regional supply.

Under the Senate amendment, the Secretary will enter into contracts for perennial crops, covering the cost of establishing the crop/s during the first year and each subsequent year the Secretary will make an incentive payment determined by the Secretary to encourage the participant to produce renewable biomass. All participants in this Section are required to keep records determined by the Secretary to allow for best practices to be studied and shared.

Assistance under the Senate amendment is restricted to crops for use in the production of advanced biofuels, other biobased products, heat or power from a biomass conversion facility. Participants must have a letter of intent or proof of financial commitment from a biomass conversion facility and the production operation must be located in proximity of a biomass conversion facility to make delivery to the location economically practicable. Eligibility is also conditioned on the impact on wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits.

The Senate amendment allows the Secretary to provide technical assistance and establishment cost-sharing for eligible participants planting annual biomass crops. The crop shall not be eligible for benefits under Title I and assistance is conditioned on adherence to conservation compliance requirements.

The Senate amendment also creates a program that provides fixed-rate payments to eligible participants for the estimated cost of collection, harvest, storage and transport of renewable biomass. It also provides for forest biomass planning grants to help forest landowners sustainably harvest woody biomass for heat, energy or biobased products for use in a biomass conversion facility.

The Senate amendment included $130,000,000 in mandatory funding for fiscal year 2008, to remain available until expended, for transition assistance for biomass crops. Of this amount, no more than $5,000,000 was to be used for biomass planning grants and no more than 5 percent expended for forest biomass planning grants. The payments for collection, harvest, storage and transportation were appropriated mandatory funding of $10,000,000 per year for each of fiscal year 2009, fiscal year 2010, and fiscal year 2011, to remain available until expended. (Section 9001)

The Conference substitute establishes a Biomass Crop Assistance Program (BCAP). Under this Section, the Secretary will select BCAP project areas from applications consisting of a group of producers willing to commit to biomass crop production or a biomass conversion facility.

Biomass crop producers within these BCAP project areas will enter into contracts directly with the Secretary which will enable producers to receive financial assistance for crop establishment costs as well as annual payments to support biomass production. Contracts include resource conservation requirements.

The Secretary is directed to reduce annual payments when the biomass crops are sold to the conversion facility, used for other allowed purposes or if the producer violates the BCAP contract. This section also authorizes cost-sharing support for biomass harvest, transport, storage, and delivery to biomass user facilities, both within BCAP project areas and elsewhere. The Conference substitute provides mandatory funding of such sums as necessary to carry out this section for each of fiscal year 2008 through fiscal year 2012. (Section 9001, new Section 9011 of FSRIA)

The Managers expect the Secretary to determine if a producer is within an economically practicable distance from a facility based on the expected cost of transporting a feedstock to the facility. The Managers understand that this distance may vary depending on several factors including the density of the feedstock and the producer's plan for preprocessing the biomass including chopping, pelletizing or other techniques that make the biomass more easily transportable.

The Managers intend that nonindustrial private forestland be included as ''eligible land'' in a BCAP area and also be eligible for establishment and annual payments. Prior to entering into a contract with an owner of nonindustrial private forestland with existing tree cover, the Managers encourage the Secretary to consider the most suitable use of the land and encourage the maintenance of native forests and late successional forest stands and discourage conversion of native forests to non-forest use. The Managers understand that woody biomass feedstocks may require varying management practices including: establishment (natural or artificial regeneration), site preparation, and management of competing vegetation. The Managers recognize that in some cases, biomass from forests established or enhanced under this program may not be available for harvest within the timeframe of the contract, but may provide a long-term source of feedstock for a biomass conversion facility.

It is the intent of the Managers that in determining the amount of an annual payment, the Secretary shall consider the costs of the activity being funded and the need for the involved biomass conversion facility to bear some costs of producing the feedstock.

The Managers intend that the use of ''soil, water and related resources'' under this section includes wildlife-related concerns.

The Managers also intend that the primary focus of the BCAP will b be promoting the cultivation of perennial bioenergy crops and annual bioenergy crops that show exceptional promise for producing highly energy-efficient bioenergy or biofuels, that preserve natural resources, and that are not primarily grown for food or animal feed. In making BCAP project area selections, the Managers expect that the Secretary will consider the economic viability of the proposed biomass crop. The Managers do not intend that BCAP contract acreage provide all the feedstock necessary to supply a biomass conversion facility.

It is the Managers' intent that if the establishment or annual payment to a producer is reduced under this section, that the Secretary may vary the amount of payment reduction based on the reason for reducing the payment. It is also the intent of the Managers that establishment and annual payments are to be reduced by an appropriate amount in the case where a portion of an eligible crop is not sold or intended to be sold to the biomass conversion facility.

The Managers direct the Secretary to provide a report to Congress on how information gathered under this Section was disseminated. The Managers urge the Secretary to utilize the Best Practices database created in Section 7207 of this Act and to utilize the expertise of institutions of higher education and Agriculture Innovation Centers to collect such information.

*(52) Forest biomass for energy*

The House bill requires the Secretary of Agriculture, through the Forest Service, to conduct a competitive research and development program to encourage use of forest biomass for energy. The House bill provides $15,000,000 per year for fiscal year 2008–2012 in mandatory funding. (Section 9019) Note that there are 2 sections numbered 9019 in the House bill.

The Senate amendment is similar to the House bill but does not provide mandatory funding for the program. (Section 9001)

The Conference substitute adopts the House provision with amendments. It authorizes $15,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new Section 9012 of FSRIA)

As part of this program, the Managers encourage the Secretary to work closely with the Pine Genome Initiative (PGI), which would promote healthy forests and the development of new biofuels technology.

*(53) Community wood energy program.*

The House bill provides grants for community wood energy systems. (Section 9019) Note that there are 2 sections numbered 9019 in the House bill.

The Senate amendment is similar to the House provision. (Section 9001)

The Conference substitute adopts the Senate provision with amendments. It authorizes $5,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new Section 9013)

*(54) Supplementing corn as an ethanol feedstock*

The House bill requires the Secretary of Agriculture to establish a program to make grants of not to exceed $1,000,000 each to no more than 20 universities for a 3–year program of demonstration of supplementing corn as an ethanol feedstock with sweet sorghum and switchgrass. (Section 9020)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

*(55) New Century Farm Project*

The Senate amendment authorizes support for the development and operation of an integrated and sustainable biomass, feedstock, and biofuels production system to serve as a model for a new century farm. It authorizes $15,000,000 for fiscal year 2008 through fiscal year 2012, to remain available until expended. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

*(56) Biochar research, development and demonstration*

The Senate amendment establishes a program of competitive grants for research and demonstration of the production and use of biochar in the agricultural sector. Activity areas include biochar production and use, agronomic effects, biochar characterization, soil carbon and greenhouse gas emission effects, integration with renewable energy systems, and economics. The provision authorizes $3,000,000 for each year of fiscal year 2008 through fiscal year 2012. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. Research on biochar production and use is included as a high-priority research and extension area in section 7203 of the Research title.

*(57) Voluntary renewable biomass certification*

The Senate amendment establishes a voluntary certification program for renewable biomass that is grown using sustainable practices, in consultation with EPA. Standards are to be designed to reduce greenhouse

gases and improve soil carbon, protect wildlife habitat, and protect air, soil, and water quality. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(58) Biofuels infrastructure study*

The Senate amendment directs USDA, in collaboration with the Secretaries of Energy and Transportation and the Administrator of the Environmental Protection Agency, to conduct a study of the infrastructure needs associated with a significant expansion in biofuel production and use. The amendment specifically includes dedicated ethanol pipeline feasibility studies and examination of water resource needs. The provision requires a report to Congress including recommendations. It also authorizes $1,000,000 in each of fiscal year 2008 and fiscal year 2009. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute directs USDA to jointly conduct a study with DOE, DOT and EPA on the infrastructure needs associated with significant expansion in biofuels production and use. (Section 9002)

It is the intent of the Managers that this study should include an assessment of appropriate planning and development timelines associated with infrastructure development. The Managers suggest that the Biomass Research and Development Board established under the Biomass Research and Development Initiative may be an appropriate entity for coordination and oversight of this multiagency study. While this study is to use the information and results from the two related studies authorized in sections 243 and 245 of the Energy Independence and Security Act of 2007 (P.L.110–140), it is the intent of the Managers that the Secretary should not wait on the execution or completion of those related studies before undertaking this study.

*(59) Nitrogen fertilizer study*

The Senate amendment directs USDA to assess the feasibility of producing nitrogen fertilizer from renewable energy, including formulation of recommendations for an R&D program. It authorizes $1,000,000 for fiscal year 2008. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. It authorizes $1,000,000 in fiscal year 2009. (Section 9003)

*(60) Study of life-cycle analysis of biofuels*

The Senate amendment directs USDA in consultation with the Secretary of Energy and the Administrator of the EPA to conduct a study of methods for evaluating the life-cycle greenhouse gas emissions of conventional fuels and biofuels, and to provide recommendations for a streamlined, simplified method for evaluating the lifecycle greenhouse gas emissions of fuels. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(61) E–85 fuel program*

The Senate amendment authorizes $20,000,000 for the period fiscal year 2008 through fiscal year 2012 for the USDA to award grants to ethanol production facilities where a majority of ownership is comprised of agricultural producers, to install blending and retail fueling infrastructure. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(62) Research and development of renewable energy*

The Senate amendment directs the Secretary to carry out a program of biomass and other renewable energy research in coordination with the Colorado Renewable Energy Collaboratory and authorizes funding to USDA and DOE for this purpose. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

*(63) Northeast Dairy Nutrient Management and Energy Development Program*

The Senate amendment provides for nutrient management and research extension. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that the nutrient management research and extension initiative included in section 7204 of the Research title will accomplish the purposes of this section.

*(64) Sense of the Senate concerning higher levels of ethanol blended gasoline*

The Senate amendment provides a Sense of the Senate encouraging the federal government to investigate and authorize the use of higher blends of ethanol in gasoline. (Section 9002)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(65) Conforming amendments*

The Senate amendment makes conforming amendments. (Section 9003)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(66) Sense of Senate concerning regional bioenergy consortia*

The Senate amendment directs the Secretary to continue to allow and support regional consortia of public institutions to support the bioeconomy. (Section 9004)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers encourage the Secretary to continue to allow and support efforts of regional consortiums of public institutions, including land grant universities and State departments of agriculture, to jointly support the bio-economy through research, extension and education activities.

TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE

*(1) Annual report on response to honey bee colony collapse disorder*

The House bill requires the Secretary to submit a report to Congress on the investigation of honey bee colony collapse and strategies to reduce colony loss. (Section 10001)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. Language incorporating the goals and objectives of this provision appears in section 7203 of the research title.

*(2) National Honey Board*

The Senate amendment amends section 7(c) of the Honey Research, Promotion and Consumer Information Act (& U.S.C. 4606(c)) to ensure that the Honey Board continues and that the Secretary cannot conduct any referendum on the continuation or termination of the order without first conducting a concurrent referendum for approval of orders to establish a successor marketing board. (Section 1854)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to discontinue the current Honey Board after the Secretary has conducted a referendum for honey producers or honey packers, importers and handlers. The Secretary is also required to act as a fiduciary in the conducting of referenda for new marketing boards to ensure that the rights and interests of producers, importers, packers, and handlers of honey are equitably protected in the transition to any 1 or more new successor marketing boards. (Section 10401)

*(3) Identification of Honey*

The Senate amendment amends section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) to require the grading mark, statement, inspection mark of the Department of Agriculture to be located in close proximity of the country of origin label on packaged honey. (Section 1855)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to specify that violations of the labeling requirements of this section, with respect to honey, may be deemed by the Secretary to be sufficient cause for debarment from the benefits of the Agricultural Marketing Act of 1946. (Section 10402)

*(4) Tree assistance program*

The House bill: (1) amends subtitle C of the Farm and Rural Investment Act of 2002, (2) makes nursery tree growers eligible under the Tree Assistance Program and future disaster assistance programs for which assistance is provided under that program, (3) changes the $75,000 limitation on assistance to $150,000 per year, and (4) maintains current discretionary authorization. (Section 10101)

The Senate amendment: (1) amends the Trade Act of 1974 by creating a Tree Assistance Program to compensate eligible growers for losses suffered due to natural disasters, (2) makes nursery tree growers eligible under the Tree Assistance Program, (3) changes the $75,000 limitation on assistance to $100,000 per year, (4) adds reimbursement for 50 percent of the cost of pruning, removal and other costs to salvage existing trees or prepare the land to replant trees, and (5) provides necessary mandatory funding to carry out the program over the next five years. (Section 12101(e))

The Conference substitute adopts the Senate provision with amendments to modify the reimbursement of the cost of replanting trees lost due to a natural disaster; amend the Federal Crop Insurance Act with a provision identical to that which appears in the Trade Act of 1974; incorporate these changes into sections 12033 and 15101 of this Act; and to make other technical changes. (Section 12033; Section 15101)

The Managers wish to clarify that the insurance requirement for eligibility in the Tree Assistance Program applies only to insurance on crops and not on the underlying vines or trees.

*(5) Specialty crop block grants*

The House bill amends section 101 of the Specialty Crops Competitiveness Act by continuing the Specialty Crop Block Grant Program through 2012, and increasing the mandatory levels of funding to:

$60,000,000 in FY'08
$65,000,000 in FY'09
$70,000,000 in FY'10
$75,000,000 in FY'11
$95,000,000 in FY'12.

The House provision changes the definition of ''specialty crop'' under the Specialty Crops Competitiveness Act of 2004 to include ''horticulture,'' and the definition of ''State'' to include Guam, American Samoa, the U.S. Virgin Islands and the Northern Mariana Islands. (Section 10102)

The Senate amendment is the same as the House bill, except funding is discontinued after FY'11. The Senate definitions are the same as in the House bill, but also includes ''turfgrass sod'' and ''herbal crops'' in the definition of ''specialty crop''.

The Senate amendment modifies section 101(e) to require that states, to the maximum extent practicable and appropriate, develop plans that take into consideration the views of beginning and socially disadvantaged farmers and ranchers who produce specialty crops. It also changes the minimum grant amount from $100,000 to one-half of one percent of the overall funding allocated to the program in a given fiscal year. (Section 1841)

The Conference substitute adopts the House provision with amendments to specify that any funds made available for a fiscal year under the program that are not expended by certain date, to be determined by the Secretary, will be reallocated to other States; change the minimum grant amount to $100,000 or one-third of one percent of the overall funding allocated to the program in a given fiscal year (whichever is higher); provide mandatory levels of funding in the amounts of:

$10 million for fiscal year 2008;
$49 million for fiscal year 2009; and
$55 million for each of fiscal years 2010 through 2012. (Section 10109)

The Managers expect that the Secretary will encourage each state making applications for funding under the Specialty Crop Block Grant Program to provide a written plan detailing the affirmative steps it will take to perform outreach to specialty crop producers in the development of the State's overall grant plan, including outreach to socially disadvantaged and beginning farmers of specialty crops. The Managers also note that herbal crops fall within the statutory definition of eligible specialty crops under the Specialty Crop Block Grant Program, and direct the Agricultural Marketing Service to include a comprehensive list of specific categories of eligible specialty crops in all relevant promotional materials distributed in connection to the program. The Managers expect the Secretary to continue to consider the cultivation of turfgrass sod as horticulture, and therefore included as part of the definition of specialty crop under the Specialty Crop Competitiveness Act of 2004, and as a specialty crop for any other purposes in this or any other Act.

The Managers urge the Secretary to encourage state departments of agriculture to develop their grant plans through a competitive process in order to ensure maximum public input and benefit. The Managers expect the Secretary to ensure that States conduct extensive outreach to interested parties through a transparent process of receiving and considering public comment so that grant applications are developed with proven and justified public support, particularly when developing applications for multi-state projects. Further, the Managers expect the Secretary to carefully review requests that extend existing projects to ensure that support remains across the broad array of public-private partnerships unique to the structure of the specialty crop industry.

The Managers note that since 2006 many states have used specialty crop block grant funding for marketing programs, some of which promote state grown products. The Managers expect the Secretary to carefully monitor the use of funds under grant awards to ensure that funds are promoting specialty crops as defined under the Specialty Crop Competitiveness Act of 2004 and are not being used in generically cross-marketing other commodities which fall under state marketing programs but are outside the scope of the Act's definition.

The Managers recognize the ability of States to submit multi-state projects under current program regulations. The Managers also recognize the growing need for solutions to problems that cross state boundaries and may therefore be addressed more effectively by multi-state projects. These problems include addressing good agricultural practices, research on crop productivity or quality, enhancing access to federal nutrition programs, pest and disease management, or commodity-specific projects addressing common issues in multi-state regions. The Managers therefore request that the Secretary encourage state departments of agriculture to submit grant plans that include multi-state and regional project proposals. The Managers also request that the Secretary give strong consideration to multi-state projects when reallocating unobligated block grant funding.

*(6) Additional section 32 funds for purchase of fruits, vegetables and nuts to support domestic nutrition assistance programs*

The House bill provides funding in addition to amounts available under section 32. Additional amounts of section 32 funds dedicated to fruit, vegetable and nut purchases are:

$190,000,000 in FY'08
$193,000,000 in FY'09
$199,000,000 in FY'10
$203,000,000 in FY'11
$206,000,000 in FY 2012 and each FY thereafter.

The House provision expands the Secretary's purchase discretion to include value-added fruit, vegetable and nut products. (Section 10103)

The Senate amendment is the same as the House bill, with technical differences. (Section 4907)

The Conference substitute adopts the House provision with an amendment to require that, for each of fiscal years 2008 through 2012, the Secretary shall use not less than $50,000,000 of the funds dedicated to fruit, vegetable and nut purchases under section 32 to purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the National School Lunch Act. This provision appears in section 4404 of this Act. (Section 4404)

*(7) Additional section 32 funds to provide grants for the purchase and operation of urban gardens growing organic fruits and vegetables for the local population*

The House bill provides grants to individuals or cooperatives composed of residents of urban neighborhoods where urban gardens or greenhouses are located to assist in purchasing and operating organic fruit and vegetable gardens and greenhouses. Provides that grants may not exceed $25,000 per year; $20,000,000 in discretionary funds are appropriated for fiscal year 2008 and each fiscal year thereafter. (Section 10103A)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers recognize the importance of urban gardens in providing opportunities for individuals and groups to produce food, beautify their neighborhoods, and educate themselves about food production systems. The Managers also recognize with the growing consumer awareness of organically produced food many communities may wish to operate organic gardens and greenhouses. The Managers further recognize the role of the Community Food Projects program in satisfying the need for these projects and strongly encourage the Secretary to increase the program's outreach to urban areas in order to increase the submission of grant applications for urban gardens and greenhouses.

*(8) Independent evaluation of Department of Agriculture commodity purchase process*

The House bill requires an independent evaluation of the commodity purchasing processes and the importance of increasing purchases of specialty crops. (Section 10104)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to require the Secretary to arrange to have performed an independent evaluation of the purchasing processes used by the Department of Agriculture to implement the requirement that funds available under section 32 of the Act of August 24, 1935 be principally devoted to perishable agricultural commodities. (Section 10101)

*(9) Quality requirement for clementines*

The House bill amends section 8e(a) of the Agricultural Adjustment Act by adding clementines to the list of commodities. (Section 10105)

The Senate amendment is the same as the House bill. (Section 3207)

The Conference substitute adopts the Senate provision. (Section 10102)

*(10) Implementation of food safety programs under marketing orders*

The House bill amends section 8c of the Agricultural Adjustment Act by authorizing the implementation of quality-related food safety programs under specialty crop marketing orders. (Section 10106)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The managers are aware that the Secretary has issued marketing orders which include quality-related provisions intended to enhance the safety of the commodities to which they are applicable. Therefore, the managers recognize that statutory language is unnecessary. It is not the manager's intention to alter the Secretary's authority to incorporate practices to improve the safety of commodities in marketing orders, but rather, to encourage the development of programs of quality-related good agricultural, manufacturing and handling practices with full industry and public participation and in consultation with the Food and Drug Administration.

*(11) Inclusion of specialty crops in census of agriculture*

The House bill amends section 2(a) of the Census of Agriculture Act to include a census of specialty crops as part of the general census of agriculture. (Section 10107)

The Senate amendment contains a free-standing provision which requires the Secretary to conduct a census of specialty crops not later than September 30, 2008 and each 5 years thereafter. It also allows the Secretary to include the census of specialty crops in the census on agriculture. (Section 1814)

The Conference substitute adopts the House provision. (Section 10103)

*(12) Maturity requirements for Hass avocados*

The House bill: (1) amends subtitle A of the Agricultural Marketing Act of 1946 by adding at the end of the title a new section, (2) requires the Secretary to issue regulations requiring all Hass avocados sold in the U.S. to

meet a minimum maturity requirement, (3) allows for exceptions from this requirement for avocadoes intended for charities, relief agencies or processing, (4) uses existing inspectors that already inspect avocadoes under other orders, and allows the Secretary to collect fees to pay for inspection activities, (5) imposes civil penalties between $50 and $5,000 for each violation, (6) allows for the diversion of avocados that don't meet the maturity requirements, and (7) authorizes appropriations for necessary sums. (Section 10108)

The Senate amendment contains a free-standing provision which authorizes an organization of domestic avocado producers to submit to the Secretary a proposal for a grades and standards marketing order for Hass avocados. Once that proposal is received, the Secretary is required to initiate established procedures under the normal marketing order process for the purpose of determining whether there is sufficient industry support for the proposal submitted by the organization. If the Secretary deems it appropriate to establish a marketing order, the language also requires the Secretary to complete that order within 15 months. (Section 1856)

The Conference substitute adopts the Senate provision. (Section 10108)

*(13) Mushroom promotion research and consumer information*

The House bill: (1) amends the Mushroom Promotion, Research and Consumer Information Act of 1990, (2) reflects the changed geographic distribution of mushroom growers and their productivity by combining the regions that are represented on the Board, and increasing the number of pounds required for representation in the region, and (3) allows the development of good agricultural practices and good handling practices under the mushroom research and promotion order. (Section 10109)

The Senate amendment is the same as the House bill, except also allows the development of food safety programs under the promotion order. (Section 1853)

The Conference substitute adopts the House provision with an amendment to clarify that the mushroom council may develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms. (Section 10104)

*(14) Fresh produce education initiative*

The House bill authorizes a program to educate persons involved in the fresh produce industry and the public about ways to reduce pathogens in fresh produce and sanitary handling practices. It authorizes necessary sums for each FY 2008 through 2012. (Section 10110)

The Senate amendment is the same as the House, except authorizes $1,000,000 in discretionary funding to carry out the section. (Section 1813)

The Conference substitute adopts the Senate provision with an amendment to specify that there are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2008 through 2012, to remain available until expended. (Section 10105)

*(15) Pest and disease program*

The House bill establishes a new program to conduct early pest detection and surveillance activities in coordination with state departments of agriculture, to prioritize and create action plans to address pest and disease threats to specialty crops, and to create an audit-based certification approach to protect against the spread of plant pests. It provides mandatory funding in the amount of:

(1) $10,000,000 in FY 2008;
(2) $25,000,000 in FY 2009;
(3) $40,000,000 in FY 2010;
(4) $55,000,000 in FY 2011; and
(5) $70,000,000 in FY 2012. (Section 10201)

The Senate amendment is the same as the House, except for technical differences and provides mandatory funds in the amounts of:

(1) $10,000,000 for FY 2008;
(2) $25,000,000 for FY 2009;
(3) $40,000,000 for FY 2010;
(4) $50,000,000 for FY 2011;
(5) $64,000,000 for FY 2012. (Section 12101(f))

The Conference substitute adopts the Senate provision with an amendment to: describe the application procedure for the program; prohibit the Department of Agriculture from considering the availability of nonfederal funds in determining whether to enter into a cooperative agreement with a State department of agriculture; direct the Secretary to consider various risk factors when considering an application for a cooperative agreement; express Congressional disapproval of a cost-sharing rule for animal and health emergency programs and; specify mandatory funding in the amounts of:

(1) $12,000,000 for fiscal year 2009;
(2) $45,000,000 for fiscal year 2010;
(3) $50,000,000 for fiscal year 2011; and
(4) $50,000,000 for fiscal year 2012. (Section 10201)

The Managers believe that the nursery plant pest risk management systems established under this section will provide the nursery industry with assistance and flexibility in developing programs that meet its needs to determine and manage plant pest and disease risks

The Managers note that the U.S. Department of Agriculture has taken specific steps to promote new methods of inspection and regulation based on new approaches to nursery pest risk management, sometimes referred to as the ''systems approach.'' These steps include a technical agreement under the auspices of the North American Plant Protection Organization (Regional Standards for Phytosanitary Measures Number 24), and the development of the U.S. Nursery Certification Program, a limited test-pilot program developed by Animal and Plant Health Inspection Service Plant Protection and Quarantine to promote U.S. nursery shipments to Canada.

The Managers are aware of the U.S. Department of Agriculture's efforts to promote the systems approach for the nursery industry. The development of effective systems of pest risk management and the industry adoption of such systems will be hastened and made more effective through an initiative based on collaboration among key agencies, Departmental personnel, industry organizations, and research institutions. To implement the nursery plant pest risk management systems under this section, U.S. Department of Agriculture policies and regulations must have a sound foundation in research and experience through pilot programs of nursery plant pest risk management systems. In addition, there must be collaboration among industry and state and federal regulators to improve programs of inspection, certification and regulation using such systems.

The Managers recognize that systems of pest risk management developed by the nursery industry must satisfy prevailing regulatory requirements if they are to be useful and effective. The Managers encourage the U.S. Department of Agriculture to provide guidance and technical assistance to the nursery industry, and to promote and coordinate related programs of research in the implementation of nursery plant pest risk management systems under this section.

*(16) Multi-species fruit fly research and sterile fly production*

The House bill authorizes the construction of a warehouse and irradiation containment facility for fruit fly rearing and sterilization in Waimanalo, Hawaii. It also authorizes the appropriation of $15,000,000 for construction and $1,000,000 for 2008 and each subsequent fiscal year for facility maintenance. (Section 10202)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers recognize that fruit flies are among the most destructive pests of fruits and vegetables in the world and pose a significant risk to U.S. agriculture. Further, the Managers recognize the importance of the Animal and Plant Health Inspection Service's (APHIS) Fruit Fly Control Programs in controlling fruit flies. Given the need for a backup sterile fruit fly facility for Mediterranean, Melon, Oriental, and Solanaceaous fruit flies, the Managers strongly encourage the Secretary to fully consider Waimanalo, Hawaii, when determining where such a multi-species facility will be located. In examining Waimanalo, Hawaii, and other locations, APHIS should consider whether the locations will support the establishment of the species of fruit flies being produced, existing researcher expertise and experience, whether the area is already infested with the species of fruit flies being produced, and cost effectiveness. The Managers strongly encourage APHIS to request appropriated funding as authorized by 7 U.S.C. 428a to provide for the costs of building, maintaining, and operating a backup sterile multi-species fruit fly facility at the location deemed most suitable.

*(17) National organic certification cost-share program*

The House bill amends section 10606 of the Farm Security and Rural Investment Act to provide $22,000,000 for the national organic certification cost-share program, to be available until expended. It provides that the federal share may not exceed 75 percent of the cost of certification, and the maximum amount a producer may receive is raised from $500 to $750. (Section 10301)

The Senate amendment amends section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) to reauthorize the National Organic Certification Cost-Share program, which provides funds for the Secretary to assist producers and handlers of agricultural products in obtaining certification under the Organic Foods Production Act of 1990. Payments to producers or handlers are limited to $750, and the federal share of the certification cost will be no more than 75 percent of the total certification cost incurred. The Senate provision adds language to require the Secretary to submit to Congress, reports that describes the expenditures for each state under the program during the previous fiscal year. It also provides $22,000,000 in mandatory funding. (Section 1823)

The Conference substitute adopts the Senate provision with an amendment to delete the federal share requirements as well as the federal and state recordkeeping requirements, and to require the Secretary to submit to the House and Senate Agriculture Committees a report containing certain program information. (Section 10301)

The Managers encourage the Secretary to keep accurate and current records of requests by and disbursements to States under the program, and require accurate and consistent recordkeeping from each State and entity that receives program payments. The Managers also recognize the importance of distributing cost-share funds to the States in a timely manner, and request that the Secretary distribute such funds at the soonest date practicable following the deadline for

submission of funding requests under the program. The Managers are aware that there have been discussions between the Department of Agriculture and the States regarding administrative fees for the program and encourage the Department to review administrative fees to ensure optimal performance in serving the needs of organic producers and handlers.

*(18) Organic production and market data*

The House bill: (1) amends section 7407 of the Farm Security and Rural Investment Act to add pricing of organic products as new data to be included in the ongoing collection of data on agriculture production and marketing, (2) provides that the data on organics under this section shall be collected to analyze crop loss risk of organic methods of production, (3) provides $3,000,000 in mandatory funds to be available until expended, and (4) includes a free-standing provision that requires the Secretary of Agriculture to submit to Congress a report regarding the progress made in implementing this amendment. (Section 10302)

The Senate amendment amends section 2104 of the Organic Foods Production Act of 1990 (7 U.S.C. 6503) by granting the Secretary authority to segregate data as it relates to the organic industry by publishing organic production and marketing information and surveys. The language is intended to remedy the lack of price and yield information for organic producers.

Senate expands upon House language by requiring detailed data collection for: organic production and market data initiatives and surveys; expand, collect, and publish organic census data analysis, fund comprehensive reporting of prices relating to organically-produced agricultural products; conduct analysis relating to organic production, handling, distribution, retail, and trend studies; study and perform periodic updates on the effects of organic standards on consumer behavior; conduct analysis for organic agriculture using the national crop table.

The Senate provision provides $5,000,000 in mandatory funding. (Section 1821) The Conference substitute adopts the Senate provision with an amendment to clarify the data collection, analysis, and survey development requirements for the Secretary, as well as to further specify the contents of the report that the Secretary shall submit to the House and Senate Agriculture Committees. (Section 10302)

The Managers have provided $5,000,000 in mandatory funding in an effort to jump-start organic data collection efforts at the Department of Agriculture, but recognize that remedying the unmet data collection needs of the organic sector will require further investment, and therefore, have provided an additional authorization of appropriations of $25,000,000 for the period of fiscal years 2008 through 2012 to carry out the program. The Managers intend that $3.5 million of the funding provided for this section be allocated to the Agricultural Market Service to collect and distribute comprehensive reporting of prices relating to organically produced agricultural products. The Managers also note the critical importance of collecting data related to crop loss risk, and farm-gate prices, in order to determine appropriate products and premiums for crop insurance policies offered to organic producers. The Managers further intend that $1.5 million of the funding provided for this section be used by the Economic Research Service and National Agricultural Statistics Service to carry out the specified requirements of the initiative that are appropriate to each agency.

*(19) Organic conversion, technical and educational assistance*

The House bill authorizes $50,000,000 over five years to provide technical assistance and cost-sharing grants to farmers trying to transition to organic farming. (Section 10303)

The Senate amendment contains a comparable provision in the conservation title (EQIP).

The Conference substitute deletes the House provision. Language addressing the goal of providing technical assistance to farmers trying to transition to organic farming appears in section 2501 of the conservation title.

*(20) Exemption of certified organic products from assessments*

The Senate amendment amends section 501(e) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401 (e)) to allow farmers who have some or part of their farm certified organic to receive the exemption. Only producers that are USDA organically certified may receive the exemption for that portion of land they produce organically. (Section 1822)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(21) National organic program*

The Senate amendment amends section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) to provide increased authorized incremental funding levels for the National Organic Program to ensure proper compliance and oversight of the National Organic Program. It also authorizes $5,000,000 for fiscal year 2008; $6,500,000 for fiscal year 2009; $8,000,000 for fiscal year 2010; $9,500,000 for fiscal year 2011; and $11,000,000 for fiscal year 2012. (Section 1824)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide such additional sums as are necessary to carry out the program. (Section 10303)

The National Organic Program (NOP) is the first line of defense in assuring consumers that organic products certified under the program consistently meet the program's standards. The Managers are aware of concerns raised by numerous organic agriculture interests concerning the level of resources devoted to the NOP. While the program's funding level has increased over time, the Managers view the current level of funding as inadequate to permit the NOP to properly address the world-wide scope of accreditation oversight and certifier training. The Managers strongly encourage the Secretary to prepare NOP budget requests at least equal to the appropriations levels authorized in this Act.

*(22) Grant program to improve the movement of specialty crops*

The House bill: (1) authorizes the Secretary to make grants to State and local governments, grower cooperatives, and producer and shipper organizations to improve the cost-effective movement of specialty crops, (2) provides that the grant recipient must match the amount of funds received under this program, and (3) authorizes appropriations for necessary sums to carry out the section. (Section 10401)

The Senate amendment is the same as the House bill, except Senate language amends title II of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 118 Stat. 3884), and clarifies that non-profit trucking associations and their research entities are eligible to receive grants. (Section 1842)

The Conference substitute adopts the House provision with an amendment to allow national, state, or regional organizations of producers, shippers or carriers to be eligible for grants under the program. (Section 10403)

*(23) Authorization of appropriations for market news activities regarding specialty crops*

The House bill authorizes necessary funds for each of fiscal years 2008 through 2012 to support market news activities regarding specialty crops. (Section 10402)

The Senate amendment authorizes $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended for market news activities to provide timely price information on fruits and vegetables. (Section 1811)

The Conference substitute adopts the Senate provision with an amendment to specify that in addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended. (Section 10107)

*(24) Farmer marketing assistance program*

The House bill: (1) amends section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 and provides findings, (2) renames the Farmers' Market Promotion Program the ''Farmer Marketing Assistance Program'', (3) specifies categories of farmer-to-consumer direct marketing activities eligible for funding under the program, (4) provides mandatory funds in the amounts of $5,000,000 for fiscal years 2008 through 2010; and $10,000,000 for fiscal years 2011 through 2012, and (5) provides that 10 percent of these funds shall be used to support the use of electronic benefit transfers at farmer's markets. (Section 10403)

The Senate amendment: (1) amends section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) to reauthorize the Farmers Market Promotion Program, (2) adds language to include producer networks or associations, and (3) provides mandatory funds in the amounts of $5,000,000 for each of fiscal years 2008 through 2011; and $10,000,000 for fiscal year 2012. (Section 1812)

The Conference substitute adopts the Senate provision with an amendment to specify that 10 percent of the funds available to carry out the Farmers' Market Promotion Program be used to implement electronic benefit transfer systems at farmers' markets; and to specify mandatory funding in the amounts of:

$3,000,000 for fiscal year 2008;

$5,000,000 for each of fiscal years 2009 and 2010;

$10,000,000 for each of fiscal years 2011 and 2012. (Section 10106)

The Managers recognize that farmer-to-consumer direct marketing activities offer significant economic opportunities for farmers and ranchers seeking to increase profit retention. The Farmers' Market Promotion Program is intended to support the development and expansion of farmers' markets, and all other forms of direct marketing, through the provision of grants to assist in organizing, marketing, training, business plan development, community outreach and education, and other associated activities designed to establish or improve direct marketing opportunities for farmers and ranchers and the consumers they serve.

The Managers recognize that the growth of farmers' markets and other direct marketing ventures has been limited in some communities and regions, and therefore encourage the Department to determine the underlying reasons for this uneven distribution, with the goal of addressing this disparity through the support of meritorious projects in these locations.

The Managers are aware of the growing role that the more than 4,300 farmers markets and 1,200 community supported agriculture enterprises across the country play in providing access to fresh, healthy, and

local foods, to all Americans, including those who participate in federal food assistance programs. As of 2006, the USDA estimated that only 6 percent of farmers' markets nationwide have electronic benefit transfer (EBT) systems in place to accept food stamp benefits. To increase the use of food stamp benefits at farmers' markets and community supported agriculture enterprises, the Managers have required a minimum of ten percent of the Farmers' Market Promotion Program funds be devoted to projects designed to implement EBT systems. The Managers also encourage the Secretary to examine and implement more systemic administrative approaches to increase the nationwide access of EBT technology suitable for farmers' markets and community supported agriculture enterprises, including possible ways to improve the administration of EBT service provider contracts to achieve this goal.

*(25) National clean plant network*

The House bill creates a funding source for clean planting stock and authorizes the Secretary to enter into cooperative agreements to produce, maintain and distribute healthy planting stock. It authorizes the appropriation of necessary funds through 2012 in addition to $20,000,000 in mandatory funds for the period of fiscal years 2008 through 2012. (Section 10404)

The Senate amendment is the same as the House bill, with technical differences. (Section 1851)

The Conference substitute adopts the Senate provision with an amendment to add NLGCA institutions to the list of entities the Secretary shall consult with in carrying out the program, and to specify mandatory funding in the amounts of $5,000,000 for each of fiscal years 2009 through 2012. (Section 10202)

*(26) Healthy food urban enterprise development program*

The House bill: (1) provides competitive grants to eligible entities to conduct studies on improving access of underserved communities to affordable, locally produced food, (2) provides that the maximum grant amount shall not exceed $250,000, and (3) authorizes the appropriation of necessary funds for each of fiscal years 2008 through 2012. (Section 10405)

The Senate amendment requires the Secretary of Agriculture to establish, through a competitive grant process, the Healthy Enterprise Development Center, the mission of which is to increase access to healthy, affordable foods to underserved communities. The Healthy Food Enterprise Development Center will be required to collect, develop, and provide technical assistance to agricultural producers, food wholesalers and retailers, schools, and other entities regarding best practices for aggregating, storing, processing, and marketing local agricultural products and increasing the availability of such products in underserved communities. The Healthy Food Enterprise Development Center is also provided with the authority to subgrant funds to carry out feasibility studies to carry out the purposes of the Center. The provision provides $7,000,000 in mandatory money. (Section 1843)

The Conference substitute adopts the Senate provision with amendments to place language for the Healthy Urban Food Enterprise Development Center within the Community Food Projects statute; clarify that subgrants may be used to establish and facilitate enterprises that process, distribute, aggregate, store, and market healthy affordable foods; limit the amount allocated for administrative expenses; provide $1,000,000 in funding for each of fiscal years 2009 through 2011; and authorize $2,000,000 for fiscal year 2012. (Section 4402)

The Managers expect that sub-grants be provided for activities in underserved areas that assist appropriate institutions in modifying and upgrading facilities through the purchase of refrigeration units, coolers or other equipment appropriate to accommodate healthy and locally produced agricultural food products.

*(27) Definitions*

The Senate amendment sets out definitions to apply throughout subtitle F for the terms ''specialty crop'', ''state'', and ''state department of agriculture.'' (Section 1801)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to remove the definition of the term ''State.'' (Section 10001)

*(28) Foreign market access study and strategy plan*

The Senate amendment requires the Comptroller General of the United States to carry out a study regarding the extent to which United States specialty crops have or have not benefited from the reduction of foreign trade barriers under the Uruguay Round. (Section 1831)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(29) Consultations on sanitary and phytosanitary restrictions for fruits and vegetables*

The Senate amendment requires the Secretary to consult with interested persons and conduct annual briefings on sanitary and phytosanitary trade issues, included the development of a strategic risk management framework and as appropriate implementation of a peer review for risk analysis. (Section 1833)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(30) Market loss assistance for asparagus producers*

The Senate amendment establishes a program to pay those producers currently growing asparagus for revenue losses during the 2004–2007 crop years due to imports. The language provides $15,000,000 in mandatory funding ($7,500,000 for producers of fresh asparagus and $7,500,000 for producers of processed or frozen asparagus). (Section 1852)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 10404)

TITLE XI—LIVESTOCK

*(1) Livestock mandatory price reporting*

The Senate amendment amends the Livestock Mandatory Reporting Act in subsection (a). It amends section 232(c)(3) to change the time of the afternoon swine report from 2:00 p.m. to 3:00 p.m. (Central Time). It also changes the time that USDA will publish the afternoon swine report from 3:00 p.m. to 4:00 p.m. (Central Time). Subsection (b) directs USDA to study the economic impacts of including wholesale pork product sales reporting on producers and consumers, including the effects of a confidentiality requirement on mandatory reporting. Upon completion of that study, USDA may establish mandatory packer reporting of wholesale pork product sales (such as pork cuts and retail-ready pork products), requiring each packer processing plant to report to USDA price and volume information at least twice each reporting day. Subsection (c) ensures that USDA continues to publish retail scanner data. (Section 10001)

The House bill contains no comparable provision.

The Conference substitute deletes subsection (a) of the Senate provision to amend the afternoon swine report. The conference substitute adopts subsection (b) of the Senate provision with an amendment to restrict the focus of the wholesale pork study to only pork cuts. Additionally, the Secretary of Agriculture will be provided 1 year to complete the study upon enactment of this Act. The substitute also clarifies that the Secretary is only authorized to collect the data necessary to complete the study during the period preceding the completion of the report. An authorization of such sums as necessary is provided to complete the study. The Conference substitute deletes subsection (c) of the Senate provision.

The conference substitute also provides enhancements to improve readability and understanding of information published under the Livestock Mandatory Reporting Act through electronic reporting.

The Managers expect the website improvements to be presented in a user friendly format that can be readily understood by producers, packers and other market participants. The website should include charts and graphs that provide real time data, including comparable data from previous days so that producers and other industry participants can track market changes. (Section 11001)

*(2) Grading and inspection*

The Senate amendment amends section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) to provide USDA authority to establish a voluntary grading program at USDA for catfish. The provision requires USDA to provide inspection activities under the Federal Meat Inspection Act for farm raised catfish, by adding catfish to the list of ''amenable species.'' The Secretary, while establishing the grading and inspection program for catfish, is required to ensure that nothing duplicates, impedes, or undermines any of the food safety or product grading activities conducted by the Department of Commerce or the Food and Drug Administration. (Section 10002)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize a voluntary fee-based grading program at USDA for catfish. Additional species of farm-raised fish or farm-raised shellfish may be added to the grading program through a petition process to the Secretary of Agriculture. The conference substitute also provides that catfish shall be an amenable species under the Federal Meat Inspection Act, and therefore will be subject to examination and inspection by USDA's Food Safety and Inspection Service (FSIS) when processed for use as human food. In conducting such inspections, FSIS is authorized to take into account the conditions under which the catfish are raised and transported to a processing establishment. Additional species of fish and shellfish are not addressed in this amendment; however, the Managers note that the Secretary has underlying authority within the Federal Meat Inspection Act to amend the definition of amenable species as he considers necessary and appropriate.

Additionally, the conference substitute requires the Secretary, in promulgating regulations for inspection activities, to consult with the Commissioner of the Food and Drug Administration. Final regulations for grading and inspection activities shall be promulgated not later than 18 months after the date of enactment of this section. The Conference substitute also requires the Secretary of Agriculture to submit an estimate of the costs of implementing the program. (Section 11016)

It is the intent of Congress that catfish be subject to continuous inspection and that imported catfish inspection programs be found to be equivalent under USDA regulations before foreign catfish may be imported into the United States.

The Managers intend that nothing in this section be interpreted to reduce funding or the level of inspection for meat, poultry and egg products. The Managers expect the Secretary to budget accordingly each year for catfish inspection. The Managers expect the Secretary, in approving any petition for voluntary, fee-based grading services for any additional farm-raised fish or farm-raised shellfish species, to make any resulting service available only on a facility by facility basis.

*(3) Country of origin labeling*

The House bill amends the Agricultural Marketing Act of 1946 to provide new country of origin labeling requirements for beef, lamb, pork and goat. It amends the list of covered commodities to include goat meat. The provision specifies labeling requirements for products that are of United States country of origin, multiple countries of origin, imported for immediate slaughter, and from a foreign country of origin. To be eligible for U.S. country of origin, the product must be derived from an animal that was exclusively born, raised, and slaughtered in the U.S. (with a narrow exception for animals from Alaska or Hawaii and transported through Canada), or present in the U.S. on or before January 1, 2008. The House provision authorizes the Secretary to conduct audits to verify compliance with this section. It prohibits the Secretary from requiring a person or entity to maintain a record of the country of origin of covered commodities, other than those maintained in the course of the normal conduct of business of such person or entity. The House bill amends section 283 to clarify that a retailer or person engaged in the business of supplying a covered commodity to a retailer notified of a violation will be provided 30 days to come into compliance with the law. It provides that if such person does not make a good faith effort to comply, and continues to willfully violate the law, the Secretary may fine the person in an amount up to $1,000 for each violation. (Section 11104)

The Senate amendment is similar to the House language but has several modifications. It amends the list of covered commodities to include goat meat, macadamia nuts and chicken. In addition to House language, Senate adds language to U.S. country of origin labeling category to require that animals present in the United States on or before January 1, 2008, and once present in the United States, must have remained continuously in the United States. In addition to House language regarding multiple countries of origin, Senate adds disclaimer under subsection (B) to clarify that labeling for multiple countries of origin is a mandatory requirement. (Section 10003)

The Conference substitute adopts the Senate provision with an amendment to add ginseng and pecans as covered commodities. Covered commodities, such as beef, lamb, pork, chicken, or goat present in the United States on or before July 15, 2008 will be labeled as product of the United States. The Managers reinstate current law regarding the labeling of processed wild fish to include locations such as aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States. (Section 11002)

*(4) Definitions*

The Senate amendment: (1) amends the definitions of terms provided for the purposes of the Agricultural Fair Practices Act of 1967, (2) expands the definition of ''association of producers'' to also include general livestock, poultry and farm groups, and (3) clarifies that a handler is not a producer, nor a person that provides custom feeding services. (Section 10101)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to define the term associations of producers to include organizations with a membership exclusively limited to agricultural producers and dedicated to promoting the common interest and general welfare of agricultural products. Additionally, the conference substitute deletes the Senate provision that excluded the term ''producer'' from the definition of ''handler.'' The conference substitute also removes the provision defining the Secretary of Agriculture under the Agricultural Fair Practices Act of 1967. (Section 11003)

It is the intent of the Managers that custom feeding services should be interpreted to mean a producer or business that feeds livestock for other producers, but does not own the livestock they are feeding and raising for those producers.

*(5) Prohibited practices*

The Senate amendment: (1) amends section 4 of the Agricultural Fair Practices Act to expand the list of prohibited practices, (2) amends the first category to add that it shall also be unlawful for any handler to knowingly engage or permit any employee or agent to coerce any producer in the exercise of his right to form an association of producers, and (3) adds that it shall be unlawful to ''fail to bargain in good faith with an association of producers.'' (Section 10102)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(6) Enforcement*

The Senate amendment amends the enforcement provisions by striking section 5 and replacing it with a directive for the Secretary to conduct rulemaking to clarify what constitutes normal and fair dealing per section 10104. It also strikes section 6 of the current law to provide the Secretary of Agriculture the authority to bring a civil action in United States District Court by filing a complaint requesting preventative relief, including an application for a permanent or temporary injunction, restraining order or other order, against the handler. Under the Senate provision, handlers found to have violated the Act are liable for the amount of damages including the costs of litigation and reasonable attorneys' fees. The Senate provision changes the statute of limitations from 2 years to 4 years and provides for an additional penalty of not more than $1,000 per violation. (Section 10103)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(7) Rules and regulations*

The House bill amends the Agricultural Fair Practices Act by adding provisions for the promulgation of new rules and regulations. It directs USDA to promulgate rules and regulations, including rules or regulations necessary to clarify what constitutes fair and normal dealing for purposes of the selection of customers by handlers. Please note section 5 (7 U.S.C. 2304) was struck pursuant to section 10103. (Section 10104)

The Senate amendment

The Conference substitute deletes the Senate provision.

*(8) Special counsel for agricultural competition*

The Senate amendment amends the Packers and Stockyards Act by adding a new subtitle that provides for the appointment of a special counsel at USDA to investigate and also prosecute violations of Packers and Stockyards Act and Agricultural Fair Practices Act. The Special Counsel will oversee the Office of Special Counsel and will have the responsibility for all duties and functions of the Packers and Stockyards programs at USDA. Employees within GIPSA's Packers and Stockyards programs will report to the Special Counsel. Grain inspection activities currently carried out by GIPSA would continue to report to the Administrator for GIPSA as a separate agency or as determined by the Secretary upon implementing this section. The Administrator for GIPSA would no longer oversee activities of the Packers and Stockyards programs. The Senate provision provides that the Special Counsel will report to the Secretary of Agriculture. The Special Counsel shall be free from the direction and control of any person in the Department of Agriculture other than the Secretary. The Special Counsel shall be appointed by the President with the advice and consent of the Senate. The Senate provision provides that the Special Counsel shall report twice each year to Congress that details the number of complaints received and closed, number of investigations and civil and administrative actions initiated, carried out and completed, number and type of decisions agreed to and number of stipulation agreements, the number of investigations and civil and administrative actions that the Secretary objected to or prohibited from being carried out, and the stated purpose of the Secretary for each objection or prohibition. The Special Counsel, prior to commencing, defending, or intervening in any civil action under the Packers and Stockyards Act or the Agricultural Fair Practices Act, shall give written notification to the Attorney General. Should the Attorney General fail to commence, defend, or intervene in the proposed action, the Special Counsel may commence, defend or intervene and supervise the litigation in the name of the Special Counsel. Nothing prevents the Attorney General from intervening on behalf of the United States in any civil action under the Packers and Stockyards Act or the Agricultural Fair Practices Act. (Section 10201)

The House bill contains no comparable provision.

The Conference substitute provides that the Secretary shall submit an annual report by the Grain Inspection, Packers and Stockyards Administration at the Department of Agriculture to detail the number of investigations into possible violations of the Packers and Stockyards Act, 1921. The annual report will detail the length of time that investigations are pending with the Grain Inspection, Packers and Stockyards Administration, the General Counsel of the Department of Agriculture and the Department of Justice. The annual report requirement will expire with the expiration of this Act. (Section 11004)

It is the intent of the Managers that the annual report provide ranges into the length of time investigations may be pending with the Grain Inspection, Packers and Stockyards Administration, the Office of General Counsel, or the Department of Justice. The Managers have provided flexibility for the Secretary to conduct the report using various summary statistics such as range, maximum, minimum, mean and average times. However, at a minimum, the Managers request charts to be provided in the annual report denoting the ranges in 6 month intervals.

*(9) Investigation of live poultry dealers*

The Senate amendment: (1) amends section 2 of the Packers and Stockyards Act to remove the poultry slaughter requirement

from the existing definitions, (2) amends title II of the Packers and Stockyards Act to give the USDA administrative enforcement authority over live poultry dealers under the Act, (3) defines ''poultry grower'' as any person engaged in the business of raising or caring for live poultry under a poultry growing arrangement, regardless of whether the poultry is owned by the person or by another person, (4) amends section 408 of the Packers and Stockyards Act to provide authority for the Secretary to request a temporary injunction or restraining order if a person subject to the Act fails to pay a poultry grower what is due the poultry grower for poultry care, (5) increases the penalty for violations under the Act from $10,000 to $22,000, and (6) repeals sections regarding poultry enforcement under sections 411, 412, and 413. (Section 10202)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(10) Definition of capital investment*

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a capital investment. Capital investment is defined as an investment in a structure, such as a building or manure storage structure; or machinery or equipment associated with producing livestock or poultry that has a useful life of more than 1 year. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(11) Definition of contractor*

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a contractor. Contractor is defined as a person that obtains livestock or poultry from a contract producer in accordance with a production contract. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(12) Definition of contract producer*

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a contract producer. Contract producer is defined as a producer that produces livestock or poultry under a production contract. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(13) Definition of investment requirement*

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of an investment requirement. Investment requirement is defined as an investment that requires a contract producer to make a capital investment that, but for the production contract, the producer would not have made; or a representation by a contractor that results in the contract producer making a capital investment. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(14) Definition of production contract*

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a production contract. A production contract is defined as a written agreement that provides for the production of livestock or poultry by a contract producer or the provision of a management service relating to the production of livestock or poultry by a contract producer. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(15) Right to cancel production contracts*

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 208) governing production contracts. It allows contract producers to cancel a production contract within three business days after the contract execution date. The contract shall disclose the right of the producer to cancel a production contract and the method by which the contract producer may cancel the production contract, including the deadline for canceling the production contract. (Section 10203(b))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that poultry growers and swine production contract growers may cancel their contract up to three business days after the date on which the contract was signed. (Section 11005)

*(16) Production contracts requiring large capital investments*

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 208) governing production contracts that require large capital investments. The provision allows contract producers who have made an investment of $100,000 or more for purposes of securing the production contract with a packer, live poultry dealer, or swine contractor, to be given at least 90 days to correct an alleged breach before a contractor can terminate a contract. The contractor may terminate or cancel a production contract without notice for voluntary abandonment by the contract producer, conviction of the contract producer of an offense or fraud or theft committed against the contractor, the natural end of the production contract, or if the well-being of the livestock or poultry would be in jeopardy once under the care of the contract producer. If not later than 90 days, a producer remedies the cause of breach under the contract, the contractor may not terminate or cancel a production contract. (Section 10203(b))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

In Section 11006 of the conference substitute, the Managers require the Secretary to promulgate rules regarding what constitutes a reasonable period of time for a live poultry dealer or swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.

*(17) Additional capital investments*

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 208) to prohibit a contractor from requiring additional investments of the contract producer during the term of the contract unless the additional investments are offset by reasonable additional consideration, including compensation or a modification of the terms of the contract; and the contract producer agrees in writing that there is acceptable and satisfactory consideration for the additional capital investment; or without the additional capital investments the well-being of the livestock or poultry subject to the contract are in jeopardy. (Section 10203(b))

The House bill contains no comparable provision.

The Conference substitute provides that a poultry growing arrangement or swine production contract contain a conspicuous statement that additional large capital investments may be required of the poultry grower or swine production contract grower during the term of the poultry growing arrangement or swine production contract. The provision will apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of enactment of this section. (Section 11005)

*(18) Choice of law, jurisdiction and venue*

The Senate amendment: (1) amends title II of the Packers and Stockyards Act to add a new section (section 209) governing the settlement of disputes arising under production or marketing contracts governed by the Packers and Stockyards Act, (2) provides that any provision of a livestock or poultry contract shall be subject to the jurisdiction, venue of the state in which the production occurs, and (3) designates that the choice of law, jurisdiction and venue requirements shall apply to any production or marketing contract entered into, amended, altered, modified, renewed, or extended after the date of enactment. (Section 10203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that the forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract shall be the Federal judicial district in which the principal part of the performance takes place under the arrangement or contract. A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal part of the performance takes place under the arrangement or contract. (Section 11005)

*(19) Arbitration of livestock and poultry contracts*

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 210) governing the settlement of disputes arising under contracts governed by the Packers and Stockyards Act. The Senate provision provides that arbitration may be used to settle a controversy arising from a livestock or poultry contract only if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy. (Section 10203(b))

The House bill amended the Packers and Stockyards Act to instruct the Secretary to promulgate regulations to establish standards related to arbitration provisions in livestock and poultry contracts. The provision directs the Secretary to promulgate regulations addressing venue, costs, number and appointment of arbitrators, and other elements of arbitration, as necessary. The provision requires that any person appointed as arbitrator disclose any circumstances that could raise doubt as to impartiality.

The Conference substitute provides a producer or grower the ability to decline arbitration prior to entering the contract. Any livestock or poultry contract that contains a provision requiring the use of arbitration shall conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract. Any contract producer or grower that declines arbitration prior to entering the contract has the right to still seek the

use of arbitration after a controversy arises, if both parties consent in writing to use arbitration to settle the controversy. The conference substitute provides that it shall be an unlawful practice under the Packers and Stockyards Act for a packer, swine contractor, or live poultry dealer to violate this section including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice to decline the use of arbitration. The Secretary is also required to promulgate regulations to establish criteria to be used in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process. (Section 11005)

When used in this section, the Managers intend that the term ''contract'' means at a minimum, poultry growing arrangements, livestock production, marketing and forward contracts.

The Managers expect that this section be implemented in such a manner that producers and growers have a choice and the ability to decline arbitration prior to entering the contract. Additionally, it is the intent of the Managers that the Secretary of Agriculture develop regulations which provide producers and growers a reasonable period of time in which to decide whether or not to decline arbitration prior to entering the contract.

*(20) Right to discuss terms of contracts*

The Senate amendment amends section 10503 of the Farm Security and Rural Investment Act of 2002 to add to the list in current law. It would allow contract growers to also discuss contract terms with business associates, neighbors, and other producers. (Section 10204)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(21) Attorneys' fees*

The Senate amendment amends section 308 to allow producers to attempt to recover the costs of the litigation, including reasonable attorneys' fees, (in addition to damages) in an action arising under the Packers and Stockyards Act. (Section 10205)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(22) Appointment of outside counsel*

The Senate amendment amends section 407 to provide the Secretary with the authority to obtain the services of attorneys who are not federal employees to aid in investigations and civil cases. (Section 10206)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(23) Prohibition on packers owning, feeding, or controlling livestock*

The Senate amendment amends section 202 of the Packers and Stockyards Act (7 U.S.C. 192) to add to the list of prohibited practices. It prohibits most major packers from owning, feeding, or controlling livestock directly, or through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over livestock or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the livestock operation. The prohibition does not apply to: packers who enter into arrangements within 14 days before slaughter; cooperatives where the majority of ownership interest is held by active cooperative members; packers not required to report to USDA under section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a); or a packer that only owns one livestock processing plant. The provision provides that a packer of swine would be in violation of this provision if it owns, feeds or controls swine later than 18 months after the enactment of this Act. It provides that a packer of livestock, other than swine, would be in violation of this provision if it owns, feeds or controls livestock later than 180 days after enactment of this Act. (Section 10207)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(24) Regulations*

The Senate amendment directs USDA to promulgate rules and regulations, including regulations dealing with discrimination against smaller volume producers. It provides that regulations shall also be promulgated to require that live poultry dealers provide written notice to poultry growers if the live poultry dealer imposes an extended layout period in excess of 30 days prior to removal of the previous flock. (Section 10208)

The House bill contains no comparable provision.

The Conference substitute provides for the promulgation of regulations under the Packers and Stockyards Act, 1921 not later than two years after enactment, to establish criteria that the Secretary of Agriculture will consider when developing the regulations enumerated in this section (Section 11006)

*(25) Sense of Congress regarding pseudorabies eradication program*

The House bill expresses the sense of Congress that the eradication of pseudorabies is a high priority that should be carried out under the authorities of the Animal Health Protection Act. (Section 11101)

The Senate amendment is similar to House provision but expands upon the House language to recognize the threat that feral swine pose to not only swine, but also the entire livestock industry. Senate language also details the importance of pseudorabies surveillance funding to assist the swine industry in monitoring, surveillance, and eradication of pseudorabies, including the monitoring and surveillance of other diseases effecting swine production and trade. (Section 10301)

The Conference substitute adopts the House provision with an amendment to recognize the threat that feral swine pose to not only the domestic swine population but also the entire livestock industry. (Section 11007)

*(26) Sense of Congress regarding the cattle fever tick eradication program*

The House bill expresses the sense of Congress that implementing a national strategic plan for the cattle fever tick eradication program is a high priority in order to identify and procure the necessary tools to prevent and eradicate fever ticks in the United States. (Section 11106)

The Senate amendment is the same as the House bill. (Section 10302)

The Conference substitute adopts the House provision. (Section 11008)

*(27) National Sheep and Goat Industry Improvement Center*

The House bill amends section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j by eliminating the requirement that the National Sheep Industry Improvement Center privatize its revolving fund. An authorization of appropriations of $10 million is authorized for each of the fiscal years 2008 through 2012. (Section 6015)

The Senate amendment: (1) amends section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) by eliminating the requirement that the National Sheep Industry Improvement Center privatize its revolving fund, (2) renames the Center as the National Sheep and Goat Industry Improvement Center, and (3) provides for new mandatory funding of $1,000,000 for FY2008, to be available until expended, and authorizes $10,000,000 for each FY2008–2012. (Section 10303)

The Conference substitute adopts the Senate provision with an amendment to delete the renaming of the Center. (Section 11009)

*(28) Trichinae certification program*

The Senate amendment amends section 10409 of the Animal Health Protection Act, to direct the USDA to establish and implement a trichinae certification program to certify farm operations that are trichinae free to be eligible for export or other market opportunities. It authorizes appropriations of $1.25 million for each of fiscal years 2008 through 2012. (Section 10304)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the Secretary of Agriculture to provide an explanation should the final rule not be promulgated within 90 days of enactment of this Act. Subject to appropriation of funds, the Secretary is authorized to use $6,200,000 to carry out the certification program (Section 11010)

*(29) Protection of information in the animal identification program*

The Senate amendment directs the Secretary of Agriculture to promulgate regulations consistent with the Freedom of Information Act regarding the disclosure of information submitted by farmers and ranchers who participate in the national animal identification system. The regulations promulgated are subject to public comment and should address the protection of trade secrets and other proprietary and or confidential business information. (Section 10305)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(30) Sense of Congress regarding the voluntary control program for low pathogenic avian influenza*

The House bill expresses the sense of Congress that the voluntary control program for low pathogenic avian influenza is a critical component of the animal health protection system, and that the Secretary should continue to provide 100 percent compensation for eligible costs to owners of poultry and cooperating States. (Section 11105)

The Senate amendment amends section 10407(d)(2) of the Animal Health Protection Act. It defines ''eligible costs'' for the purpose of low pathogenic avian influenza indemnification as ''costs determined eligible for indemnity under part 56 of title 9, Code of Federal Regulations, as in effect on the date of enactment of this clause.'' The Senate provision also provides that, subject to subparagraphs (B) and (D), with respect to compensation provided to an owner of an animal required to be destroyed under section 10407 of the Animal Health Protection Act, the compensation to any owner or contract grower of poultry participating in the voluntary control program for low pathogenic avian influenza under the National Poultry Improvement Plan, and payments to cooperating State agencies, shall be made in an amount equal to 100 percent of the eligible costs. (Section 10306)

The Conference substitute provides that the Secretary compensate industry participants and States that cooperate with the

Secretary in conducting livestock pest or disease detection, control or eradication measures for 100 percent of eligible costs. .

It is the intent of the Managers that compensation under this section go to any owner or contract grower of poultry participating in the voluntary control program for low pathogenic avian influenza under the National Poultry Improvement Plan, and payments to cooperating state agencies in an amount equal to 100 percent of the eligible costs. Eligible costs are defined in accordance with part 56 of title 9, Code of Federal Regulations, as in effect on the date of enactment of this section. (Section 11011)

CHRONIC WASTING DISEASE

The Managers expect the Secretary to promulgate, as soon as practicable, a final rule to establish a herd certification program to combat chronic wasting disease in farmed and captive deer, elk and moose. e Managers expect the rule to include appropriate certification procedures to allow for the interstate movement of participating deer, elk, and moose.

*(31) Study on bioenergy operations*

The Senate amendment directs USDA to submit to the House and Senate Agriculture Committees a report describing the potential economic issues (including potential costs) associated with animal manure used in normal agricultural operations and as a feedstock in bioenergy production. (Section 10307)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the study to evaluate the extent to which animal manure is utilized as fertilizer in agricultural operations, the potential impact on consumers and on agricultural operations resulting from limitations being placed on the utilization of animal manure as a fertilizer, and the effects on agriculture production contributable to the increased competition for animal manure use due to bioenergy production, including as a feedstock or a replacement for fossil fuels. The study is to be submitted to the respective House and Senate Committees within 1 year of enactment of this Act. (Section 11014)

*(32) Sense of the Senate on indemnification of livestock producers*

The Senate amendment expresses the sense of the Senate that the USDA should ''partner with the private insurance industry to implement an approach for expediting the indemnification of livestock producers in the case of catastrophic disease outbreaks.'' (Section 10308)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(33) State-inspected meat and poultry*

The House bill requires the Secretary to submit a report to Congress with the results of a review of each State meat and/or poultry inspection program in section 11103(a). Such review will include a determination of the effectiveness of the program, and an identification of the changes necessary for the program to meet and enforce Federal inspection standards. Subsections (b) and (c) of section 11103 amend the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), respectively, with regard to State inspection programs. Authorizes the Secretary to approve a State to ship product inspected under such State's inspection program in interstate commerce, if such State inspection program has implemented identical requirements to those contained in the FMIA and/or PPIA and Federal regulations under such statutes. The House bill provides requirements for new State inspection programs, including that the Secretary shall review all new State inspection programs within one year after such State inspection program was approved. Upon such review, the State inspection program must implement all recommendations from the review. The provision provides that a State inspection program will operate subject to a cooperative agreement with the Secretary, and establishes the terms of such cooperative agreement, including: State must adopt requirements identical to Federal inspection requirements; State mark of inspection will be deemed an official mark; State will comply with labeling requirements issued by the Secretary; Secretary will have authority to detain and seize products under the State program; Secretary will have access to facilities and records of State program; and other provisions as determined by the Secretary. The provision also provides that the Secretary shall reimburse a State for not more than 50 percent of the State's costs for the State meat inspection program, and not more than 60 percent of the State's costs for the State poultry inspection program. The House bill requires the Secretary to take action if the Secretary determines that a State inspection program is not in compliance with the cooperative agreement, including suspending or revoking the approval of the State inspection program. Authorizes the Secretary to institute Federal inspection at a State-inspected plant if the Secretary determines that such State plant is not operating in accordance with the cooperative agreement and requirements herein. It also requires the Secretary to conduct annual review of each State inspection program. It provides that no State may prohibit or restrict the movement or sale of meat or poultry products that have been inspected and passed in accordance with this section. (Section 11103)

The Senate amendment amends the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) create an option for state inspected plants that are 25 employees or less to ship in interstate commerce. This will not replace the existing state inspection programs. Plants that are selected by the Secretary to ship in interstate commerce using this option must follow the Federal Meat Inspection Act and Poultry Products Inspection Act in the same manner as expected of a federally inspected establishment. Establishments that are larger than 25 employees but less than 35 employees are eligible for this option, but must transition to a federal establishment three years after promulgation of the final rule. Establishments that are currently under Federal inspection are not eligible for this option. The Secretary shall reimburse a state for costs related to the inspection of selected establishments in the state at an amount not less than 60 percent of eligible state costs. The Secretary may also reimburse a state for 100 percent of the eligible state costs if the selected establishment provides additional verification microbiological testing in excess of typical Federal establishments. The Secretary shall designate a Federal employee as a state coordinator for each state agency that has a state inspection program. The state coordinator will be under direct supervision of the Secretary. The state coordinator will visit selected establishments with a frequency appropriate to ensure that these establishments are operating in a manner consistent with the Federal Meat Inspection Act and Poultry Products Inspection Act. The state coordinator shall provide on a quarterly basis a report that describes the status of each selected state establishment in regard to compliance with the Federal Meat Inspection Act and Poultry Products Inspection Act. If a state coordinator finds any selected establishment in violation of the Federal Meat Inspection Act or Poultry Products Inspection Act, the state coordinator shall notify the Secretary of the violation and deselect the selected establishment or suspend inspection. The Senate provision requires USDA's Inspector General not later than two years after the effective date of enactment, and not less than every two years, conduct an audit of each activity taken by the Secretary to determine compliance of this program with the law. The Government Accountability Office shall also conduct an audit of the implementation of this program. It also authorizes the Secretary of Agriculture to establish within the Food Safety Inspection Service (FSIS) at USDA an inspection training division to coordinate outreach, education, training and technical assistance of very small and certain small establishments. The Senate language allows the Secretary to provide grants to appropriate state agencies to help establishments covered by intrastate inspection under title III of the Federal Meat Inspection Act to transition to the new program under title V. (Section 11067)

The Conference substitute adopts the Senate provision with an amendment to strike section (c)(2) of the Senate amendment regarding microbiological verification testing. Periodic audits required of the Inspector General under Senate section (e)(1) was changed from two years to not less often than every three years. (Section 11015)

*(34) Food Safety Commission*

The Senate amendment establishes a Congressional Bipartisan Food Safety Commission to review the food safety system of the United States and to prepare a report that makes recommendations on ways to: modernize the U.S. food safety system; harmonize and update food safety statutes; improve Federal, State, local, and interagency coordination of food safety personnel, activities, budgets, and leadership; allocate scarce resources according to risk; ensure that regulations directives, guidance, and other standards and requirements are based on best-available science and technology; emphasize preventative strategies; provide to Federal agencies funding mechanisms necessary to effectively carry out food safety responsibilities; and to draft specific statutory language that would implement recommendations of the Commission. The Commission is required to review and consider statutes, studies and reports as listed in legislative language to understand the U.S. food safety system. The initial meeting is required to take place 30 days after the final Commission member is appointed. One year after its initial meeting, the Commission is required to publish a report on its findings, upon which the Commission will dissolve. The members of the Commission will be appointed 60 days after the enactment of this legislation. Members are required to have training, education or experience in food safety research, food safety law and policy, or program design and implementation. Members must consist of the Secretary of Agriculture (or a designee), the Secretary of Health and Human Services (or a designee), one Member of the House of Representatives, one Member of the Senate, and 15 members that represent consumer organizations, agricultural and livestock production, public health professionals, State regulators, Federal employees, and the livestock and food manufacturing and processing industry. Two members of the Commission are appointed by the President, 13 are appointed by Congress. The Commission is required to hold at least five stakeholder meetings, and can hold

hearings and secure information from Federal agencies to carry out its work. Commission members who are not officers or employees of the Federal Government can be compensated for serving on the Commission. Commission members are allowed travel expenses while away from home or place of business. The Chairperson of the Commission can appoint an executive director and additional personnel to carry out the work of the commission. Federal Government employees can be detailed to the Commission without reimbursement. This provision authorizes appropriations to carry out this section. (Section 11060)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(35) Action by President and Congress based on report*

The Senate amendment states: (1) the President is required to review the report from the Congressional Bipartisan Food Safety Commission established by the Senate amendment, and is required to submit to Congress proposed legislation based on the recommendations for statutory language contained in the Commission's report and proposed legislation, and (2) Congress may hold hearings and other activities for consideration of the statutory language from the Commission and the President. At also contains a Sense of the Senate expressing: the need for additional resources and direction for the food safety agencies of the Federal Government; the need for additional food safety inspectors; the need for food safety agreements between the United States and its trading partners; the need for Congress to work on comprehensive food safety legislation. (Section 11072)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(36) Food safety improvement*

The Senate amendment modifies the FMIA and PPIA to create a reporting requirement for establishments regulated by USDA–FSIS to provide information to the Secretary upon determining that a meat and/or poultry product it manufactured had entered the stream of commerce and was reasonably likely to cause serious adverse health events or death (the Class I recall standard). Reports are not required if products are under the control of the establishment and corrective actions are taken to ensure that the product is no longer adulterated, or if the product never enters into the stream of commerce. Upon receipt of a report, the Secretary would be able to use existing authority to request additional information related to the incident, issue a public health alert, and work with the establishment to notify relevant members of the supply chain and pursue a corrective action plan. The language encourages USDA to coordinate such efforts with State and local public health officials. The provision: (1) requires all establishments regulated by USDA–FSIS to have in place a recall plan per USDA Directive 8080.1, Revision 4, (2) requires all beef establishments regulated by USDA–FSIS to have in place an E. coli reassessment as described in 67 Federal Register 62325 (October 7, 2002), (3) directs the Secretaries of Agriculture and HHS to promulgate sanitary food transportation regulations, as described in section 416(b) of the Federal Food, Drug, and Cosmetics Act, and (4) directs USDA, HHS, and DOT to enter into a Memorandum of Understanding related to sanitary food transportation. (Section 11087)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add a new section 12 to the Federal Meat Inspection Act (21 U.S.C. 611) to require immediate notification of the Secretary if an establishment believes or has reason to believe that an adulterated or misbranded meat or meat food product has entered commerce; add a new section 13 to the Federal Meat Inspection Act (21 U.S.C. 611) to require establishments to prepare and maintain, in writing, a recall plan and any reassessments of their hazard analysis and critical control point plans, and to have those plans and reassessments available to USDA inspectors. Identical changes were made to the Poultry Products Inspection Act (21 U.S.C. 459) by modifying section 10 of the PPIA. (Section 11017)

*(37) Oversight of national aquatic animal health plan*

The Senate amendment establishes a General advisory Committee for Oversight of National Aquatic Animal Health (composed of not more than 20 members). The advisory committee is to make recommendations to the Secretary on:

- the establishment and membership of appropriate experts to efficiently implement the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force
- disease and species-specific best management practices related to activities carried out under the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force
- the establishment and administration of an indemnification fund (see below)

The Senate amendment requires the Secretary to promulgate regulations establishing the national aquatic animal health improvement program, in accordance with the Animal Health Protection Act. The provision allows for participation by State and Tribal Governments and the Private Sector who upon election to participate will enter into agreements with the Secretary to assume responsibility for a portion of the non-Federal share of the costs of carrying out the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force. It establishes an indemnification fund to compensate aquatic farmers for specified purposes. It also requires a report not later than 2 years after the date of enactment to describe:

- activities carried out under the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force
- activities carried out by the advisory committee
- recommendations for subsequent years' funding

The Senate amendment authorizes appropriations of $15,000,000 for fiscal years 2008 and 2009, of which not less than 50 percent is to be deposed into the indemnification fund and not more than 50 percent shall be used to carry out the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force. (Section 11086)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. (Section 11013)

The Managers are conscious of the need for an aquatic animal health plan. The United States is facing a seafood trade deficit of over $9 billion, and faces loss of export markets in Europe, partially due to the lack of a coordinated industry health program. Without an effective control program in place, the United States faces difficulty in safeguarding against pest and disease incursions. The Managers therefore encourage the Animal and Plant Health Inspection Service to implement a National Aquatic Animal Health Plan (NAAHP) within 18 months of enactment of this Act. It is further expected that NAAHP should be based on the existing plan developed by the National Aquatic Animal Health Task Force, and to be refined with extensive consultation of cooperators, including state agencies, tribal governments, industry, and fish health professionals.

The Managers note the potential benefits of an advisory board to ensure the success of such a Plan; such a board should have a balanced representation of state and tribal governments and commercial aquaculture interests. The Managers likewise recognize the potential benefits of an appropriate number of representative expert committees. Such expert committees would be charged with recommending disease- and species- specific plans, taking into account any existing aquaculture-related projects undertaken under the aegis of the Plan as of the date of enactment of this legislation.

TITLE XII—CROP INSURANCE

*(1) Premiums and reinsurance requirements*

*(a) Premium Adjustments (Section 508(a) of the Federal Crop Insurance Act)*

The House bill: prohibits paying premiums, offering rebates for premiums, or making other inducements to purchase crop insurance or after crop insurance has been purchased, except for administrative fees pursuant to section 508(b)(5)(B) of the Federal Crop Insurance Act or performance-based discounts under section 508(d)(3) of the same Act. (Section 11001(a))

The Conference substitute adopts the House provision, with the following modification—the rebating rules are modified so as to permit certain cooperatives that were authorized to offer payments in accordance with section (b)(5)(B) as in effect the day before the date of enactment by the Risk Management Agency (RMA) in the 2005, 2006, and 2007 reinsurance years to continue to do so (Section 12004).

The Managers' intent in including clause (9)(B)(iii) is to ''grandfather in'' entities that have previously been approved by the Federal Crop Insurance Corporation (Corporation) to make payments in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment. These entities must provide payments or patronage dividends in a consistent manner with the payment plan previously approved in accordance with such subsection for the entity by the Corporation. The Managers expect the Corporation to notify, in writing and on an annual basis, entities covered under the grandfather clause as well as 508(b)(5)(B) as amended of their ability to provide such payments and the scope of providing such payments. The Managers expect the Corporation to exercise strict oversight to ensure that these entities are operating consistent with federal and state law and the payment plan submitted and approved. The Managers understand through discussions with RMA that the parties covered by the grandfather clause represent the universe of parties engaged in this activity. The Managers also understand from RMA that, while two submissions are still under review, no further requests are pending or expected from additional parties seeking to engage in the activities of those parties covered by the grandfather clause.

*(b) Administrative Fee (Section 508(b) of the Federal Crop Insurance Act)*

Section 11001(b) of the House bill amends the Federal Crop Insurance Act to limit the ability of an insurance provider, cooperative association, or trade association to pay for only catastrophic risk protection administrative fees on behalf of a producer. The Senate amendment clarifies language that permits cooperatives or trade associations to

pay premiums on behalf of farmer-members to make it clear that the provision applies only to fees for catastrophic coverage. It also strikes clause (ii) which requires that licensing fees in connection with the issuance of catastrophic risk protection or additional coverage to be paid to cooperatives or trade associations from insurance providers shall be subject to laws regarding rebates in the various states in which the fee or other payment is made. (Section 1905)

The Conference substitute adopts the Senate provision (Section 12006).

*(c) Time for Payment (Section 508(d) of the Federal Crop Insurance Act)*

Section 11001(c) of the House bill requires that beginning with the 2012 reinsurance year, the Corporation must establish August 1 as the billing date for crop insurance premiums.

Paragraph (1) of section 1906 of the Senate amendment establishes the date when policyholder premiums must be paid, beginning in the 2012 reinsurance year, to no later than September 30. (Section 1906)

The Conference substitute adopts the House provision, with a date change to August 15. (Section 12007)

*(d) Reimbursement rate (Section 508(k) of the Federal Crop Insurance Act)*

Paragraph (1) of Section 11001(d) of the House bill amends section 508(k)(4)(A) of the Federal Crop Insurance Act to provide that beginning with the 2009 reinsurance year, the Corporation shall reimburse insurance providers and agents for administrative and operating (A&O) expenses at a rate 2.9 percentage points below the rates in effect on the day of enactment of this Act.

Section 1912 of the Senate amendment reduces the reimbursement rate for existing plans of insurance by 2 percentage points below the rates in effect at the time of enactment of this Act, except that the reduction shall not be applied in any reinsurance year for a state in which the loss ratio exceeds 1.2, beginning in the 2009 reinsurance year. It also reduces the reimbursement rate for area policies (such as Group Risk Plan (GRP) and Group Risk Income Protection (GRIP)) to 17 percent of premiums because delivery costs are not as high relative to delivery costs for other products. (Section 1912)

The Conference substitute adopts the Senate provision, with the following modification—it provides for a 2.3 percentage point reduction from current levels for the overall A&O reduction, with a snapback that restores one half of the reduction to states in years in which their overall loss ratio exceeds 1.2. In addition, it includes the reduction to the reimbursement rate for area policies from the Senate provision, with the rate lowered to 12 percent of total premiums. (Section 12016)

The Managers intend for the limitation in paragraph (F) to apply only to plans of insurance that are established and widely available at the time of enactment, and not apply to area plans such as the Pasture, Rangeland, and Forage program that have higher delivery costs than policies such as GRIP and GRP.

*(e) Renegotiation of the Standard Reinsurance Agreement (Section 508(k) of the Federal Crop Insurance Act)*

Paragraph (2) of Section 11001(d) of the House bill provides that during the year following the reinsurance year ending June 30, 2012, the Corporation may renegotiate the financial terms of the Standard Reinsurance Agreement (SRA), and subsequently conduct such renegotiations once during each period of five reinsurance years thereafter and stipulates that changes in Federal law that require the Corporation to revise the financial terms of the SRA will not be considered to be a renegotiation of the agreement. It also provides that approved insurance providers may confer with each other during the renegotiation process.

The Senate amendment allows the Federal Crop Insurance Corporation to renegotiate the SRA, which contains the contractual obligations and financial terms of the relationship between RMA and the crop insurance companies, every five years, the first occurring not sooner than the end of the 2012 reinsurance year. It provides an exception to allow the SRA to be renegotiated more frequently if necessary to address unexpected adverse circumstances experienced by the companies. The Secretary is required to notify the relevant Congressional Committees before invoking this exception. This section also allows crop insurance companies to confer with each other in the course of the renegotiation process, as well as collectively with RMA. (Section 1913)

The Conference substitute adopts the Senate provision with modifications, incorporating the House language on treatment of changes in the SRA due to changes in Federal law. It moves up the time when the next SRA can be negotiated, to be effective for the 2011 reinsurance year. It also requires the RMA to consider certain alternative mechanisms for compensating companies for delivery expenses, when negotiating the SRA. (Section 12017)

*(f) Time for Reimbursement (Section 508(k) of the Federal Crop Insurance Act)*

Section 11001(e) of the House bill requires that beginning with the 2012 reinsurance year, the Corporation make administrative and operating expense payments during October 2012, and every October thereafter.

Paragraph (2) of section 1906 of the Senate amendment establishes the date when the Federal Crop Insurance Corporation makes payments to crop insurance companies to reimburse them for administrative and operating expenses, beginning in the 2012 reinsurance year, allowing payments to be made as soon as practicable after October 1 of the year following the reinsurance year, but not later than October 30.

The Conference substitute adopts the Senate provision. (Section 12015)

*(g) Premium Reduction Authority (Section 508(e) of the Federal Crop Insurance Act)*

Paragraph (1) of Section 11001(f) of the House bill strikes the authority for the Premium Reduction Plan (PRP) and the Premium Rate Reduction Pilot. The Senate amendment repeals the authority for the Premium Reduction Plan (PRP) and requires RMA to commission an independent study of the feasibility of offering a discount to farmers in the Federal crop insurance program. This study is to be completed within 18 months of enactment of the farm bill. (Section 1908)

The Conference substitute adopts the House provision, but drops the elimination of the Premium Rate Reduction Pilot language. (Section 12010)

The Managers repeal the authority for the Premium Reduction Plan. The Managers believe it would serve a useful purpose for the Risk Management Agency to evaluate the process that led to the promulgation of the regulations under which PRP has been operated, to try to determine where mistakes might have been made, in either concept or execution.

*(2) Catastrophic risk protection administrative fee*

The House bill amends section 508(b)(5)(A) of the Federal Crop Insurance Act to provide for a $200 catastrophic risk protection administrative fee. (Section 11002)

The Senate amendment increases the fee for catastrophic risk protection coverage from its current $100 per crop per county to $200 per crop per county, and strikes language allowing a higher fee to be charged as a function of imputed premium. (Section 1905(a))

The Conference substitute adopts the Senate provision, with modifications—it increases the fee to $300 per crop per county, and repeals an annual appropriations rider barring charges fees based on imputed premium levels. (Section 12006)

*(3) Funding for reimbursement, contracting, risk management education, and information technology*

The House bill amends section 516 of the Federal Crop Insurance Act to provide that the Corporation use not more than $30 million in each fiscal year for costs associated with: research and development and partnerships for risk management in section 522 of such Act; education and information programs in section 524 of such Act; and information technology. Further, it provides that the Corporation use no more than $5 million to carry out contracting for research and development for underserved states, pursuant to section 522(c)(1)(A) of such Act. It also prohibits the Corporation from conducting research and development for any new policy for a commodity under this title. (Section 11003)

The Senate amendment reduces mandatory funding available to reimburse research and development of new crop insurance products from its current $15 million annually to $7.5 million annually in paragraph (1). Paragraph (2) reduces mandatory funding availability for contracting and partnerships from its current $25 million annually to $12.5 million annually. Paragraph (3) permits the Corporation to use up to $5 million of otherwise unused funds available for reimbursement, contracting, or partnership payments to strengthen crop insurance compliance oversight activities, including information technology and data mining. (Section 1919)

The Conference substitute adopts the Senate provision. (Section 12024)

*(4) Reimbursement of research and development costs related to new crop insurance products*

The House bill authorizes the Corporation to reimburse an applicant for research and development costs related to a policy that is submitted pursuant to a Federal Crop Insurance Corporation (FCIC) Reimbursement Grant or is submitted to the FCIC Board and approved in section 11004(a).

Section 11004(b) authorizes the Corporation to provide FCIC Reimbursement Grants to persons proposing to prepare crop insurance policies for submission to the Board, and who have applied and been approved for such grants. The provision stipulates the required materials for a grant application, including: a concept paper; an explanation of the need for the product, including the product's marketability, the projected impact of the product, and that no similar product is offered by the private sector; and an identification of the risks the product will cover and that the risks are insurable under the Federal Crop Insurance Act. Approval of a grant is by majority vote of the Board, and the Board shall approve an application only if: the proposal establishes the need for the policy; the applicant has the qualifications to successfully complete the project; the proposal can reasonably be expected to be actuarially appropriate; the Board has sufficient funding; and the proposed budget and timeline are reasonable.

The provision requires payment for work performed under this section to be based on rates determined by the Corporation. Either the Corporation or applicant may terminate any grant for just cause. (Section 11004)

The Senate amendment authorizes the reimbursement of development costs related to a policy through a Federal Crop Insurance Reimbursement Grant or is submitted to the FCIC Board and is approved in subsection (a). Subsection (b) provides an alternative process for policy development, by establishing a grant-making mechanism (called FCIC Reimbursement Grants). This mechanism permits eligible applicants to submit a concept proposal, to be reviewed by crop insurance experts, for consideration by the Board of the Federal Crop Insurance Corporation. If the grant request is approved, the development work is ensured of funding and when completed, submitted to the Board for approval. The Board can require an interim feasibility study before allowing development work to proceed. Rates for work performed shall be based on rates determined by the Corporation for products submitted under section 508(h) or research contracted for under section 522(c). The grant can be terminated at any time for just cause. Subsection (c) eliminates language in section 523(b)(10) of the FCIA that provides an exception for research and development costs in livestock program funding caps. (Section 1918)

The Conference substitute adopts the House provision, with significant modifications. The provision as adopted provides an opportunity for applicants with approved concept papers to receive up to 50 percent of their estimated expenses in advance. If their proposed crop insurance product is subsequently approved by the Board, they then are reimbursed for the remainder of their expenses. If they submit a proposed product to the Board and it is rejected, they receive no additional funds but are not required to repay the advance. Only if they fail to submit a completed submission without just cause would they be required to repay the advance. Applicants with poor track records on submissions may be prohibited from receiving advance payments, but would still be eligible to develop crop insurance products under 508(h) procedures in current law. (Section 12022)

The Managers intend for the Corporation to develop the procedures to implement this section as soon as practicable so that the Corporation may start accepting applications for advanced reimbursement of research and development costs 180 days after this section's enactment. Since under current law, crop insurance products approved under 508(h) procedures are eligible, at the Corporation's discretion under appropriate circumstances, for reimbursement at U.S. General Services Administration competitive rates, the Managers intend for reimbursements made under this section to be equally eligible for such rates, still subject to the Corporation's discretion.

*(5) Research and development contract for organic production coverage improvements*

The House bill mandates that the Corporation enter into one or more contracts for the development of improvements in Federal crop insurance policies for organically raised crops. Any such contracts must review the underwriting, risk, and loss experience of organic crops in order for the Corporation to determine variation in loss history between organic and non-organic production. The Corporation shall eliminate or reduce the premium surcharge for coverage of organic crops, unless the Corporation's review documents significant, consistent, and systemic variations in loss history between organic and non-organic crops. The House provision provides that a contract include the development of a procedure to offer producers of organic crops an additional price election reflecting actual retail or wholesale prices received by organic producers, and requires that the Corporation submit an annual report to Congress on the progress made in developing and improving Federal crop insurance for organic crops. (Section 11005)

The Senate amendment adds a new paragraph (12) which requires the Federal Crop Insurance Corporation to offer to enter into one or more contracts to improve crop insurance coverage for organic crops. New paragraph (10) requires the Federal Crop Insurance Corporation to offer to enter into one or more contracts to develop policies to insure dedicated energy crops such as switchgrass. New paragraph (11) requires the Federal Crop Insurance Corporation to offer to enter into one or more contracts to develop policies to insure aquaculture operations. New paragraph (13) requires the Federal Crop Insurance Corporation to offer to enter into a contract to study how to incorporate the use of skiprow cropping practices to grow corn and sorghum in the Central Great Plains into existing policies and plans of insurance offered in the Federal crop insurance program. (Section 1917)

Section 1907 prohibits the Federal Crop Insurance Corporation from charging a surcharge on premiums paid to insure organic crops. It allows surcharges to be required only when consistent evidence of greater loss variability is validated on a crop by crop basis. (Section 1907)

The Conference substitute adopts the House provision, with the inclusion of Senate provisions requiring contracts regarding dedicated energy crops, aquaculture, skiprow cropping practices, and the following additions: the Corporation is also required to offer to enter into contracts for developing a poultry policy, a policy for bee-keepers, and a study on what modifications might be needed for Adjusted Gross Revenue policies to make them more useful for beginning farmers. In the subsection addressing development of aquaculture policies, more details are provided about what species should be considered. (Section 12023)

The Managers are concerned that producers in the Central Great Plains seeking to utilize skip row planting patterns are being offered crop insurance coverage for less than 100% of the planted fields despite ongoing research showing that skip row planting results in no loss in overall yields. In including this provision in paragraph (16), the Managers are seeking to have RMA review existing and soon-to-be completed skip row research and production histories, develop crop insurance rules and policies that adequately reflect this research, and thus better capture the actual productive capability of skip row planting patterns.

The Managers are also concerned how recent natural disasters in the Southeastern United States have revealed that existing crop insurance products and programs are not well-tailored to the unique horticultural practices of the nursery industry across the country. The Managers urge the Risk Management Agency (RMA) to work with the nursery industry on crop insurance policies specifically designed for nursery growers and encourage the Administrator of RMA, under his existing authority, to consider initiating a pilot program or programs with nursery growers in affected regions to ensure that crop insurance programs avoid in the future the issues that arose in the aftermath of these natural disasters.

*(6) Targeting risk management education for beginning farmers and ranchers and certain other farmers and ranchers*

The House bill requires the Secretary to include a special emphasis on risk management strategies and education and outreach to beginning farmers and ranchers, immigrant farmers and ranchers attempting to become established producers in the United States, socially disadvantaged farmers and ranchers, farmers and ranchers who are preparing to retire and are trying to help new farmers and ranchers get started, and farmers and ranchers who are converting production and marketing systems to new markets. (Section 11006)

The Senate amendment requires the Secretary to place special emphasis in utilizing funds available to address the needs of farmers in underserved states to assist in risk management strategies of beginning farmers and ranchers, immigrant farmers and ranchers, socially disadvantaged farmers and ranchers, farmers and ranchers preparing to retire and engaged in transition strategies to help beginning farmers get established, and established farmers and ranchers seeking to shift practices and marketing to pursue new markets. (Section 1922)

The Conference substitute adopts the Senate provision, with one minor language change. (Section 12026)

*(7) Crop insurance ineligibility related to crop production on noncropland*

The House bill defines ''noncropland'' as native grassland and pasture the Secretary determines has never been used for crop production. It also provides that noncropland acreage planted with an agricultural commodity for which insurance is available under this title is not eligible for crop insurance under this title for the first four years of planting. In the fifth year of planting, the producer may purchase crop insurance for the commodity. The yield for such insurance shall be determined by using actual production history for the farm and, for years without actual production history, using the average actual production history for the commodity in the county. (Section 11007)

The Senate amendment denies crop insurance and noninsured crop disaster assistance program benefits (NAP) on lands converted from native sod after passage of this farm bill. In section 2608(a)(1), native sod is defined as land on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing, and which has never been used for production of an agricultural commodity. Section 2608(a)(2)(B) establishes de minimus exception of 5 acres. Section 2608(c) directs the Secretary to provide a report to Congress on the extent of conversion of noncropland to cropland since 1995 within 180 days of the passage of the Farm Bill, and to provide annual updates by January 1st of each year. (Section 2608)

The Conference substitute adopts the House bill with modification. At the election of the Governor of a State in the Prairie Pothole Region National Priority Area, native sod acreage that is tilled for the production of an annual crop will be ineligible for crop insurance and noninsured crop disaster assistance benefits during the first 5 crop years of planting. Native sod is defined as land on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and that has not been tilled for the production of an annual crop at the date of enactment. The Secretary may exempt conversions of 5 acres or less from the terms of the provision. (Section 12020).

The Managers adopted this modification in recognition of the significant interest in conserving native tall-, mixed-, and shortgrass prairie in the Prairie Pothole Region (PPR). Several recent reports have analyzed grassland conversion and potential drivers in certain areas of the PPR over the past two decades. The analysis by the Government Accountability Office (GAO) found that crop

insurance program payments may serve as an incentive for conversion, but that many other factors such as crop prices and new farming technologies also play a role in producer decisions. GAO also identified a general lack of current and comprehensive data on land conversions, precluding reliable trend analysis. Correspondingly, GAO's final recommendations were that USDA should: (1) track annual conversion and provide current data to policymakers, and (2) conduct a study of the relationship between farm program payments and land conversion and report findings to Congress.

The Managers determined that existing information is insufficient to apply a broad-sweeping national policy to address what may be a localized concern. However, where states determine that grassland conversion is a present threat and want to create disincentives for conversion, the Managers are making a ''sodsaver'' program option available at the request of the State. The Managers further expect USDA to address the GAO recommendations order to inform future policy decisions on this issue. In addition, the Managers reauthorized a number of conservation programs, such as the grassland reserve program and the environmental quality incentives program, which provide incentives for grassland protection and conservation. The Managers encourage States to leverage these programs to provide further incentives to their grassland protection objectives.

The Managers intend for the Secretary to undertake a study on the influence of the crop insurance program on the conversion of native sod to crop production. The study should consider as part of the review, added land provisions, yield plugs, written agreements, and county T yields. The study should also consider the sufficiency of grazing coverage available through crop insurance or the non-insurance assistance program as compared to the economics of crops planted on converted grazing land. The managers expect the Secretary to address specific actions that may be taken by the Department or recommended to Congress to mitigate any identified conversion influences of the crop insurance program. The managers expect the Secretary to present the results of the study to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in early 2009.

*(8) Funds for data mining*

The House bill authorizes the Corporation to use not more than $11 million during fiscal year 2008, and not more than $7 million during fiscal year 2009 and each subsequent fiscal year, for crop insurance program compliance and integrity, including data mining, for a total of $73 million in outlays over ten years. (Section 11008)

The Senate amendment allows RMA to charge a fee to crop insurance companies for access to company-relevant results of data-mining analysis, and would require that these funds are used for improvements in the crop insurance data mining system. If RMA were to require companies to access the data-mining results for purposes of compliance, including quality assurance requirements under the terms of the SRA, they could not be charged a fee under those circumstances. (Section 1915)

The Conference substitute adopts the House provision, except it provides a total of $36 million over ten years for this purpose, and it requires periodic competition for these funds. A new subsection provides $60 million for upgrading computer technology at the Risk Management Agency. (Section 12021)

*(9) Noninsured crop assistance program*

The House bill amends the Agricultural Market Transition Act to provide that service fees producers must pay for the Non-insured Crop Insurance Program shall be $200 per crop per county; or $600 per producer per county, with a limit of $1,800 per producer. (Section 11009)

The Senate amendment doubles the service fee charged for participation in the NAP program from its current $100 to $200, or $600 per producer per county, with a limit of $1,500 per producer. (Section 1926)

The Senate amendment also clarifies that losses from aquacultural activities resulting from drought should be indemnified if the farmer has NAP coverage for that production. (Section 1925)

The conference substitute adopts the Senate language from Section 1925, changing the new fee to $250 per crop per county, or $750 per producer per county, with a limit of $1,875 per producer. (Section 12028).

The Conference substitute also adopts the Senate provision on eligibility for indemnification for drought losses for aquaculture. (Section 12027)

*(10) Change in due date for corporation payments for underwriting gains*

The House bill directs the Corporation to make payments for underwriting gains on October 1, 2012, and for each subsequent reinsurance year, on October 1 of the next calendar year, beginning with the 2011 reinsurance year. (Section 11010)

The Senate amendment establishes the date as October 1 that the Federal Crop Insurance Corporation makes payments for underwriting gains to crop insurance companies, beginning in the 2011 reinsurance year. (Section 1914)

The Conference substitute adopts the Senate provision. (Section 12018)

*(11) Sesame Insurance Pilot Program*

The House bill requires the Secretary to establish a pilot program under which sesame producers in the State of Texas may obtain crop insurance. Under the pilot program, producers obtaining the insurance shall pay premiums and administrative fees. (Section 11011)

The Senate amendment is the same as the House bill. (Section 1921)

The Conference substitute adopts the Senate provision with an amendment to strike the end date, and adds the camelina pilot program from Senate Section 1920 and adds a new pilot program for grass seed. (Section 12025)

*(12) National Drought Council and drought preparedness plans*

The House bill establishes a National Drought Council within the office of the Secretary of Agriculture that will develop a National Drought Policy Action Plan for integrating and coordinating drought activities of the Federal government and States, including drought preparedness, mitigation, risk management and emergency relief. Additional Council duties include reviewing and evaluating existing drought programs, making recommendations to the President and Congress, and developing public awareness activities on drought.

The House bill establishes the Drought Assistance Fund within the Department of Agriculture to, in part, pay the costs of providing technical and financial assistance to States, Indian Tribes, local governments and other groups for the development and implementation of drought preparedness plans, and for the cost of mitigating the risk and impact of droughts. The language provides requirements for the guidelines associated with the distribution of funds from the Drought Assistance Fund, including requiring that States and/or Indian tribes developing plans for interstate watersheds coordinate with other States and/or Indian tribes in the development of said plans.

The House bill requires the Secretary, with concurrence of the Council, to develop guidelines for administering a national program to provide assistance to States, Indian tribes, local governments and others for the development, maintenance, and implementation of drought preparedness plans. The provision requires the Secretary to develop Federal drought preparedness plans, which will integrate with drought plans of State, tribal, local government, and others. The provision stipulates the elements for such drought preparedness plans.

The House bill authorizes appropriations of $2 million for fiscal year 2008 and each of the subsequent seven fiscal years for the Council; authorizes the appropriation of such sums as necessary to carry out the Drought Assistance Fund. (Section 11012)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

*(13) Payment of portion of premium for area revenue plans*

The House bill establishes the premium subsidy amount for area revenue insurance plans, based on (1) the percentage of the recorded county yield indemnified, and (2) the sum of a percentage of the premium established for additional catastrophic risk protection and the amount determined to cover operating and administrative expenses for additional catastrophic risk protection.

The House bill establishes the premium subsidy amount for area yield insurance plans, based on (1) the percentage of the recorded country yield indemnified, and (2) the sum of a percentage of premium established for additional catastrophic risk protection and the amount determined to cover operating and administrative expenses for additional catastrophic risk protection. (Section 11013)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 12012)

*(14) Share of risk*

The House bill amends the Federal Crop Insurance Act to require that companies that are being reinsured by the Corporation share the risk of loss, such that the underwriting gain or loss and the associated premium and losses ceded to the Corporation under any reinsurance agreement be not less than 12.5 percent. The provision further requires the Corporation to pay a ceding commission to such companies of 2 percent of the premium used to define the loss ratio for the approved insurance provider's book of business. (Section 11014)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

*(15) Livestock assistance*

The House bill stipulates that the purchase of a Non-insured Assistance Program policy is not a requirement to receive any Federal livestock disaster assistance. (Section 11015)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

*(16) Determination of certain sweet potato production*

The House bill excludes Risk Management Agency Pilot Program data for determining

the 2005–2006 Farm Service Agency Crop Disaster Program for sweet potatoes. (Section 11016)

The Senate amendment amends section 9001 of the U.S. Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (P.L. 100–28, 121 Stat. 211). It prohibits the Farm Service Agency from utilizing yield data collected from a sweet potato crop insurance pilot program to determine losses for the crop disaster assistance program recently enacted for the 2005 and 2006 crop years. If sign-up for that program is completed before the 2007 farm bill is enacted, then the sign-up period would have to be re-opened for producers of sweet potatoes. (Section 1927)

The Conference substitute adopts the Senate provision. (Section 12029)

*(16A) Report on funds; rate of Federal crop insurance*

The House bill gives the Secretary of the Interior the authority to further cuts the expense reimbursement rate for crop insurance companies if the actual revenue from offshore oil leases fails to meet projections beginning in 2012. (Section 13011)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

*(17) Definition of organic crop*

The Senate amendment defines organic crops for the purposes of the Federal crop insurance program. (Section 1901)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12001)

*(18) General powers*

The Senate amendment clarifies in subsection (a)(1) that the provision added in the Agricultural Risk Protection Act of 2000 (section 508(j)(2)(A)), which allows farmers to sue the Corporation over a denied claim only in the U.S. District Court for the district where the insured farm is located, takes precedent over the more general provision in section 506(d).

Subsection (a)(2) of the Senate amendment strikes subsection (n) of the Federal Crop Insurance Act (7 U.S.C. 1506), in order to clarify that it is superseded by Section 515(h) added in the Agricultural Risk Protection Act which specifically establishes sanctions for producers, agents, and loss adjusters for program noncompliance and fraud. (Section 1902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12002)

*(19) Reduction in loss ratio*

The Senate amendment reduces the statutory national loss ratio for the Federal crop insurance program to 1.0. (Section 1903)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12003)

*(20) Controlled business insurance*

The Senate amendment prohibits farmers from collecting commissions as crop insurance agents on policies in which they or members of their immediate family have a substantial beneficial interest if more than 30 percent of their total commissions are derived from policies sold on operations that they or their immediate family have beneficial interest in. This prohibition is applied on a calendar year basis. (Section 1904)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with modifications to the definitions of immediate family and compensation to clarify the intent of Congress. (Section 12005)

For individuals meeting the tests in clauses (B)(i) and (B)(ii), the Managers' intent is to prohibit compensation on policies or plans of insurance in which they or members of their immediate family have a substantial beneficial interest, rather than all policies or plans of insurance that they service.

The Managers expect the Risk Management Agency (RMA) to enforce this section through an effective system of statistical sampling and spot checks rather than through the imposition of blanket new reporting requirements on agents, subagents, or approved insurance providers. The Managers further expect that the RMA will enforce this section in a manner that does not affect bona fide customer service representatives or other such employees of an agent who work in a capacity other than as an agent or subagent and whose employment with an agent is not intended to merely circumvent the prohibitions under this section.

*(21) Enterprise and whole farm unit pilot program*

The Senate amendment establishes a pilot program to allow farmers to convert the value of their crop insurance coverage under optional and basic units to higher levels of coverage for enterprise or whole farm units. (Section 1909)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with modifications, so as to allow any farmer to participate in this pilot, whether or not they had purchased coverage with optional or basic units in previous crop years. It also requires that the farmer-paid share of premium under this program be no less than 20 percent. (Section 12011)

*(22) Denial of claims*

The Senate amendment clarifies that approved insurance providers are only liable for lawsuits in Federal District courts for denial of claims if that claim is denied at the behest of the Federal Crop Insurance Corporation, not if they deny such claims themselves. (Section 1910)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12013)

*(23) Measurement of farm-stored commodities*

The Senate amendment allows farmers the option to elect to have the Farm Service Agency measure the quantity of crops stored on farms for the purpose of providing evidence on their level of losses, at their own expense. (Section 1911)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with modifications. It allows farmers basing their crop insurance loss claim on measurement of farm-stored commodities to defer settlement of that claim for up to 4 months to allow stored grain to settle in the bin. (Section 12014)

*(24) Malting barley*

The Senate amendment allows RMA to modify the quality endorsement for malting barley to take into account changing market conditions. (Section 1929)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12019)

*(25) Producer eligibility*

The Senate amendment makes producers who raise livestock under contract eligible to purchase coverage, as long as those livestock are not covered by other policies reinsured under the Federal crop insurance program. (Section 1916)

The House bill contains no comparable provision.

The Conference substitute drops the Senate provision, but includes a requirement that the Risk Management Agency offer to enter into a contract to develop an insurance policy for poultry production elsewhere in the title.

*(26) Camelina pilot program*

The Senate amendment requires the Federal Crop Insurance Corporation to develop a pilot program under which producers or processors of camelina (an oilseed suitable for use as a feedstock for biodiesel) may propose for approval by the Board policies or plans of insurance in accordance with existing procedures under Section 508(h). Camelina producers would be made eligible for the Noninsured Crop Assistance Program (NAP) until a crop insurance policy is made available. (Section 1920)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with slight modification to simply list camelina as a NAP eligible crop. (Section 12025)

*(27) Agricultural management assistance*

The Senate amendment permits the Secretary to utilize funds available for agricultural management assistance to provide matching funds to states providing additional discounts on farmer-paid premiums in underserved states. (Section 1923)

The House bill contains no comparable provision.

The Conference substitute drops the Senate provision.

*(28) Crop insurance mediation*

The Senate amendment allows producers involved in a dispute over a crop insurance claim to utilize both informal agency review and mediation to reach a resolution, so the producer would not necessarily have to choose between the two paths. (Section 1924)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12032)

*(29) Perennial crop report*

The Senate amendment requires the Secretary to submit a report within 180 days of enactment to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture that addresses issues relating to declining yields in producers—actual production histories (APH), and declining and variable yields for perennial crops, including pecans. (Section 1928)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with a title change. (Section 12030)

The Managers recognize risk management challenges faced by producers, especially with respect to declining yields in light of increases in premiums. The Managers also understand that there are unique issues with yield variability for perennial crops, such as pecans. The Managers are interested in the Department of Agriculture's activities to address these issues and options that the Department has to address these issues administratively.

*(30) Definition of basic unit*

The Senate amendment maintains definition of basic unit in crop insurance for producers of tobacco. (Section 1930)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12031)

SUBTITLE B

*(31) Short Title and Definitions (12051 and 12052)*

*(32) Disaster Loans to Nonprofits*

The Senate amendment provides the Small Business Administration (SBA) Administrator with the discretion to make loans to non-profit organizations located or operating in a declared disaster area, and to provide services to persons evacuated from any disaster area. (Section 11121)

The House bill contains no comparable provision.

The Conference substitute amends the Senate provision and renames the provision ''Economic Injury Disaster Loans to Nonprofits'', with alternate language that will permit private nonprofit organizations to qualify for disaster assistance within the disaster area. (Section 12061)

The Managers do not, however, intend for this amendment to extend SBA disaster assistance to private nonprofit organizations located outside designated disaster areas.

The Conference substitute also adds a section titled ''Applicants That Have Become a Major Source of Employment Due to Changed Economic Circumstances''. This provision permits small businesses that were not a major source of employment prior to the disaster, but which subsequently are a major source of employment following the disaster, to qualify for disaster loans beyond the current statutory limit. (Section 12077)

The Managers intend for this provision to authorize the SBA to administer the disaster loan program with reference to the borrower's circumstances relative to the local area's economic conditions when the loan application is made and not rely solely upon the loan applicant's status as a major source of employment prior to the disaster.

*(33) Disaster loan amounts*

The Senate amendment raises the maximum outstanding loan amounts available to borrowers from the current level of $1,500,000, capping it at $2,000,000 subject to the discretion of the SBA based upon the economic conditions in the affected disaster region. (Section 11122)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 12078)

The Conference substitute adds a provision titled, ''Increased Deferment Period'', which will provide disaster victims with an option of receiving a four year deferment period for disaster loans. (Section 12068)

The Managers intend for this provision to provide the SBA with authority to provide disaster victims with a deferment beyond the current two-year deferment authority so that they may rebuild homes and businesses and reestablish income streams before beginning repayment of their SBA disaster loan. The Managers intend for extended deferment periods to be implemented at the discretion of the Administrator. Additionally, while the Managers do not intend for loan repayments to occur during deferments, interest should continue to accrue on loans during the deferment period.

The Conference substitute also adds a provision titled, ''Net Earnings Clauses Prohibited'', which will preclude the imposition of loan terms that require supplemental repayment amounts on disaster assistance loans during the first five years of repayment. (Section 12070)

The Managers believe that this provision will benefit capital-intensive businesses that receive SBA disaster assistance loans and require earnings for reinvestment in the business to remain profitable. The Managers do not, however, intend for this provision to completely prohibit the SBA from imposing a net earnings clause, it simply precludes imposing these terms within the first five years of loan repayment.

And the Conference substitute adds a provision called, ''Gulf Coast Disaster Loan Refinancing Program'', which enables the SBA, at their discretion, to institute a program to refinance Gulf Coast disaster loans resulting from Hurricanes Katrina, Rita, or Wilma up to an amount no greater than the original loan. (Section 12086)

*(34) Small Business Development Center portability grants*

The Senate amendment grants the SBA the ability to make an award to a Small Business Development Center (SBDC) greater than $100,000 due to extraordinary circumstances after a catastrophic disaster. (Section 11123)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

*(35) Assistance to out-of-state businesses*

The Senate amendment authorizes SBDCs outside of the geographic region of a disaster area to provide assistance to small businesses located within a declared disaster area at the discretion of the Administrator. (Section 11124)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

*(36) Outreach programs*

The Senate amendment establishes a procurement outreach and technical assistance program at the discretion of the Administrator following a disaster declaration. (Section 11125)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

*(37) Small business bonding threshold*

The Senate permits the Administrator to guarantee any surety against loss on a bid bond, payment bond, or performance bond that does not exceed $5,000,000.

Additionally, the provision would authorize the Administrator to guarantee bonds related to reconstruction efforts following a major disaster in amounts of up to $10,000,000 upon the request by the head of any Federal Agency involved in reconstruction efforts (Section 11126)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment but requires that these initiatives only be carried out with amounts appropriated in advance specifically for their purpose. (Section 12079)

*(38) Termination of program*

The Senate amendment terminates the Small Business Competitive Demonstration Program Act of 1988. (Section 11127)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

*(39) Increasing collateral requirements*

The Senate amendment increases the loan amount under which collateral is not required from $10,000 to $14,000 (or higher as deemed appropriate by the Administrator). (Section 11128)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12065)

*(40) Public awareness of disaster declaration and application periods*

The Senate amendment enhances coordination between the SBA and Federal Emergency Management Agency (FEMA) disaster assistance application periods, and outlines a Congressional reporting requirement on information relating to SBA and FEMA disaster assistance applications. The provision also requires that the SBA communicate information on disaster assistance availability to the public through all available channels of communication. The section also requires that the SBA create a marketing and outreach plan to convey disaster assistance eligibility and application requirements. (Section 11129)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision (Section 12063).

The Conference substitute adds a provision titled, ''Coordination of Disaster Assistance Programs with FEMA'' that will require the SBA to establish uniform guidelines in consultation with the director of the FEMA to provide for the coordination of their assistance programs. Specifically, the provision requires the SBA to establish regulations to ensure that applications for disaster assistance are submitted to the appropriate agency as quickly as is practicable.

The Managers intend for these regulations to remedy problems that arise when the SBA's disaster loan program is used as a screening mechanism for FEMA's disaster assistance grants. Additionally, the Managers intend for these regulations to limit the need for the SBA to first consider disaster loan applications from victims who are patently ineligible for SBA assistance as a precondition to consideration for FEMA assistance. (Section 12062)

The Conference substitute also adds a provision titled, ''Information Tracking and Follow-up System'', which will require the SBA to develop, implement, or maintain a centralized information system to track all communications (written, e-mail and phone) between disaster victims and SBA personnel concerning the status of their application. At a minimum, this system must record the method and date of communication and the identity of the SBA employee involved and a summary of the communication. It also requires the SBA to provide follow-up communications to disaster victims as their disaster loan proceeds through critical stages of the origination, approval and disbursement process.

The Managers intend for this section to address deficiencies in the SBA's current systems for tracking and organizing information that result in lost documentation, repeated status updates from applicants, and misinformed SBA personnel. (Section 12067)

The Conference substitute also adds a provision titled, ''Economic Injury Disaster Loans in Cases of Ice Storms and Blizzards'', which will add ice storms and blizzards to the list of enumerated disasters for which a small business disaster may be declared. (Section 12071)

*(41) Consistency between administration regulations and standard operating procedures*

The Senate amendment contains a provision requiring the SBA to conduct a study of whether the standard operating procedures for administering disaster loan assistance are consistent with the Administration's regulations for administering the disaster loan program. (Section 11130)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12064)

*(42) Processing disaster loans*

The Senate amendment authorizes the SBA to enter into agreements to pay qualified private contractors a fee for processing SBA disaster loan applications during any

major disaster declaration. This provision would also authorize the Administrator to enter into agreements to pay qualified lenders or loss verification professionals a fee for performing loan loss verification services. Additionally, this section would require the SBA Administrator and the Internal Revenue Service Commissioner to ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner upon request by the Administrator.

The Managers do not intend for this provision to authorize the SBA to delegate all their disaster loan disbursement or servicing functions with private contractors. Nor do the Managers intend for this provision to abrogate the SBA's authority to approve or disapprove disaster loan applications. (Section 11131)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12066)

The Conference substitute adds a provision titled, ''Disaster Processing Redundancy'', which will require the SBA to maintain a backup disaster processing operation in a separate geographic location from the primary processing operation. The backup facility must be capable of taking over all disaster loan processing from the SBA's primary facility within two days following a disaster, which renders the primary facility inoperable. (Section 12069)

The Managers intend for this provision to mitigate the risk associated with the practice of maintaining a single primary disaster processing facility.

The Conference substitute also adds a provision titled, ''Plans to Secure Additional Office Space'', which requires the SBA to develop long-term plans to secure sufficient space to accommodate an expanded workforce in times of disaster. (Section 12076)

*(43) Development and implementation of major disaster response plan*

The Senate amendment contains a provision that would require the SBA to amend the 2006 Atlantic Hurricane Season Disaster Response Plan to apply to all major disasters, and report to Congress on its progress. Additionally, this provision would require the SBA to develop and execute simulation exercises within six months of submitting its report to Congress to demonstrate the effectiveness of the updated response plan. (Section 11132)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment and requires the SBA to conduct a disaster simulation exercise at least once every two fiscal years that includes, at a minimum, the participation of not less than half of the agency's disaster reserve corps. Additionally, the biennial disaster simulation exercise should include stress-testing of the agency's vital information technology and telecommunications system, including various aspects of the SBA's current loan processing and call support systems, the DCMS system, the core application functions, and additional components such as loss verification and scanning systems. This stress-testing should simulate an increased number of concurrent users to determine whether the complete system, operating at maximum capacity will meet the agency's needs for effective and accurate operations in a major disaster. Additionally, the biennial disaster simulation exercise should be based upon the most serious disaster scenarios that the agency has identified in the comprehensive disaster response plan and the agency should change the disaster scenario and the geographic region upon which each disaster simulation is predicated. (Section 12072)

The Conference substitute adds a provision titled ''Comprehensive Disaster Response Plan'', which requires the SBA to develop, implement, or maintain a comprehensive written disaster response plan. The plan should include a risk-based assessment of the various types of disasters likely to occur in each of the agency's 10 districts. Each assessment should include an analysis of the SBA's needs for an effective response to each disaster scenario, with emphasis on strategies to meet rapidly expanding demand for information technology, telecommunications, human resources, and office space needs. Additionally, the comprehensive plan should include appropriate guidelines for coordination with other federal agencies as well as with State and local authorities to effectively respond to each disaster and best utilize agency resources. In developing the comprehensive plan, the SBA should integrate the results of disaster simulation exercises and catastrophe modeling programs to generate its disaster risk assessments and estimate the demand on agency resources. Additionally, the agency must include a report on the status of the disaster plan, highlighting any changes and developments from previous years, in its annual report to Congress as required by this Act. (Section 12075)

*(44) Disaster planning responsibilities*

The Senate amendment requires the SBA to assign disaster planning responsibilities to a qualified employee who is not an employee of the Office of Disaster Assistance. (Section 11133)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with changes. The SBA must create a new position within the agency that is solely and exclusively dedicated to the function of disaster planning and readiness. The individual appointed to this position will be appointed by the Administrator and will report directly and solely to the Administrator. The individual must have substantial expertise in the field of disaster readiness and emergency response and should have proven management ability. (Section 12073)

The Managers intend for this individual to serve as a high-level administration official who operates independently from all of the agency's existing offices and who has exclusive authority over the disaster planning function. Additionally, this provision mandates that the Administrator ensure that the individual assigned the disaster planning function has adequate resources to carry out their enumerated duties. .

*(45) Additional authority for the district offices of the Administration*

The Senate amendment gives the SBA the ability to grant district offices permission to process disaster loans and requires the SBA to designate an employee in each district office to act as a disaster loan liaison between the processing center and the applicants. (Section 11134)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

*(46) Assignment of employees of the Office of Disaster Assistance and Disaster Cadre*

The Senate amendment requires that the Administrator may, where practicable, ensure that the number of full-time equivalent employees be maintained at 800 for the Office of Disaster Assistance and at 750 for the SBA's Disaster Cadre. If the staffing level for either of those offices falls below the statutorily mandated limit, the Administrator is required to submit a report to Congress and request additional funds if necessary. (Section 11135)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, but raises the minimum staffing levels for the Disaster Cadre to 1,000. (Section 12074)

*(47) Small Business Act Catastrophic National Disaster Declaration*

The Senate amendment establishes a new Presidential disaster declaration that would have existed solely within the Small Business Act known as a ''Small Business Act Catastrophic National Disaster Declaration.'' The Senate amendment would also give the Administrator the authority to make economic injury disaster to loans to businesses located outside the designated disaster area. (Section 11141)

The House bill contains no comparable provision.

The Conference substitute amends the Catastrophic Disaster Declaration and entitles it ''Eligibility for Additional Disaster Assistance,'' which authorizes the Administrator to declare eligibility for additional disaster assistance following a Presidential major disaster declaration that rises to the level of a catastrophic incident. The Managers do not intend for every major disaster to give rise to a declaration of eligibility for additional disaster assistance, but intend that the SBA authorize this additional disaster assistance only in the most extraordinary and devastating of catastrophic incidents that render the SBA's conventional disaster assistance programs inadequate or ineffective. The Managers intend that, when determining whether additional disaster assistance is to be made available, the SBA should ensure that the eligible disaster must be similar in size or scope to the terrorist attacks that occurred on September 11, 2001 or hurricanes ''Katrina'' or ''Rita'' that struck the U.S. Gulf Coast in 2005. (Section 12081)

The Conference substitute adopts a portion of this Senate provision and adds a section titled, ''Additional Economic Injury Disaster Loan Assistance,'' which authorizes the Administrator to make economic injury disaster loans to small businesses located outside the disaster area that have suffered identifiable economic injury as a direct result of a major disaster for which the Administrator has declared eligibility for additional disaster assistance.

The Managers intend that businesses receiving assistance under this provision have suffered damage that was proximately caused by the disaster. Additionally, the Managers do not intend for this provision to displace the timely processing and disbursement of disaster assistance applications for businesses that are actually located within the designated disaster area. This provision further details eligibility requirements for affected businesses and provides for the suspension of the program if it has a significant negative impact on normal SBA loan processing times. (Section 12082)

*(48) Private disaster loans*

The Senate amendment provides definitions of key terms and defines the parameters for authorization and use of Private Disaster Loans. The provision allows the SBA to guarantee timely payment of principal and interest on private loans issued to eligible small businesses and homeowners within an eligible disaster area, and the provision establishes an online application. The SBA may guarantee no more than 85 percent of a loan, worth a maximum amount of $2 million. Within one year the SBA must issue permanent regulations and criteria. The SBA is also given the authority to reduce the interest rate on any loan. (Section 11142)

The House bill contains no comparable provision.

The Conference substitute adopts a portion of the Senate provision and further requires the SBA to implement a Private Disaster Assistance program, whereby the SBA may guarantee timely payment of principal and interest of up to 85 percent of disaster loans made to eligible small businesses and homeowners within an eligible disaster area following a major disaster for which the Administrator declares eligibility for additional assistance. The SBA is also given authority to establish an online application process for private disaster loans and may permit lenders to use their own documentation. Loans administered under the program, however, must carry the same interest rate and be made on the same terms and conditions as SBA disaster loans made under the existing 7(b) disaster assistance program, and the SBA may use funds appropriated to the 7(b) program to fulfill this requirement. Private disaster loans for homeowners, however, may only be made by lenders who participate in the SBA's Preferred Lender Program. By contrast, loans for small businesses may be made by any lender who meets the agency's qualification requirements, or by a Preferred Lender who also makes loans to homeowners. (Section 12083)

*(49) Technical and conforming amendments*

(Section 11143)

*(50) Expedited Disaster Assistance Loan Program*

The Senate amendment requires the Administrator to set up an Expedited Disaster Assistance Loan program in consultation with Congress, appropriate lenders and creditors, SBDCs, and appropriate offices within the Small Business Administration. The loans, made to borrowers otherwise eligible for loans under the Small Business Act, shall not exceed $150,000, exceed 180 days in length, and be more then one percent over the prime rate. (Section 11144)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment and requires that the loans only be made by private institutions and the Administrator may guarantee timely payments of principal and interest. (Section 12085)

The Conference substitute also adds a provision titled ''Immediate Disaster Assistance Program,'' which will establish an SBA disaster loan program to provide small businesses with immediate, small-dollar loans administered through private sector lenders after any disaster. Loans made under the program would carry an 85 percent guarantee on amounts up to $25,000. Loans made under this program would also be contingent upon the business applying for and meeting basic criteria for a subsequent SBA disaster loan, and the outstanding loan balance must be repaid with the proceeds of the conventional SBA loan. (Section 12084)

The Managers intend for both the Immediate Disaster Assistance Program and the Expedited Disaster program to function as bridge financing programs for businesses that are awaiting approval or disbursement of funds under the SBA's conventional disaster loan program. The Immediate Disaster assistance program is intended to provide eligible small business concerns with emergency, small-dollar financing within 36 hours following a disaster pending the victim's receipt of a conventional disaster loan. This contrasts the SBA's current loan program which has a target approval timeframe of 21 days and is intended to provide the disaster victim with long-term, low-interest assistance. The Expedited Disaster program is intended to provide bridge loans to disaster victims eligible for the 7(b) program who need a greater amount of funding. The loans are also intended to be disbursed more quickly than a standard SBA disaster loan.

*(51) HUBZones*

The Senate amendment makes any area designated as a Catastrophic National Disaster Area a HUBZone, as well as all disaster areas designated as a result of Hurricane Katrina or Rita. This designation shall persist for the two-year period beginning on the date of the designation of the area as a Small Business catastrophic national disaster area, or longer at the discretion of the SBA. (Section 11145)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

*(52) Congressional oversight*

The Senate amendment requires the submission of monthly reports on disaster loan programs to Congress detailing lending volume and activity, as well as daily updates during a Presidential disaster declaration. The SBA would also be required to submit a report to Congress every six months (for up to 18 months after the President declares a major disaster), detailing the numbers of contracts awarded to various types of small businesses in the area, as well as a report that details how the SBA can improve the processing of applications under the Disaster Loan Program. (Section 11161)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment and requires the SBA to submit to Congress a report on the Disaster Assistance Program performance during the previous fiscal year. This report will cover changes in staffing, technology, and a review of challenges encountered and overall results. Additionally, during any period for which the Administrator has declared eligibility for additional assistance, the SBA is required to make monthly reports to Congress with basic information on their disaster response. During a Presidential disaster declaration period, the SBA must submit weekly updates to Congress, as opposed to daily updates in the original Senate amendment. The Conference substitute changes the name to ''Reports on Disaster Assistance'' (Section 12091)

TITLE XIII—AMENDMENTS TO COMMODITY EXCHANGE ACT

*(1) Short title*

The Senate amendment cites this title as the ''CFTC Reauthorization Act of 2008''. (Section 13001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 13001)

*(2) Commission authority over off-exchange retail foreign currency transactions*

The Senate amendment amends section 2(c)(2) of the Commodity Exchange Act (CEA) (7 U.S.C. 2(c)(2)) by clarifying that the Commodity Futures Trading Commission's (Commission) anti-fraud authority applies to retail off-exchange foreign currency (forex) transactions that are: (i) offered to, or entered into with, a person that is not an eligible contract participant (i.e., a retail customer); and (ii) offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty, on a similar basis.

If the test in new section 2(c)(2)(C) is met, courts will no longer have to decide whether forex transactions that meet these requirements are futures contracts in order to permit the Commission to pursue an action for fraud. But since CEA section 4b remains limited by its terms to futures, a new provision (section 2(c)(2)(C)(iv)) is added to ensure that section 4b applies to all covered forex transactions (e.g., ''rolling spot'' or other futures look-alike products) ''as if'' they were futures contracts. Under this provision, the Commission need not prove that such transactions are futures in order to establish a fraud violation. However, this provision is not intended to suggest, nor does it create a negative inference, that such contracts are not futures contracts.

The phrase ''leveraged or margined basis'' is not limited to the same type of leverage or margin that exists for trading in on-exchange markets. The fact that off-exchange transactions are at issue means that they are likely to operate differently from exchange-traded instruments in this regard.

Excluded from new section 2(c)(2)(C) are: (i) transactions offered or entered into by certain otherwise-regulated entities, such as financial institutions, broker-dealers, and insurance companies; (ii) securities that are not security futures products; and (iii) transactions that create an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business. The term ''line of business'' in new section 2(c)(2)(C)(i)(II)(bb)(BB) refers to any legitimate line of business, not just a foreign exchange business. The reference to ''an enforceable obligation to deliver'' in connection with a ''line of business'' emphasizes the commercial nature of this exclusion.

The Senate amendment explicitly reserves CEA sections 2(a)(1)(B) (principal-agent liability); 4(b) (foreign markets); 4o (fraud by commodity pool operators and commodity trading advisors); 13(a) (aiding and abetting liability); and 13(b) (controlling person liability) with respect to fraudulent forex activities.

While the secondary liability provisions of principal-agent, aiding-abetting, and controlling-person liability were implied in the Commodity Futures Modernization Act of 2000 (CFMA), these amendments make that reservation of Commission anti-fraud authority explicit. The amendments are not intended to suggest, nor do they create a negative inference, that these secondary liability provisions are not available in actions brought under other sections of the CEA where Commission anti-fraud or anti-manipulation authority is reserved, such as CEA sections 2(h)(2), 2(h)(4), and 5d(c).

The Senate amendment also provides authority to the Commission to issue rules proscribing fraud in connection with any agreement, contract or transaction in an exempt or agricultural commodity that is (i) offered to, or entered into with, a person that is not an eligible contract participant (i.e., a retail customer); and (ii) offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty, on a similar basis. (Section 13101)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment.

With the amendment, the managers intend to address several additional problems currently resulting in consumers being the victims of fraud related to off-exchange foreign currency transactions. The CFMA permitted registered Futures Commission Merchants (FCM) to offer foreign currency trading to the public without requiring that they be substantially or primarily engaged in the business of exchange-traded futures.

Since passage of the CFMA, the Managers note that an inordinate number of fraudulent schemes are currently implemented through shell FCMs and their unregistered affiliates. These shell FCMs meet minimal requirements for FCMs and typically conduct little, if any, traditional on-exchange business of an FCM. Their purpose instead is to serve as the parent company for their unregistered affiliates. It is the unregistered affiliates that will typically conduct the retail sale of foreign currency contracts. Unregistered affiliates of a shell FCM are subject to little if any regulatory oversight, making them harbors for fraudulent schemes.

The amendment addresses the problem of shell FCMs and unregistered affiliates by providing that only FCMs that are primarily or substantially engaged in the buying and/or selling of futures contracts on a Designated Contract Market or Derivatives Transaction Execution Facility, or a material affiliate of such an FCM are lawful FCM or FCM-affiliate counterparties for a retail transaction in foreign currency.

The Managers intend that the Commission will utilize the rulemaking authority provided in this section to define when a registered futures commission merchant is primarily or substantially engaged in the buying and/or selling of futures contracts as described in CEA section 1a(20) for the purposes of new provisions 2(c)(2)(B)(i)(II)(cc)(AA) and (BB).

A material affiliate is an affiliate for which an FCM is required to keep records relating to an affiliate's futures and financial activities under CEA section 4f(c)(2)(B). The amendment provides that FCMs and FCM-affiliates must maintain minimum net capital of $20 million to be a lawful counterparty. This capital requirement is phased in over a period of one year.

The amendment provides for a new category of dealer known as a ''retail foreign exchange dealer'' (RFED). The amendment provides that RFEDs also must maintain a minimum of $20 million in net capital to be a lawful counterparty for a retail off-exchange foreign transaction. This capital requirement is phased in over a period of one year.

The purpose of imposing a $20 million minimum capital requirement on FCMs, FCM-affiliates, and RFEDs is to ensure that forex dealers utilizing these classifications to conduct retail foreign currency business are sufficiently capitalized to ensure their financial soundness—especially given that many entities in this area run what are essentially off-exchange, retail forex markets.

In addition to maintaining a minimum of $20 million in adjusted net capital, the managers expect the Commission to use the rulemaking authority provided under this section to promulgate any other requirements necessary to ensure the financial soundness of RFEDs.

The rules and regulations issued under this section should appropriately address the level of financial risk posed by RFEDs and their operations. To the extent their risk profiles are similar, the managers intend for FCMs and RFEDs to be regulated substantially equivalently in terms of their off-exchange retail foreign currency business. The managers do not intend for the Commission to provide either FCMs or RFEDs with a more favorable regulatory environment over the other or create two significantly different regulatory regimes for similar business models—to the extent the financial risks posed by such operations are similar.

In addition to regulatory authority over FCMs and RFEDs, the amendment provides the Commission with greater authority over participants in the off-exchange foreign currency trading industry who are not the actual counterparty to the transaction to ensure that the Commission has authority needed over these industry participants to take action to address fraudulent or deceptive practices.

The amendment strikes the Senate provision to provide authority to the Commission to issue rules proscribing fraud in connection with any agreement, contract or transaction in an exempt or agricultural commodity that is (i) offered to, or entered into with, a person that is not an eligible contract participant (i.e., a retail customer); and (ii) offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty, on a similar basis. (Section 13101)

*(3) Liaison with Department of Justice*

The Senate amendment requires the Attorney General to designate a liaison between the Department of Justice and the Commission to coordinate civil and criminal investigations and prosecutions of violations of the CEA. (Section 13102)

The House bill contains no comparable provision.

The Senate recedes.

*(4) Anti-fraud authority over principal-to-principal transactions*

The Senate amendment amends section 4b of the CEA (7 U.S.C. section 6b) to clarify that the CEA gives the Commission the authority to bring fraud actions in off-exchange ''principal-to-principal'' futures transactions. Subsection 4b(a)(2) is amended by adding the words ''or with'' to address principal-to-principal transactions on the new markets and trading venues permitted under the CFMA. This new language clarifies that the Commission has the authority to bring anti-fraud actions in off-exchange principal-to-principal futures transactions, including exempt commodity transactions in energy under section 2(h), as well as transactions conducted on derivatives transaction execution facilities. The prohibitions in subparagraphs (A) through (D) of the new section 4b(a) would apply to all transactions covered by paragraphs (1) and (2).

Derivatives clearing organizations are not subject to fraud actions under section 4b in connection with their clearing activities.

The amendments to CEA section 4b(a) regarding transactions currently prohibited under subparagraph (iv) (found in new subparagraph (D)) are not intended to affect in any way the Commission's historical ability to prosecute cases of indirect bucketing of orders executed on designated contract markets. (See, e.g., Reddy v. CFTC, 191 F.3d 109 (2nd Cir. 1999); In re DeFrancesco, et al., CFTC Docket No. 02–09 (CFTC May 22, 2003) (Order Making Findings and Imposing Remedial Sanctions as to Respondent Brian Thornton)).

These amendments should not be interpreted or understood as calling into question the Commission's historical use of section 4b to address principal-to-principal trading in the retail context on regulated futures exchanges. (Section 13103)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 13102)

*(5) Criminal and civil penalties*

The Senate amendment amends the CEA to double the civil and criminal penalties available for certain violations of the CEA such as manipulation, attempted manipulation, and false reporting. The increased civil monetary penalties in the Reauthorization Act are intended to render the CEA's penalty provisions comparable to the penalty provisions that Congress enacted in the Energy Policy Act of 2005 for manipulation cases brought by the Federal Energy Regulatory Commission with respect to physical energy markets. (Section 13104)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. The amendment addresses technical drafting issues. (Section 13103)

*(6) Authorization of appropriations*

The Senate amendment authorizes such sums as may be necessary to carry out the Act for fiscal years 2008 through 2013. (Section 13105)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 13104)

*(7) Technical and conforming amendments*

The Senate amendment contains various amendments to correct statutory errors and other conforming changes. (Section 13106)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. The amendment makes additional technical and conforming changes to the CEA.

The amendment amends section 1(a)(33) of the CEA (7 U.S.C. 1). The definition of ''trading facility'' under the CEA is a key criterion for defining a number of categories of regulated markets (e.g., designated contract markets, derivatives transaction execution facilities), exempt markets (e.g., exempt commercial markets, exempt boards of trade) and excluded markets (e.g., CEA section 2(d)(2)). By amending the definition of trading facility, the Managers address a concern where the Commission's jurisdiction could be compromised if novel auction systems which aggregate the market sentiments of multiple participants to derive a market price according to a pre-determined algorithm were to fall outside the agency's regulatory ambit. The definition of ''trading facility'' has been amended to anticipate and include, prospectively, markets which utilize automated trade matching and execution algorithms.

Section 4a(e) of the CEA provides, among other things, that it is a violation of the CEA, for any person to violate a speculative limit rule of a designated contract market, derivatives transaction execution facility, or other board of trade if that rule has been approved by the Commission. section 5c(c) of the CEA, though, permits exchanges to certify such rules rather than submit them for prior Commission approval. The Managers amend section 4a(e) to bring it into harmony with the CEA provisions regarding certification of exchange rules. Specifically, the Managers amend section 4a(e) to provide that it is a violation of the CEA, for which the Commission may bring an enforcement action, for any person to violate a speculative limit rule that has been certified by a registered entity.

The Managers are concerned that complainants seeking to enforce an award received through the Commission's reparations process are facing difficulties in obtaining relief from Federal District courts. Accordingly, the Managers include language in this amendment amending section 14(d) of the Commodity Exchange Act (7 U.S.C. 18) to provide that Commission reparations awards are directly enforceable in Federal District courts as if they were local judgments pursuant to 29 U.S.C. 1963. The Managers also provide that the amendment shall operate retroactively. (Section 13105)

*(8) Portfolio margining and security index issues*

Following enactment of the CFMA, the Commission and Securities and Exchange

Commission (SEC) jointly promulgated rules relating to the margining of security futures products (SFP). Under those rules, SFPs have been subject to the same fixed-rate strategy-based margining scheme applicable to security options customer accounts, rather than the risk-based portfolio margining system typical in the futures industry. Many have argued that this has contributed to the low volume of trading in SFPs which, by contrast, have been successful in Europe. The Senate amendment directs the Commission and SEC to use their existing authorities by September 30, 2008, to allow customers to benefit from the use of a risk-based portfolio margining system for both security options and SFPs.

The detailed statutory test of a narrow-based security index was tailored to fit the U.S. equity markets, which are by far the largest, deepest and most liquid securities markets in the world. The amendment provides clarity in this area by requiring the Commission and the SEC to take action under their existing authorities to promulgate, by June 30, 2008, final rules providing criteria that will exclude broad-based indexes on foreign equities from the definition of narrow-based security index as appropriate. (Section 13107)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the deadlines to September 30, 2009 for implementing portfolio margining and June 30, 2009 for promulgating criteria for excluding broad-based indexes on foreign equities from the definition of narrow-based security index as appropriate. (Section 13106)

*(9) Significant price discovery contracts*

The Senate amendment provided for greater regulation of contracts traded on exempt commercial markets (ECM) that fulfill a price discovery function. It sets forth criteria for the Commission to consider in determining whether an ECM contract qualifies as a significant price discovery contract (SPDC). These criteria include: (i) price linkage; (ii) arbitrage; (iii) material price reference; and (iv) material liquidity and other such material factors as the Commission specifies by rule.

The amendment applies core principles to ECM contracts that are determined to perform a significant price discovery function by the Commission. These Core Principles are derived from selected DCM core principles and designation criteria set forth in CEA section 5. These core principles include those relating to: contracts not being readily susceptible to manipulation, monitoring of trading, the ability of the Commission to obtain information, position limitations or accountability limitations, emergency authority, daily publication of trading information, compliance with rules, and conflict of interest.

The amendment gives the electronic trading facility the explicit discretion to take into account differences between cleared and uncleared SPDCs only in applying the emergency authority and the position limits or accountability core principles and directs the Commission to take such differences into consideration when reviewing implementation of such principles by the electronic trading facility in (7)(D);

The amendment requires an electronic trading facility to notify the Commission whenever it has reason to believe that an agreement, contract or transaction conducted in reliance on the exemption provided in 2(h)(3) displays any of the factors relating to a significant price discovery function described in subparagraph (7)(B); and directs the Commission to conduct an evaluation at least once a year to determine whether any agreement, contract or transaction conducted on an electronic trading facility in reliance on the exemption in 2(h)(3) performs a significant price discovery function in (7)(E). (Section 13201)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. With the amendment the Managers make several changes to the Senate provision.

The Managers provide that the Commission shall promulgate rules and regulations to implement the authorities provided by this Act regarding significant price discovery contracts. The Senate provision had originally made such promulgation discretionary. The Managers also allow the Commission to consider the potential for arbitrage between a potential SPDC and an existing SPDC in making a determination whether a contract is a SPDC.

The Managers amend the Senate provision to make clear that an electronic trading facility shall have reasonable discretion to account for differences between cleared and uncleared contracts in complying with all the core principles applicable under this Act to SPDCs.

The Managers amend the Senate provision to make clear that in determining appropriate position limits or position accountability limits under this Act, an electronic trading facility shall consider cleared swaps transactions that are treated by a derivatives clearing organization as fungible with significant price discovery contracts. The Managers also amend the Senate language to apply the conflict of interest and antitrust considerations core principles to electronic trading facilities only with respect to SPDCs traded on such facilities.

Not all the listed factors must be present to make a determination that a contract performs a significant price discovery function. However, the Managers intend that the Commission should not make a determination that an agreement, contract or transaction performs a significant price discovery function on the basis of the price linkage factor unless the agreement, contract or transaction has sufficient volume to impact other regulated contracts or to become an independent price reference or benchmark that is regularly utilized by the public.

The core principles that apply to SPDCs are derived from selected DCM core principles and designation criteria set forth in CEA section 5, and the Managers intend that they will be construed in like manner as the DCM core principles.

The Managers do not intend that the Commission conduct an exhaustive annual examination of every contract traded on an electronic trading facility pursuant to the section 2(h)(3) exemption, but instead to concentrate on those contracts that are most likely to meet the criteria for performing a significant price discovery function.

The Managers further intend that the Commission should conduct such examinations in the course of its normal monitoring of ECM contracts and surveillance of designated contract market and derivatives transaction execution facility contracts when considering the potential for arbitrage or price linkage as the basis for an SPDC determination. (Section 13201)

*(10) Large trader reporting*

The Senate amendment amends CEA section 4g to require reporting and recordkeeping of every person registered with the Commission regarding the transactions and positions of such person in any SPDC traded or executed on an electronic trading facility. It also amends CEA section 4i to make any person buying or selling SPDCs on an electronic trading facility subject to reporting requirements set by the Commission and to require such person to report and keep records on transactions or positions equal to or in excess of any reporting threshold the Commission has set. (Section 13202)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate Provision with amendment. The amendment provides that large trader reporting requirements imposed by this Act for SPDCs shall include contracts, transactions, or agreements that are treated by a derivatives clearing organization as fungible with SPDCs. (Section 13202)

*(11) Conforming amendments*

The Senate amendment provides various amendments to conform other areas of current law based on changes made in sections 13201 and 13202. The amendment provides that an electronic trading facility shall be considered as a registered entity for the purposes of the CEA and provides that the Commission shall have exclusive jurisdiction over significant price discovery contracts. (Section 13203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment.

The amendment included by the managers clarifies that the CEA's grant of exclusive jurisdiction to the Commission in CEA section 2(a)(1)(A) applies to significant price discovery contracts traded on ECMs. The amendment further clarifies that the provisions of the CEA made applicable to SPDCs traded on ECMs by this Act are not precluded by CEA section 2(h)(3).

The Managers note that in creating the new authorities contained in this Act, it is the intent of the Managers to enhance the Commission's authority over (2)(h)(3) markets under the CEA. It is the Managers' intent that this provision not affect FERC authority over the activities of regional transmission organizations or independent system operators because such activities are not conducted in reliance on section 2(h)(3). (Section 13203)

*(12) Effective date*

The Senate amendment: (1) provides that this subtitle shall become effective on the date of enactment of this Act, (2) requires the Commission to issue a proposed rule regarding the significant price discovery standards in section 13201(b) within 180 days of the date of enactment of this Act and a final rule within 270 days, and (3) requires the Commission to complete a review of the agreements, contracts and transactions of any electronic trading facility operating on the effective date of the final rule described in 13204(b) within 180 days after that effective date to determine whether such agreement, contract or transaction performs a significant price discovery function. (Section 13204)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment.

The amendment directs the Commission to conduct a rulemaking to implement a process for determining whether ECM contracts are SPDCs.

The managers note that although status as a registered entity would attach to an ECM upon the Commission's determination that a particular ECM contract serves a significant price discovery function, the managers intend that the Commission rulemaking include a grace period after a significant price discovery determination to enable the ECM to come into compliance with its newly-applicable core principles. Such a grace period,

which need only be made available to ECMs that have been determined to have a SPDC for the first time, should ensure that such ECMs have sufficient time to implement the necessary regulatory requirements and operations. (Section 13204)

TITLE XIV—MISCELLANEOUS

*For items 1 through 52 of the House bill and Senate amendment, see title XII—Crop Insurance.

*For items 53 through 79 and item 120 of the House bill and Senate amendment, see title XI—Livestock.

*(1) Prohibition on use of live animals for marketing of medical devices; fines under the Animal Welfare Act*

The House bill amends the Animal Welfare Act to prohibit using a live animal to demonstrate a medical device or product for marketing purposes or to train a sales representative to use such product. The prohibition does not apply to the training of medical personnel for a purpose other than marketing. The House language amends the Animal Welfare Act to set a cap for violations at not more than $10,000 for each violation. It specifies that each violation, each day that a violation continues, and each animal that is subject to each violation, shall be a separate offense. The House language also amends the Animal Welfare Act to require that the report to Congress also identify all research facilities, intermediate handlers, carriers, and exhibitors registered under section 6 of the Act. It strikes the provision requiring information and recommendations related to the Horse Protection Act. (Section 11316)

The Senate amendment contains no comparable provision.

The Conference substitute provides that fines under the Animal Welfare Act are increased from $2500 to $10,000. (Section 14214)

*(2) Protection of pets*

The House bill amends the Animal Welfare Act by replacing section 7. The new section provides a definition for person to be used only in this section. Person includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, pound, shelter, or other legal entity. This section prohibits research facilities or Federal research facilities from using a cat or dog for educational or research purposes if it was obtained from a permissible source. Also, no person may donate, sell, or offer a dog or cat to any research facility or Federal research facility unless it came from a permissible source. A permissible source is defined to mean a dealer licensed under AWA; a publicly owned pound registered with the Secretary and in compliance with the protection of pet standards outlines in the Act and has obtained the cat or dog from a legal owner, other than a pound or shelter; or a person that is donating the dog or cat that bred and raised it and owned it for not less than one year preceding donation; a research facility or Federal research facility licensed by the Secretary. In addition to existing penalties for violating the Animal Welfare Act this provision establishes an additional fine of $1,000 for each violation of this section. Nothing in this section requires a pound or shelter to donate, sell, or offer a dog or cat to a research facility. (Section 11317)

The Senate amendment is the same as the House bill. It adds a provision that would phase out the use of random source dogs and cats from class B dealers within five years after enactment of this act. (Section 11079)

The Conference substitute adopts the House provision with an amendment that defines Class B dogs and cats and requires the Secretary to review any independent reviews and recommendations by a nationally recognized panel on the use of Class B dogs and cats in federal research.

The Managers are aware of the concerns relating to the use of random source animals from Class-B dealers for medical research. As part of the Consolidated Appropriations Act, 2008 (P.L. 110–161), Congress requested an independent review by a nationally recognized panel of experts of the use of Class B dogs and cats in federally supported research. The National Academy of Science is in the process of conducting this review. Results from the review are expected to be finalized in the spring of 2009. The results of this study will help provide Congress information regarding the value of Class B dogs and cats in medical research. It is the Managers view upon completion of the review the House Committee on Agriculture and United States Senate Committee on Agriculture, Nutrition and Forestry should address whether to continue Class B dealers as a legitimate vendor of random source animals for medical research.

The Managers are also aware of concerns relating to how Class B dealers acquire random source animals. Under 9 CFR 2.132(d) dealers are prohibited from obtaining a dog or cat from any person who is not licensed (other than a pound or shelter), unless they obtain a certification (source record) that the animals were born and raised on that person's premises and, if the animals are for research purposes, that the person has sold fewer than 25 dogs and/or cats that year. The Animal and Plant Health Inspection Service (APHIS) conducts four unannounced inspections of each Class B dealer on an annual basis. During these inspections, APHIS conducts random trace back of source records. In addition, every 2 to 3 years APHIS does 100 percent trace back of every source record of all Class B dealers. APHIS data indicates a 95 percent trace back of these records. Understanding concerns raised about the validity of these source records, the Managers intend to ask the Government Accountability Office to review APHIS regulations to ensure they are sufficiently assuring the source of random source animals.

The Managers are also concerned with the humane handling and treatment of all animals. In section 14114, fines for violating the Animal Welfare Act are increased for the first time since 1985. (Section 14216)

*(3) Sense of the Senate on the U.S. Department of Agriculture's wildlife services competing against private industry for nuisance bird control work*

The Senate amendment contains a Sense of the Senate that USDA Wildlife Services should not compete nor condone competition with the private sector for business regarding the management of nuisance wildlife problems in urban areas where private sector services are available. Wildlife Services should inform cooperators of the availability of and their right to acquire services from private service providers prior to entering into any cooperative agreement for wildlife damage management activities. The Secretary of Agriculture should ensure that Wildlife Services does not aggressively compete with private pest management industry for European starling, house sparrow, and pigeon control work in urban areas where private sector services are available. The Secretary of Agriculture should rely on the scientific and widely excepted definitions to define the term urban rodent in order to clarify the express restrictions in law on Wildlife Services activities. Finally, the Secretary should direct Wildlife Service to work with private industry, through a Memorandum of Understanding, to delineate common areas of cooperation so that issue of competition are addresses, taking into account the interests of the wildlife resources and the need to manage damage caused by that resource. (Section 11085)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Secretary to continue and strictly enforce the current Wildlife Service Directive 3.101, ''Interfacing with Business and Establishing Cooperatives Programs,'' dated May 25, 2005. The Managers intend that the Secretary, consistent with this Directive, shall inform service requesters of the availability of other private service providers and their right to choose. The Managers strongly encourage the Secretary to ensure that Wildlife Services does not compete with professional pest management companies which manage nuisance birds such as European starlings, house sparrows, and pigeons in urban areas. The Managers strongly encourage the Secretary to enter into a Memorandum of Understanding with industry to address issues of competition for service, taking into account the ability of private entities to respond to requests for wildlife damage management and the common goal of both the Department and the private sector to meet the increasing need of managing damages caused by pests in urban areas.

*(4) Prohibitions on dog fighting ventures*

The Senate amendment amends section 26 of the Animal Welfare Act to strengthen penalties for dog fighting. Section 26(a)(1) of the AWA is amended to make it unlawful to knowingly sponsor or exhibit an animal in a dog fighting venture as defined later in this section. Section 26(b) of the AWA is amended to add it is illegal to knowingly sell, buy, posses, train, transport, deliver or receive any dog, other animal or offspring of the dog or other animal for the purpose of having them participate in a dog fighting venture. Section 26(f) of the AWA is amended to allow costs incurred for the care of animals seized or forfeited under this section to be recoverable from the owner. Subsection (g) is amended to include a definition for a dog fighting venture to mean any event that involves a fight between at least two animals, one being a dog, which is conducted for purposes of sport, wagering, or entertainment. An exclusion for hunting is also added. Section 49 of title 18, United States Code, is also amended to increase the penalty for violations of section 26 of the Animal Welfare Act to not more than five years imprisonment. (Section 11076)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a minor amendment. (Section 14207)

*(5) Domestic pet turtle market access; review, report and action on the sale of baby turtles*

The Senate amendment requires the Secretary of Health and Human Services, acting though the Commissioner of Food and Drugs, to determine the prevalence of salmonella in each species of reptile and amphibian sold legally in the United States to determine whether or not the prevalence of salmonella in these animals is not more than 10 percent less than the percentage of salmonella in pet turtles. If the prevalence is not more than 10 percent less than the percentage of salmonella in pet turtles the Secretary of Agriculture shall conduct a study of how pet turtles can be sold safely as pets in the United States. In conducting the study the Secretary shall consult with all relevant stakeholders. (Sections 11101, 11102, and 11103)

If the prevalence of salmonella in other amphibians and reptiles is greater than that of salmonella in pet turtles the Secretary shall prohibit the sale of those amphibians and reptiles.

The House bill contains no comparable provision.

The Conference substitute strikes this provision.

*(6) Importation of live dogs*

The Senate amendment adds a new section to the Animal Welfare Act (7 U.S.C. 2147) to restrict the importation of certain dogs for resale. This provision defines ''importer'' as any person who, for purposes of resale, transports into the United States puppies from a foreign country. Resale is defined to mean any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration. No dog shall be imported into the United States for purposes of resale unless the Secretary of Agriculture determines the dog is in good health; has received all necessary vaccinations; and is at least 6 months of age, if imported for resale. Exemptions are provided for dogs imported for research purposes or veterinary treatment. The Secretaries of Agriculture, Health and Human Services, Commerce, and Homeland Security will promulgate regulations necessary to implement this section. Failure to comply by an importer will result in the importer being subject to fines under section 19 of the Animal Welfare Act and providing for the care, forfeiture, and adoption of each applicable dog at the expense of the importer. (Section 3205)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. The Managers recognizes that Hawaii may have a unique situation arising out of Hawaii's current quarantine regulations. In the case of Hawaii, so long as the state continues to quarantine dogs imported from the mainland United States, the Secretary may permit an exception to allow the import of dogs under the age of 6 months from jurisdictions currently exempt from the Hawaii quarantine (i.e. Guam, Australia, New Zealand, and the British Isles) for resale in Hawaii, provided all other regulations of the Secretary, and of the State of Hawaii, are complied with. Any dogs imported into Hawaii pursuant to this exception shall not be shipped to any other jurisdiction within the United States for resale at less than 6 months of age.

The Managers do not intend for the exception for veterinary treatment to be used for routine veterinary care. This exemption is in place for emergency situations where the dogs in question are in need of immediate veterinary treatment and may not have the required vaccinations. Congress expects that such dogs would also be properly quarantined until the dogs are determined to be in good health as defined by regulations promulgated by the Secretary. Further, it is not the intent of Managers to prevent organizations from importing dogs under the age of 6 months in the event of an emergency, and transferring ownership or control of such dogs under the age of 6 months, provided such organization does not receive more than de minimus consideration for such adopted or transferred dogs. (Section 14210)

*(7) Outreach and technical assistance for socially disadvantaged farmers and ranchers and limited resource farmers and ranchers*

The House bill amends section 2501 of the Food, Agriculture, Conservation, and Trade Act (FACT Act) to specify that the 2501 Technical and Outreach Assistance Program is to be used to enhance the coordination, outreach, technical assistance, and education efforts authorized under USDA programs.

The House bill authorizes agencies within USDA to make grants and enter into contracts and cooperative agreements with a community-based organization in order to utilize the community-based organization to provide outreach and technical assistance. It requires the Secretary to submit to the House and Senate Agriculture Committees an annual report that includes the following: the recipients of funds made available under the 2501 Outreach and Technical Assistance Program; the activities undertaken and services provided; the number of producers served and the outcomes of such service; and the problems and barriers identified by entities in trying to increase participation by socially disadvantaged farmers and ranchers.

Section 11201(1)(C) provides mandatory funding in the amount of $15 million for each of the fiscal years 2008 through 2012. No more than 5 percent of the funds made available in each fiscal year are to be used for administrative expenses related to administering the 2501 Program.

Eligible entities are defined as any community-based organizations, networks, or coalition of community based organizations that have demonstrated experience in providing agricultural education or other agriculturally related services to and on behalf of socially disadvantaged farmers and ranchers and have provided to the Secretary documentary evidence of work with socially disadvantaged farmers and ranchers. (Section 11201)

The Senate amendment amends section 2501 of the Food, Agriculture, Conservation, and Trade Act (FACT Act) to specify that the 2501 Technical and Outreach Assistance Program is to be used to enhance the coordination, outreach, technical assistance, and education efforts authorized under USDA programs. The 2501 Program is to assist the Secretary in reaching socially disadvantaged farmers and ranchers and prospective socially disadvantaged farmers and ranchers, and improving the participation of those farmers and ranchers in USDA programs. The Secretary is required to submit and make publicly available a report that describes: (A) the accomplishments of the 2501 program, and (B) any gaps or problems in program service delivery, as reported by program grantees. Appropriations of up to $50,000,000 annually are authorized for fiscal years 2008–2012. No more than 5 percent of the funds made available in each fiscal year are to be used for administrative expenses related to administering The 2501 Outreach and Technical Assistance Program. The provision changes eligibility guidelines for potential grantees by extending from 2 to 3 years the period of time for which documentary evidence of work with socially-disadvantaged farmers must be provided. The Secretary is authorized to provide for the renewal of a grant, contract, or other agreement under this section to an entity that: (A) has previously received 2501 funding; (B) has demonstrated an ability to reach socially disadvantaged farmers and increase the participation of such farmers in USDA programs; and (C) demonstrates to the satisfaction of the Secretary that an entity will continue to fulfill the purposes of the 2501 Program. This section requires the Secretary to promulgate regulations establishing criteria for grants under this program. This section requires the Secretary, following consultation with entities eligible for the 2501 Program to co-locate the 2501 Program and the Office of Outreach within 18 months of enactment. (Section 11052)

The Conference substitute adopts the Senate amendment with modifications to delete language from the Senate amendment pertaining to renewal of contracts, review of proposals, and coordination with the Office of Outreach of the Department of Agriculture, which is now addressed in Section 14013, Office of Advocacy and Outreach. The Conference substitute also provides $75 million in mandatory funding for the 2501 Program. (Section 14004)

*(8) Improved program delivery by Department of Agriculture on Indian reservations*

The House bill amends section 2501(g) of the FACT Act by authorizing the Secretary to require the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration offices, and any such offices and functions that the Secretary chooses to include, establish a consolidated suboffice at tribal headquarters on Indian reservations, where there is a demonstrated need. (Section 11202)

The Senate amendment is the same as the House bill, with technical differences. (Section 11054)

The Conference substitute adopts the House provision with a technical change to correct the agency names in the statute. (Section 14001)

*(9) Transparency and accountability for socially disadvantaged farmers and ranchers*

The House bill amends section 2501A of the FACT Act by requiring the Secretary to annually compile, for each county and State in the United States, program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each USDA program that serves agricultural producers and landowners: (A) raw numbers of applicants and participants by race, ethnicity, and gender; and (B) the application and participation rate by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

The Secretary, using the technologies and systems of the National Agricultural Statistics Service, is authorized to compile and present application and participation rate data regarding socially disadvantaged farmers or ranchers in a manner that includes the raw numbers and participation rates for: the entire United States; each State; and, each county in each State. The Secretary is required to make the data (i.e., report) available to the public, via a website and otherwise in electronic and paper form. (Section 11203)

The Senate amendment amends section 2501A of the FACT Act by requiring the Secretary to annually compile, for each county and State in the United States, program application and participation rate data regarding socially disadvantaged farmers and ranchers by computing for each USDA program that serves agricultural producers and landowners: (A) raw numbers of applicants and participants by race, ethnicity, and gender; and (B) the application and participation rate by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

The Secretary, using the technologies and systems of the National Agricultural Statistics Service, is authorized to compile and present application and participation rate data regarding socially disadvantaged farmers or ranchers in a manner that includes the raw numbers and participation rates for: the entire United States; each State; and each county in each State. (Section 11056)

The Conference substitute adopts the House provision. (Section 14006)

*(10) Beginning farmer and rancher development program*

The House bill provides that mandatory funding in the amount of $15 million is to be provided for each of the fiscal years 2008 through 2012 to carry out the program. (Section 11204)

The Senate amendment incorporates energy conservation efficiency and transition to organic farming into the programs and services eligible to receive competitive grants under this program. It limits grants under this program to $250,000. The provision

adds a set of evaluation criteria the Secretary shall consider when awarding grants under this program. The Secretary is also required to ensure, to the maximum extent practicable, geographic diversity of grantees under this program. Organizations that work with refugee or immigrant beginning farmers or ranchers are added to be eligible to receive grants. This provision authorizes $30,000,000 in annual appropriations for the BFRDP. (Section 7309)

The Conference substitute adopts the Senate provision with an amendment to move the program into the research title of this Act, to delete the incorporation of energy conservation efficiency and transition to organic farming into the program, to delete the clarification on organizations that work with refugee or immigrant beginning farmers, and to add $15,000,000 in mandatory funding for each fiscal year from 2009 and $20 million for each of fiscal years 2010 through 2012.

The Managers encourage the Secretary to include asset-based farming opportunity strategies in the grant categories of the Beginning Farmer and Rancher Development Program (BFRDP) in order to aid with the overall purposes of the program, which include financial management training, the acquisition and management of agricultural credit, and innovative farm and ranch transfer strategies.

The Managers expect the panels that will review the grant applications through the BFRDP to include a broad range of individuals with appropriate expertise and experience in delivering beginning farmer and rancher programs.

The Managers intend for the BFRDP to include immigrant beginning farmers and ranchers in the funding set-aside for socially disadvantaged and limited resource farmers and ranchers.

The Managers are aware of and fully support the goals of the National Young Farmers Education Association National Forum on Identifying Issues and Enhancing Success for America's Young and Beginning Agricultural Producers. To the extent practicable, the Managers encourage the Secretary to provide support to this important forum. (Section 7410)

*(11) Provision of receipt for service or denial of service*

The House bill authorizes the Secretary to provide a receipt for service to a producer or landowner, or prospective producer or landowner, in any case where the producer or landowner, or prospective producer or landowner, requests any benefit or service offered by USDA to agricultural producers or landowners. The receipt for service is to be issued on the date the request is made and must contain the date, place, and subject of the request, as well as the action taken, not taken, or recommendations made in response to the request. (Section 11205)

The Senate amendment differs from the House version in that it: (1) specifies that Farm Service Agency and Natural Resources Conservation Service are the agencies subject to this provision, and (2) requires the receipt upon request. Section 11057 amends Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1)(as amended by section 11056). This section requires the Secretary of Agriculture to issue to farmers and ranchers seeking a benefit or service offered by the Farm Service Agency or the Natural Resources Conservation Services of USDA, a receipt upon request that contains the date, place, and subject of the request as well as the action taken, not taken, or recommended to the farmer or rancher. (Section 11057)

The Conference substitute adopts the Senate amendment but modifies the language to include ''current or prospective producer or landowner'' and adds Rural Development to the agencies that are subject to the provision. (Section 14003)

*(12) Tracking of socially disadvantaged farmers or ranchers and limited resource farmers or ranchers in Census of Agriculture and certain studies*

The House bill requires the Secretary to ensure, to the maximum extent possible, that the Census of Agriculture accurately documents the number, location, and economic contributions of socially disadvantaged and limited resource farmers or ranchers. (Section 11206)

The Senate amendment amends section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279). The Secretary is required to ensure, to the maximum extent possible, that the Census of Agriculture accurately documents the number, location, and economic contributions of socially disadvantaged and limited resource farmers or ranchers. (Section 11055)

The Conference substitute adopts the Senate amendment. (Section 14005)

*(13) Farmworker coordinator*

The House bill authorizes the Secretary to establish the position of Farmworker Coordinator, to be located in USDA's Office of Outreach. The Farmworker Coordinator is to have a number of duties, including: serving as a liaison to community-based, non-profit organizations that represent low-income migrant and seasonal farmworkers; coordinating with USDA and State and local governments to assure that farmworker needs are met during declared disasters and emergencies; and assuring that farmworkers have access to services and support that will assist them in entering agriculture as producers. An appropriation of such sums as necessary is authorized for fiscal years 2008 through 2012. (Section 11207)

The Senate amendment is the same as the House bill, with technical differences. The Senate provision amends section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)). (Section 11059)

The Conference substitute adopts the Senate provision with an amendment to specify that the Farmworker Coordinator shall have responsibility for assisting farmworkers in becoming agricultural producers or landowners, and to make other technical changes. The Farmworker Coordinator has been relocated into the Office of Advocacy and Outreach as described in (93) of this document. (Section 14013)

*(14) Office of Outreach relocation*

The House bill authorizes the Secretary to develop a proposal to relocate USDA's Office of Outreach. The Office of Outreach is to be responsible for the 2501 Outreach and Technical Assistance Program and the Beginning Farmer and Rancher Development Program. (Section 11208)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House amendment with modification. The substitute establishes a new Office of Advocacy and Outreach, the purpose of which is to improve the viability and profitability of small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers, as well as to improve access to programs of the Department of Agriculture.

The Office of Advocacy and Outreach is to be overseen by a director appointed by the Secretary from among the competitive service and to have two distinct groups, a Socially Disadvantaged Farmer Group and a Small Farms and Beginning Farmers and Ranchers Group. The Socially Disadvantaged Farmers Group is to carry out the 2501 Program, oversee the Minority Farmer Advisory Committee, oversee the Farmworker Coordinator, and carry out the functions of the Office of Outreach and Diversity previously carried out by the Office of the Assistant Secretary for Civil Rights. The Small Farms and Beginning Farmers and Ranchers Group is to oversee the Office of Small Farms Coordination, consult with the National Institute for Food and Agriculture on the administration of the Beginning Farmer and Rancher Development Program, coordinate with the Advisory Committee for Beginning Farmers and Ranchers, and carry out other such duties as determined appropriate by the Secretary of Agriculture. (Section 14013)

*(15) Minority farmer advisory committee*

The House bill authorizes the Secretary to establish a minority advisory committee, to be overseen by USDA's Office of Outreach. The committee is to have a number of duties, including: reviewing civil rights cases to ensure that they are processed in a timely manner; reporting quarterly to the Secretary on civil rights enforcement and outreach; recommending to the Secretary corrective actions to prevent civil rights violations; and reviewing the operations of the 2501 Outreach and Technical Assistance Program.

The Committee is to be composed of the following:

(A) 3 members appointed by the Secretary;

(B) 2 members appointed by the chairman of the Committee on Agriculture, Nutrition, and Forestry, of the Senate—in consultation with the ranking member;

(C) 2 members appointed by the chairman of the House Agriculture Committee—in consultation with the Ranking member;

(D) a civil rights professional;

(E) a socially disadvantaged farmer or rancher; and

(F) such other persons or professionals that the Secretary determines to be appropriate. (Section 11209)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with amendment. The substitute specifies that the duty of the committee is to provide advice to the Secretary on implementation of the 2501 Program, methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs, and civil rights activities at the Department of Agriculture. The substitute deletes components of the House bill pertaining to review of civil rights cases, the processing of civil rights cases, quarterly reporting to the Secretary on civil rights enforcement, annual reporting to the Secretary on civil rights compliance, recommendations to the Secretary regarding corrective actions to prevent civil rights violations, review of operations of the 2501 Program, and review of outreach efforts in the agencies and programs of the Department.

The substitute also revises the membership of the committee, specifying not less than four socially disadvantaged farmers and ranchers, not less than two representatives of nonprofit organizations, not less than two civil rights professionals, not less than two representatives of higher education, and other such persons as deemed appropriate by the Secretary. The substitute also provides the Secretary of Agriculture with authority to appoint employees of the Department of Agriculture as ex-officio members. (Section 14008)

*(16) Coordinator for chronically underserved rural areas*

The House bill authorizes the Secretary to establish a Coordinator for Chronically Underserved Rural Areas, to be located in

USDA's Office of Outreach. The mission of the Coordinator is to direct USDA's resources to high need, high poverty rural areas. The Coordinator's duties are to include consulting with other USDA offices in directing technical assistance, strategic planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. An appropriation of such sums as necessary is authorized for each of the fiscal years 2008 through 2012. (Section 11210)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to locate the Coordinator in Rural Development instead of the Office of Outreach. (Section 14118)

*(17) Foreclosure*

The Senate amendment states that currently there is a USDA guidance that prohibits loan foreclosures when there is a pending claim of racial discrimination against the Department. This provision amends section 307 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927) to put into law what is already in place in a guidance at USDA.

Subsection (a) *Moratorium*. This section mandates a moratorium on all loan acceleration and foreclosure proceedings where there is a pending claim of discrimination against the Department related to a loan acceleration or foreclosure. This section also waives any interest and offsets that might accrue on all loans under this title for which loan and foreclosure proceedings have been instituted for the period of the moratorium. If a farmer or rancher does not prevail on his claim of discrimination, then the farmer or rancher will be liable for any interest and offsets that accrued during the period that the loan was in abeyance. The moratorium will terminate on either the date the Secretary resolves the discrimination claim or the court renders a final decision on the claim, whichever is earlier.

Subsection (b) *Report*. This section requires the Inspector General of USDA to determine whether loan foreclosure proceedings of socially disadvantaged farmers have been implemented according to applicable laws and regulations. The Inspector General shall submit a report of its determination to the Senate and House Committees on Agriculture not later than a year after this legislation's enactment. (Section 11051)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment that the farmer or rancher is required to have a program discrimination claim and that the Department makes a procedural determination to accept the claim as a valid one. The determination to accept the claim by the Department is intended to be procedural and not a statement as to the merits of the claim. The Conference substitute amends Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) and specifies that the provision applies to farmer program loans made under subtitle A, B, or C. (Section 14002)

*(18) Additional contracting authority*

The Senate amendment amends section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3)). This section clarifies that the agencies and programs of the Department of Agriculture are authorized to enter into contracts and cooperative agreements with community-based organizations to provide service to socially-disadvantaged farmers and ranchers, clarifies that the Secretary is not required to require matching funds for such agreements, and allows federal agencies to contribute to grants or cooperative agreements made under the 2501 Program as the agency determines that contributing funds for such purpose will further the authorized programs of the contributing agency. (Section 11053)

The House bill contains a similar provision in section 11201.

The Conference substitute deletes both House and Senate provisions.

*(19) Emergency grants to assist low-income migrant and seasonal farmworkers*

The Senate amendment amends Section 2281 of the Food, Agriculture, Conservation and Trade Act of 1990 (42 U.S.C. 5177a). This section requires the Secretary to maintain a disaster fund of $2,000,000, and authorizes discretionary funding to maintain it. This section further requires that public or private entities eligible to receive funding under this section must have at least five years demonstrated experience in representing and providing emergency services to low-income migrant or seasonal farmworkers. Types of allowable assistance are specified, in addition to such other priorities that the Secretary determines to be appropriate. (Section 11061)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

*(20) National appeals division*

The Senate amendment amends section 280 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7000). This section establishes a reporting requirement that states the head of each agency shall report to the House and Senate Agriculture Committees, and post on the Department's website information that includes a description of all cases returned to the agency by the National Appeals Division, the status of implementation of each final determination and if the final determination has not been implemented then the reason and the projected date of implementation. The reporting requirement to Congress should be every 180 days and the website should be updated not less than monthly. (Section 11058)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 14009)

*(21) Oversight and compliance*

The Senate amendment requires the Secretary of Agriculture to use the reports required under section 2501 of the FACT Act in the conduct of program oversight regarding the participation of socially disadvantaged farmers in USDA programs as well as in the evaluation of civil rights performance. (Section 11064)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 14007)

*(22) Report of civil rights complaints, resolutions, and actions*

The Senate amendment requires the Secretary of Agriculture to issue an annual report on program and employment civil rights complaints, including the number of complaints filed, the length of time required to process complaints, the number of complaints resolved with a finding of discrimination, and the personnel actions taken by the agency following resolution of civil rights complaints. (Section 11065)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. The Managers intend that if the Secretary, in compiling determines the aggregate data does not accurately reflect the scope of complaints, then the Secretary may note in the report that multiple complaints came from a single individual, in order to provide a clear picture of the scope of the complaints. (Section 14010)

*(23) Grants to improve supply, stability, safety, and training of agricultural labor force*

The Senate amendment directs the Secretary to make grants to nonprofit organizations to assist agricultural employers and farmworkers with services that help improve the quality of the agricultural labor force through job training, short-term housing, workplace literacy and ESL training, and health and safety instruction, among other purposes. Discretionary funding is authorized to carry out this section. (Section 11066)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to clarify the eligible services that may be provided with grant funds through the program; to specify that assistance may be provided to farmworkers who are citizens or otherwise legally present in the United States; and to establish a 15 percent limit on administrative expenses for the program. (Section 14204)

*(24) Office of small farms and beginning farmers and ranchers*

The Senate amendment establishes an office at USDA to be known as the Office of Small Farms and Beginning Farmers and Ranchers. Section (b) outlines the purposes of the office including ensuring coordination across all agencies; ensuring small, beginning, and socially disadvantaged farmers and ranchers access to all USDA programs; ensuring the number and economic contributions of small, limited resource, beginning and socially disadvantaged farmers and ranchers are accurately reflected in the Census of Agriculture; and assessing and enhancing the effectiveness of outreach programs at the department. Subsection (c) establishes the office should be headed by a director. Subsection (d) outlines the duties of the office including to establish cross-cutting and strategic departmental goals and objectives for small, beginning, and socially disadvantaged farmer and rancher programs. Subsection (e) requires the office to maintain a website to share information with interested producers and to collect and respond to comments from small and beginning farmers and ranchers. Subsection (f) requires the Secretary to provide the office human and capital resources sufficient to allow the office to carry out its duties using funds made available to the Secretary through appropriations acts. Subsection (g) requires an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry in the Senate. (Section 11088)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that Section 14013 subsumes this office into the Office of Advocacy and Outreach. (Section 14013)

*(25) Designation of separate cotton-producing States under Cotton Research and Promotion Act*

The House bill amends the definition of ''cotton-producing State'' in the Cotton Research and Promotion Act to include Kansas, Virginia, and Florida as each being considered separate cotton-producing States under the Act, beginning with the 2008 crop of cotton. (Section 11301)

The Senate amendment designates Kansas, Virginia, and Florida as each being considered separate cotton-producing States effective beginning with the 2008 crop of cotton

for purposes of the Cotton Research and Promotion Act. (Section 1713)

The Conference substitute adopts the Senate provision. (Section 14202)

*(26) Cotton classification services*

The House bill extends the authority of the Secretary to make cotton classification services available to producers of cotton and to collect classification fees from participating producers through FY 2012. The provision authorizes the Secretary to enter into long-term lease agreements that exceed five years or take title to property in order to obtain offices used for the classification of cotton. (Section 11302)

The Senate amendment authorizes cotton classing services without any fiscal year restrictions. Similar to the House bill, the Senate amendment authorizes the Secretary to enter into long-term lease agreements that exceed five years or take title to property in order to obtain offices used for the classification of cotton. The provision requires the Secretary to consult with the cotton industry in establishing the fees. It ensures that the Federal Advisory Committee Act requirements do not apply to consultations with the US Cotton industry. It also provides greater discretion to the Secretary in establishing the fees. (Section 1712)

The Conference substitute adopts the Senate provision with an amendment to ensure that the Secretary announces the classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies.

The Managers expect the cotton classification fee to be established in the same manner as was applied during the 1992 through 2007 fiscal years. he classification fee should continue to be a basic, uniform per bale fee as determined necessary to maintain cost-effective cotton classification service.µn consulting with the cotton industry, the Secretary should demonstrate the level of fees necessary to maintain effective cotton classification services and provide the Department of Agriculture with an adequate operating reserve, while also working to limit adjustments in the year-to-year fee. (Section 14201)

*(27) Availability of excess and surplus computers in rural areas*

The House bill provides that the Secretary may make surplus USDA computers or technical equipment available to any city or town in a rural area. (Section 11303)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to ensure that the activities authorized under this section are in addition to, and would not replace, activities conducted under other existing authorities of the Secretary with regard to property disposal.

The Managers expect the Secretary to use this authority to continue to make available excess or surplus computers to city or towns located in rural areas through organizations that are able to refurbish such equipment and supply it to rural schools, libraries, and city halls in need.

The intent of the conferees is that local governments include independent school districts. (Section 14220)

*(28) Permanent debarment from participation in Department of Agriculture programs for fraud*

The House bill authorizes the Secretary to permanently debar an individual or entity convicted of knowingly defrauding the United States in connection with any program administered by the Department of Agriculture from any subsequent participation in such programs. (Section 11304)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment. The amendment provides the Secretary the authority to limit the debarment to not less than ten years. The amendment further provides that debarment shall not have any effect on the receipt of domestic food assistance. (Section 14211)

*(29) No discrimination against use of registered pesticide products or classes of pesticide products*

The House bill prohibits the Secretary from discriminating against the use of specified registered pesticide products or classes of pesticide products in establishing priorities and evaluation criteria for approval of plants, contracts and agreements under the conservation title of this Act. (Section 11305)

The Senate amendment contains no comparable provision.

The Conference substitute strikes this provision. Insomuch as the underlying House provision was a restatement of long-standing policy of the Natural Resources Conservation Service (NRCS), the managers recognize that statutory language is unnecessary.

The House provision referred to pesticides registered by the Environmental Protection Agency (EPA) in accordance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Food Quality Protection Act (FQPA). A FIFRA registration implies that uses of pesticides have been deemed by EPA to have met established standards of safety to human health and the environment when used in accordance with the label.

Under various conservation programs authorized in Title II, the managers have directed the Secretary to establish priorities and evaluation criteria to ensure the efficient and effective use of resources.

However, it is not the intent of the managers to undermine the regulatory framework for the legal use of registered pesticides while implementing various conservation programs in this Title.

Therefore, in establishing priorities and evaluation criteria for the approval of plans, contracts and agreements under Title II of this Act, it is the expectation of the managers that the NRCS shall neither prohibit the use of specific registered pesticides or classes of pesticides, nor advocate for the use of alternatives to registered pesticides or classes of pesticides.

The managers intend for NRCS to assist farmers wishing to adopt new technologies and specific pest management strategies that contribute to agricultural production and environmental quality. For example, programs that assist farmers in developing risk mitigation measures regarding pesticide use are entirely consistent with the current regulatory program administered by EPA and would not be in conflict with Congressional intent.

*(30) Prohibition on closure or relocation of county offices for the Farm Service Agency, Rural Development Agency, and Natural Resources Conservation Service*

The House bill prohibits the Secretary from closing or relocating a county or field office of the Farm Service Agency, Rural Development Agency, or Natural Resources Conservation Service for one year following the date of enactment of this Act. (Section 11306)

The Senate amendment defines ''critical access county FSA office'' in subsection (a) as an office of the Farm Service Agency proposed to be closed during the period beginning on November 10, 2005 and ending on December 31, 2007; proposed to be closed with the closing delayed until after January 1, 2008; or included on a list of critical access county FSA offices. FSA offices that are located not more than 20 miles from another FSA office or that employ no full-time equivalent employees are excepted from the definition of critical access county FSA office. Subsection (b) prohibits the Secretary from using any funds to pay the salaries or expenses of any USDA officer or employee to close any critical access county FSA office during the period from the date of enactment through September 30, 2012. The Secretary is required to maintain a staff of not less than 3 full-time equivalent employees in each critical access county FSA office although the staff may be located in any other county office of the FSA in that State. However, a critical access county FSA office must have at least 1 full-time equivalent employee.

Subsection (c) allows the Secretary to close a critical access county FSA office only on concurrence by Congress and the applicable State Farm Service Agency committee. (Section 11071)

The Conference substitute adopts the House provision with an amendment.

The Managers have provided the exception paragraph to allow the Secretary to review offices meeting the criteria and close those offices if justified; the language in the exception paragraph does not require the Secretary to close offices meeting the criteria. The Managers expect that the Department will communicate with Congressional delegations about proposed closures and respond to concerns about such closures. (Section 14212)

*(31) Regulation of exports of plants, plant products, biological control organisms, and noxious weeds*

The House bill amends the Agricultural Risk Protection Act of 2000 to require the Secretary to coordinate fruit and vegetable market analyses with the private sector and Foreign Agricultural Service. Further requires the Secretary to list on an Internet website the status of export petitions, an explanation of associated sanitary or phytosanitary issues, and information on the import requirements of foreign countries for fruits and vegetables. (Section 11307)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to strike the original language and insert a provision in the Technical Assistance for Specialty Crops program requiring the Secretary to submit an annual report on sanitary and phytosanitary trade barriers. Section 3203)

*(32) Grants to reduce production of methamphetamines from anhydrous ammonia*

The House bill authorizes the Secretary to make grants to eligible entities to enable such entities to obtain and add to an anhydrous ammonia fertilizer nurse tank a substance that will reduce the amount of methamphetamine that can be produced from such tank. It provides that the grant amount be between $40 and $60, multiplied by the number of nurse tanks for each eligible entity. The provision also authorizes appropriations of not more than $15 million for each of fiscal years 2008 through 2012. (Section 11308)

The Senate amendment is the same as the House bill, except it provides that a grant can be used either for a physical lock or a chemical substance. (Section 11062)

The Conference substitute adopts the Senate amendment. (Section 14203)

*(33) USDA Graduate School*

The House bill amends the Federal Agriculture Improvement and Reform Act of 1996 to prohibit the Department of Agriculture

from establishing, maintaining, or operating a non-appropriated fund instrumentality of the United States to develop, administer, or provide educational training and professional development activities, including educational activities for Federal agencies, Federal employees and other entities, effective October 1, 2008. (Section 11309)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment.

The modification keeps the House language but extends the deadline for the General Administrative Board of the Graduate School to transition the Graduate School into a non-governmental nonappropriated fund instrumentality to October 1, 2009. It further authorizes the Secretary to use available appropriated funds and other resources to assist in the Graduate School's transition. Effective immediately, the Graduate School shall be subject to Federal procurement ocedures in the same manner and subject to the same requirements as a commercial entity. (Section 14213)

*(34) Prevention and investigation of payment and fraud and error*

The House bill amends the Right to Financial Privacy Act of 1978 to allow financial institutions to disclosure an individual's financial records to any Government entity that certifies, disburses or collects payments, when such disclosure is necessary for the proper administration of programs. The provision expands the permitted use of the disclosed financial information to include the verification of the identity of any person in connection with Federal payment or collection of funds, or the investigation or recovery of improper Federal payments, improperly collected funds, or an improperly negotiated Treasury check. (Section 11310)

The Senate amendment is the same as the House bill except:

(1) The provision does not change paragraph (k)(1) of the existing exception in the Right to Financial Privacy Act of 1978, which allows disclosure of the name and address of any financial institution customer if the disclosure is necessary for the proper administration of section 1441 of Title 26, title II of the Social Security Act, or the Railroad Retirement Act.

(2) New paragraph (2) allows disclosure of a customer's financial records, rather than just a customer's name and address as permitted under paragraph (1), to reflect the fact that electronic payments are not directed to customers by means of a name and address, in contrast to paper checks.

(3) Information may be disclosed under the new paragraph (2)(A) not only to the extent that the information is necessary to verify the identity of any person making or receiving a Federal payment, but also to verify the proper routing and delivery of funds.

(4) New paragraph (3) applies to a request authorized by paragraph (k)(1) or (2). Similar to the House version, the provision does not allow for the disclosure by a financial institution of the customer's financial records in their entirety, but only the information contained in the records that are relevant to the purpose of the request. (Section 11068)

The Conference substitute adopts the Senate provision. (Section 14205)

*(35) Sense of Congress regarding food deserts, geographically isolated neighborhoods and communities with limited or no access to major chain grocery stores*

The House bill expresses the sense of Congress that the Secretary of Agriculture, in conjunction with the National Institutes of Health, Centers for Disease Control and Prevention, Institute of Medicine, and faith-based organizations, should assess ''food deserts'' in the United States (geographically isolated neighborhoods and communities with limited or no access to major-chain grocery stores), and develop recommendations for eliminating them. (Section 11311)

The Senate amendment requires the Secretary to study and report on areas in the United States with limited access to affordable and nutritious food, with a focus on predominantly lower-income neighborhoods and communities. (Section 7504)

The Conference substitute adopts the Senate provision with an amendment to move this provision to the Research Title of this Act, to include and define the term ''food desert,'' and to include an authorization of appropriations for the study. (Section 7527)

*(36) Pigford claims*

The House bill provides that Pigford claimants who have not had their cases determined on the merits may, in a civil action, obtain such a determination. Payments or debt relief are to be exclusively made from mandatory funds provided to carry out this section. The total amount of payments and debt relief are prohibited from exceeding $100 million; additionally, payments and debt relief provided under this section are not to be made from Judgment Fund established by 31 U.S.C. 1304. The intent of Congress is to have this section liberally construed. Not later than 60 days after the Secretary receives notice that a Pigford claimant desires to have a determination made on the merits of a claim, the Secretary is to provide the claimant with a report on farm credit loans made within the claimant's county, or adjacent county, by USDA for a period beginning on Jan. 1 of the year or years covered by the complaint and ending on Dec. 31 of the following year or years.

The report is to contain information on all persons whose loans were accepted, including:

(a) the race of the applicant;

(b) the date of the application;

(c) the date of the loan decision;

(d) the location of the office making the loan decision; and

(e) all data relevant to the process of deciding the loan.

The reports provided by USDA are not to contain identifying information regarding the person that applied for a USDA loan. Claimants who allege discrimination in the application for, or making or servicing of, a farm loan are permitted to seek liquidated damages of $50,000, or a discharge of the debt that was incurred under, or affected by, the alleged discrimination that is the subject of the complaint, and a tax payment in an amount of the liquidated damages and loan principal discharged only if:

(1) the claimant is able to prove his or her case by substantial evidence; and

(2) the court decides the case based on documents, submitted by the claimant, that are relevant to the issue of liability and damages.

The Secretary is prohibited from beginning acceleration on or foreclosure of a loan if the borrower is a Pigford claimant and, during an administrative proceeding, the claimant makes a prima facie case that the foreclosure is related to a Pigford claim. A ''Pigford claimant'' is defined as an individual who previously submitted a late-filing request under section 5(f) of the Pigford consent decree, in the case of Pigford v. Glickman, approved by the U.S. District Court for DC on April 14, 1999. A ''Pigford claim'' is defined as a discrimination complaint, as defined by section 1(h) of the Pigford consent decree and documented under section 5(b) of the decree.

Mandatory funding of $100 million is to be made for fiscal year 2008. The funding is to remain available until it has been expended for payments and debt relief in satisfaction of claims against the U.S., with respect to a Pigford claimants who have their claims determined on the merits, and for any actions made related to the prohibition regarding foreclosures related to Pigford claims. (Section 11312)

The Senate amendment is the same as the House bill except:

(1) Subsection (a)(1) requires all claimants to file in United States District Court for the District of Columbia.

(2) Subsection (a)(2) connects the definition of ''substantial'' evidence to the one used in the original consent decree.

(3) Authorizes appropriate funds as necessary beyond the $100 million in mandatory funding. (Section 5402)

The Conference substitute adopts the Senate amendment with modifications. The Secretary will have 120 days to provide the claimant a report, or may petition the court for an extension. The modification requires the Secretary to retrieve data from within the claimant's county, or, if no documents are found then within an adjacent county as determined by the claimant.

The modification provides for those who are filing a claim for discrimination involving a noncredit benefit to be able to obtain a report from the Secretary. It also provides for those claimants to receive a maximum of $3,000 irrespective of the number of noncredit claims on which the claimant prevails.

The modification provides for those filers who chose not to go through the expedited resolutions process, to be entitled to actual damages if the claimant prevails.

The modification also provides a requirement for the Secretary to report once every six months to both the House and Senate Committees on the Judiciary the status of available funds and the number of pending claims under the expedited resolutions process. It further requires the Secretary to notify those Committees once 75% of the funds have been depleted. It further provides for a 2-year statute of limitations to file a claim under this section. (Section 14012)

*(37) Sense of Congress relating to claims brought by socially disadvantaged farmers or ranchers*

The Senate amendment contains a sense of Congress that the Secretary should resolve all claims and class actions brought against the United States Department of Agriculture by socially disadvantaged farmers or ranchers including Native Americans, Hispanics, and female farmers regarding discrimination in farm loan program participation. (Section 5403)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with a modification that all pending claims should be resolved expeditiously. (Section 14011)

*(38) Comptroller general study of wastewater infrastructure near United States-Mexico border*

The House bill mandates that the Comptroller General study wastewater infrastructure in rural communities within 150 miles of the United States-Mexico border to determine how the Government can assist these communities in updating the wastewater infrastructure. (Section 11313)

The Senate amendment contains no comparable provision.

The Conference substitute deletes this provision.

*(39) Elimination of statute of limitations applicable to collection of debt by administrative offset*

The House bill amends 31 U.S.C. 3716(e) to eliminate the statute of limitations within

which a government agency can initiate the collection of an outstanding claim by administrative offset. (Section 11314)

The Senate amendment is the same as the House bill. (Section 11069)

The Conference substitute adopts the House provision. (Section 14219)

*(40) Pollinator protection*

The House bill cites this section as the ''Pollinator Protection Act of 2007''. It states Congress' findings regarding the importance of bee pollination to agriculture and the concerns related to colony collapse disorder in the bee population. The provision authorizes appropriations, as follows:

- For the Agricultural Research Service at USDA—$3 million for each of fiscal years 2008 through 2012 for new personnel, facilities improvement, and additional research at the USDA Bee Research Laboratories; $2.5 million for each of fiscal years 2008 and 2009 for research on honey and native bee physiology, and other research; and $1.75 million for each of fiscal years 2008 through 2010 for an area-wide research program to identify causes and solutions for colony collapse disorder.
- For the Cooperative State Research, Education, and Extension Service—$10 million to fund grants to investigate honey bee biology, immunology, ecology, genomics, bioinformatics, crop pollination and habitat conservation, the effects of insecticides, herbicides and fungicides, and other research.
- For the Animal and Plant Health Inspection Service—$2.25 million for each of fiscal years 2008 through 2012 to conduct a honey bee pest and pathogen surveillance program.

The House bill requires the Secretary to submit a report to Congress on the status and progress of bee research projects. It amends the Food Security Act of 1985 to require the Secretary, when carrying out a conservation program other than the farmland protection program, to establish a priority and provide incentives for increasing habitat for pollinators and to establish practices to protect native and managed pollinators. (Section 11315)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to move the research-related items of this provision to the research title of this Act to amend section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925), and to move the conservation-related item of this provision to the conservation title of this Act. (Section 7204)

*(41) Exemption from AQI user fees*

The Senate amendment exempts commercial trucks from payment of agricultural quarantine and inspection user fees if it originates in Alaska and reenters the United States directly from Canada or if it originates in the United States and transits through Canada before entering Alaska. Commercial trucks exempt from user fees are required to remain sealed during transit through Canada. (Section 11080)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(42) Regulations to improve management and oversight of certain regulated articles*

The Senate amendment requires the Secretary to promulgate regulations for improved management and oversight of articles regulated under the Plant Protection Act. (Section 11077)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the timeframe for the promulgation of regulations and to make technical changes. This provision can be found in the horticulture and organic agriculture title. (Section 10204)

*(43) Invasive pest and disease emergency response funding clarification*

The Senate amendment clarifies that the Secretary may provide emergency funding to States to combat invasive pest and disease outbreaks for any appropriate period after initial detection of the pest or disease, as determined by the Secretary. (Section 11078)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(44) Invasive species management, Hawaii*

The Senate amendment requires cooperation among the Federal agencies involved in preventing the introduction of and controlling invasive species in the State of Hawaii; requires the development of collaborative Federal and State procedures to minimize the introduction of invasive species into Hawaii, and requires a report to Congress on the development of those procedures; establishes a process for Hawaii to seek approval from the Federal Government to impose restrictions on the introduction or movement of invasive species or disease into the State that are in addition to Federal restrictions; in the event of an emergency or imminent invasive species threat, allows Hawaii to impose restrictions of up to 2 years to prevent introduction of the threat upon approval by the Federal Government. (Section 11063)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Managers remain concerned about the serious and growing invasive species problem in the State of Hawaii. The Managers are aware of the threats that invasive species present to Hawaii's unique ecosystem, which is highly susceptible to invasive species because of the combination of isolation of the Hawaiian islands and high passenger, baggage and cargo traffic to the islands. The Managers encourage the Secretaries of the Department of Agriculture, Interior and Homeland Security to work together in close cooperation with the State of Hawaii to effectively reduce the number of invasive species in Hawaii. The Managers emphasize this collaboration is critical at Hawaiian ports of entry.

*(45) Invasive species revolving loan fund*

The Senate amendment establishes an invasive species revolving loan fund. This loan fund allows eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees on land under the jurisdiction of the eligible local government and within the boarders of a quarantine area infested by an invasive pest. These loans can be no more than $5,000,000 and shall have an interest rate of two percent. An eligible unit of local government shall work with the Secretary to establish a loan repayment schedule. This schedule requires that not later than one year after the eligible unit of local government received a loan they must repay the loan. The payments can be scheduled semiannually after. (Section 11090)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to move this provision to the horticulture and organic title of this Act, to replace all references to ''invasive species'' with the term ''pest and disease,'' and to strike the provision allowing the unit of local government to use the financing of contracts with individuals and entities as part of the matching requirement in this program. (Section 10205)

*(46) Cooperative agreements relating to invasive species prevention activities*

The Senate amendment allows States to provide cost-sharing assistance or financing mechanism to a unit of local of the State through any cooperative agreement entered into between the Secretary and a State relating to the prevention of invasive species infestation. Section 11091)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to move this section to the horticulture and organic title of this Act, to amend section 431 of the Plant Protection Act (7 U.S.C. 7751), and to make technical changes. (Section 10206)

*(47) Report relating to the ending of childhood hunger in the United States*

The Senate amendment includes a sense of Congress regarding childhood hunger in the United States. This section specifies that, not later than one year after the date of enactment of the Act, the Secretary shall submit to Congress a report that describes the best and most cost-effective manner by which the federal government could allocate funds to achieve the goal of abolishing childhood hunger and food insecurity by 2013. (Section 11082)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

*(48) GAO report on access to health care for farmers*

The Senate amendment provides that the GAO shall provide a report on rural Americans access to health care with a focus on farmers by November 30, 2008. (Section 11074)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

*(49) Conveyance of land to Chihuahuan Desert Natural Park*

The Senate amendment conveys 935.62 acres of land in Dona Ana County New Mexico to the Chihuahuan Desert Nature Park, Inc., a non-profit organization in New Mexico. The land is to be conveyed within one year after enactment of this Act. Subsection (c) outlines the conditions for the land conveyance. The United States reserves all mineral and subsurface rights of the land. The Chihuahuan Desert Nature Board must pay any costs associated relating to the conveyance. Also this subsection requires the land to be used for only educational or scientific purposes. Subsection (d) states if the land is not used for educational or scientific purposes the land may revert to the United States. If the land is environmentally contaminated, the Chihuahuan Desert Nature Park, Inc. or successor is responsible for the contamination and shall be required to remediate the contamination. (Section 11075)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize the conveyance, without consideration, of certain lands in the George Washington National Forest. (Section 8302)

*(50) Department of Agriculture conference transparency*

The Senate amendment requires the Secretary to quarterly report to the Inspector General costs and contracting procedures relating to conferences held by USDA for which the cost to the Federal Government was over $10,000. Subsection (c) requires the Secretary to annually report to the Senate and House Agriculture Committees a detailed report about each conference where

the USDA paid travel expenses. (Section 11081)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. The modification provides reporting guidelines for conferences that are held by the Department or attended by employees of the Department. For conferences held by the Department, the Secretary will have to include a description of the contracting procedures related to the conference. The provision is not intended to apply to any training program for employees of the Department, or to conferences held outside the United States and attended by the Secretary or a designee as an official representative of the U.S. Government. Travel under (c)(1)(d) does not apply to local travel for conferences. (Section 14208)

*(51) National emergency grant to address effects of Greensburg, Kansas tornado*

The Senate amendment states the Department of Labor awarded Greensburg, KS a $20 million grant to assist with cleanup from a F5 tornado that hit the town in May of 2007. The language allows the planning process to begin and allow federal funds that have already been awarded to flow more smoothly and efficiently. (Section 11083)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

*(52) Report on program results*

The Senate amendment requires the Secretary to report information regarding programs that have received a Program Assessment Rating Tool score of ''results not demonstrated'' and for each program provide reasons that the program has not been able to demonstrate results, steps taken to demonstrate results and what might be necessary to facilitate the demonstration of results. (Section 11084)

The House bill contains no comparable provision.

The Conference substitute deletes this section. The Managers recognize that the reporting requirements in the Senate amendment may duplicate actions already taken by the Secretary in regards to the Program Assessment Rating Tool and that information on Program Assessment Rating Tool scores is publicly available. However, in order to raise greater awareness about such evaluation, the Managers encourage the Secretary to provide progress reports to Congress on the programs that have received a Program Assessment Rating Tool of ''results not demonstrated''.

*(53) Study of impacts of local food systems and commerce*

The Senate amendment requires the Secretary of Agriculture to evaluate the potential community, economic, health and nutrition, environmental, food safety, and food security impacts of advancing local food systems and commerce, the challenges that prevent local foods from comprising a larger share of the per capita food consumption in the United States, and existing and potential strategies, policies, and programs to address those challenges. Section 11089)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

USDA's Economic Research Service (ERS) has indicated that the Agency is in the process of conducting a study of local food systems, thereby mitigating the need for a statutory mandate in this conference agreement. The ERS study will address issues raised in the Senate amendment including an evaluation of the effects of local food systems on economic activity, nutrition, and environmental resources. ERS has likewise indicated that the study will consider possible reasons for government policies to support local food markets and reduce barriers to growth of that sector.

The Managers are aware of the budgetary constraints ERS is operating under. In order to minimize costs and maximize the utility of the study being undertaken, the Managers encourage ERS to leverage available resources through collaboration with other appropriate Federal agencies, farm operators serving local markets, institutions of higher education, non-governmental organizations, and state and local agencies. To the extent resources and data are available, the Managers also encourage ERS to examine regional market trends and production, processing and distribution needs and evaluate the role and successes of relevant Federal, State, and local policies in areas where the production, processing and consumption of locally grown produce, meat, dairy, and other agricultural products is above normative levels.

*(54) Disclosure of country of harvest for ginseng*

The Senate amendment amends the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) It requires persons that sell ginseng at retail to provide the country of harvest by means of a label, stamp, mark, placard, or other easily legible and visible sign on the ginseng or on the package, display, holding unit, or bin containing the ginseng. The Secretary may levy fines for not more than $1,000 for willful violations of this provision. (Section 10004)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers have included ginseng in section 11002 of the Livestock Title.

*(55) Definitions*

The Senate amendment defines the following terms used in the subtitle: agent; agricultural biosecurity; agricultural countermeasure; agricultural disease; agriculture; agroterrorist act; animal; department; development; plant; and qualified agricultural countermeasure. (Section 11011)

The House has no comparable provision.

The Conference substitute adopts the Senate provision with technical amendments to the definitions and incorporates this provision into the Agricultural Security Improvement Act of 2008. (Section 14102)

The Managers have serious concerns regarding the efforts of the Department of Homeland Security (DHS) to absorb the critical agricultural security functions of the USDA, and DHS' ability to successfully incorporate and manage functions previously housed within the USDA. The USDA is best equipped to handle routine agricultural disease emergencies and emergency response activities in the agricultural sector. While the Managers fully appreciate the vital importance of the broad DHS mandate, DHS has ignored critical expertise within USDA and of the agriculture sector in managing agricultural disease response activities. In doing so, DHS has ignored and failed to incorporate the concerns of the agriculture sector. For example, independent investigations carried out by the House Committee on Agriculture and the Government Accountability Office, as well as a joint audit by the Inspector's General of USDA and DHS, have revealed numerous deficiencies in the agricultural port inspection program. Under DHS leadership, this program has suffered a marked decline in its capability to prevent and detect the movement of agricultural pests and diseases into the United States. This decline in mission capabilities is primarily due to an exodus of experienced staff after the transfer of agricultural inspections from USDA to DHS, declining morale and resources, and the lack of importance placed on the program's mission by DHS management. The Managers believe if this trend continues unabated, the security of the U.S. agriculture sector will be seriously, perhaps irreversibly, jeopardized. In addition, DHS is currently increasing their role in routine agricultural disease response activities and has claimed Federal jurisdiction as the lead agency for these activities traditionally managed by the USDA. Rather than attempt to duplicate the existing functions and capacities of USDA in this critical area, DHS would be better served, and scarce financial resources could be better allocated, if USDA and DHS effectively partnered in securing the Nation's agriculture sector. The Department of Agriculture has over 146 years of valuable experience in preventing the introduction of agricultural pests and diseases and effectively managing agricultural disease outbreaks when they occur. To ignore this history is to do a disservice to the agriculture sector, and the Nation at large.

The Managers are concerned about efforts to reorganize USDA in an attempt to heighten the Department's response and management capabilities regarding threats to agricultural biosecurity. The Managers recognize that the existing structure at USDA to address such threats is adequate, and will continue to successfully prevent, control, and eradicate agricultural diseases. However, the Managers have codified the Office of Homeland Security at USDA in this Act in response to the concerns of other Committees. All homeland security-related activities at USDA will be coordinated by this office, ensuring that USDA will maintain its long tradition of protecting the U.S. agriculture sector from foreign and domestic agricultural pests and diseases. In addition, the Director of the Office of Homeland Security will serve as the primary liaison with other Federal agencies on homeland security coordination efforts, providing USDA with a unified voice on agricultural security matters of Federal concern.

The Managers expect the Secretary, in establishing the Agricultural Biosecurity Communications Center, to use, to the maximum extent practicable, the existing resources and infrastructure of the Emergency Operations Center of the Animal and Plant Health Inspection Service located in Riverdale, Maryland. In addition, the Managers expect the Secretary to share and coordinate the dissemination of information with the National Operations Center, the National Biosurveillance Integration Center, the National Response Coordination Center, and the National Infrastructure Coordination Center of DHS, as appropriate. The Managers recognize that existing communication activities at DHS will not be hampered by the creation of the Agricultural Biosecurity Communications Center. However, the Managers also recognize the critical need for USDA to maintain and govern its own communication system given the subject matter expertise of USDA officials and their close ties to the domestic agriculture sector and international trading partners who trust their guidance and input.

The Managers understand that any successful agricultural disease interdiction, prevention, or mitigation effort is largely dependent on local response capabilities. State and regional entities play a critical role in any agricultural disease emergency; however, the Federal government must provide them with the necessary expertise and information to establish successful local programs. The Managers recognize that no Federal agency is better equipped to assist in

this endeavor than the Department of Agriculture. USDA enjoys an established network of local veterinarians, plant health professionals, producers, farmers and ranchers who view the Department as a partner in agricultural disease response activities. These long-established relationships will be buttressed by the Agricultural Biosecurity Task Force and will strengthen the Nation's disease response capabilities at the local and regional level. The Managers encourage the Secretary to collaborate with DHS in the provision of agricultural biosecurity best practices to State and tribal regulatory authorities. In doing so, DHS will be afforded the opportunity to benefit from the expertise of USDA in this area of national security.

The Managers are especially concerned with the degradation of the AQI program following its transfer from USDA to DHS in 2002, and are aware that the agriculture sector continues to raise serious concerns about the ability and willingness of DHS to prioritize agricultural quarantine and inspection activities at ports of entry. In light of the broad mandate given to DHS, the Managers understand that limiting the introduction of agricultural pests and diseases into the United States is not a top priority for DHS. While some observers have concluded that the scientific nature of the AQI program does not fit well with the police function of the Customs and Border Protection Program, the Managers have nevertheless chosen to maintain the program within the Department of Homeland Security. As such, the Managers encourage the Secretary to increase USDA's oversight regarding this vitally important program to ensure that the concerns of the agricultural sector are given a priority status commensurate with the threat that these diseases pose to the U.S. economy. To do so, the Managers encourage the Secretary to establish a comprehensive activity reporting mechanism detailing how DHS uses funds transferred by USDA to carry out the AQI program. In order to keep Congress and the public informed about the use of these funds, the Managers encourage the Secretary to provide a detailed accounting to the Senate and House Agriculture Committees on how DHS uses these funds. The Managers strongly encourage the Secretary of Agriculture and the Secretary of Homeland Security to revise the transfer agreement mandated under section 421(e) of the Homeland Security Act of 2002 so that the financial information requested is provided in a timely manner. The Managers intend that any information provided to the Secretary on the use of funds by DHS be scrutinized not only by Congress, but also by the senior leadership of the USDA and DHS to ensure expedient and comprehensive improvements in this program.

The Managers also encourage the Secretary to seek detailed information to track the promotion of CBP field officers, import specialists, and agricultural specialists into supervisorial and managerial grades since the transfer of function in 2003. The information provided should break out, by fiscal year and by series, the number of employees who have been permanently promoted into supervisor, chief, program manager, assistant port director, and port director positions at ports of entry throughout the country. The information provided should also cite whether the affected employees were legacy customs, immigration, or agriculture personnel.

*(56) National plant disease recovery system and national veterinary stockpile*

The Senate amendment establishes the National Plant Disease Recovery System (NPDRS) in subsection (a). The NPDRS will include agricultural countermeasures, available within a single growing season, to respond to an outbreak of plant disease that poses a significant biosecurity threat. Subsection (b) establishes the National Veterinary Stockpile (NVS). The NVS will include agricultural countermeasures, available to any State veterinarian not later than 24 hours after an official request, to leverage the infrastructure of the strategic national stockpile. (Section 11012)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

*(57) Research and development of agricultural countermeasures*

The Senate amendment establishes a competitive grant program at USDA to stimulate research and development activity for qualified agricultural countermeasures. It provides for a waiver of the competitive grant process in the case of emergencies and permits the use of foreign animal and plant diseases in research and development activities. USDA will provide information to DHS on each grant funded through this authorization. The provision authorizes appropriations of $50,000,000 for each fiscal year from 2008 through 2012. (Section 11013)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 14121)

*(58) Veterinary workforce grant program*

The Senate amendment establishes a veterinary workforce grant program at USDA to increase the number of veterinarians trained in biosecurity. It authorizes such sums as necessary for each fiscal year from 2008 through 2012. (Section 11014)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to establish a program of competitive grants to veterinarians and food science professionals to increase agricultural biosecurity capacity. (Section 14122)

*(59) Assistance to build local capacity in biosecurity planning, preparedness, and response*

The Senate amendment requires USDA to provide grants to support the development and expansion of advanced training programs in agricultural biosecurity planning and response for food science professionals and veterinarians. The Section also requires USDA to provide grant and low-interest loan assistance to States for use in assessing agricultural disease response capability for food science and veterinary biosecurity planning. (Section 11015)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and incorporates this section into the Agricultural Security Improvement Act of 2008 (Section 14113).

*(60) Plant protection*

The Senate amendment modifies penalties in the Plant Protection Act (PPA) as follows: $500,000 for each violation adjudicated in a single proceeding; $1,000,000 for each violation adjudicated in a single proceeding involving a genetically modified organism. The provision requires an action, suit or proceeding regarding a violation of the PPA to be considered no later than 5 years after the date the violation is initially discovered by the Secretary. (Section 11017)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment strike the change to the statute of limitations, to expand the penalties to cover any willful violation of the PPA, and to clarify subpoena authorities of the Department under the PPA. The Conference substitute also modifies the ability of the executive branch to delay the provision of compensation for economic losses under this section. This provision can be found in the horticulture and organic agriculture title of this Act. (Section 10203) Identical amendments were made to the Animal Health Protection Act, and this provision can be found in the livestock title of this Act. (Section 11012)

The Managers intend for the Secretary or the Secretary's designee to continue to possess the ability to review actions of officers, employees, and agents of the Secretary with regards to the payment of compensation under the Plant Protection Act.

Further, the Managers expect the additional subpoena authority provided in this section to be used to assist the Secretary in compiling such information, assembling such evidence, and conducting such investigations as the Secretary determines is necessary and proper for the administration and enforcement of this Title.

*(61) Report on stored quantities of propane*

The Senate amendment requires the Secretary of Homeland Security to submit to Congress a report of the effects DHS interim or final regulations regarding possession of quantities of propane that exceed the screening threshold set by the DHS rules. The provision includes number of agricultural facilities and total number of facilities affected, numbers of facilities filing security assessments, alternative security programs, and appeals, as well as costs of compliance. (Section 11070)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to limit the report to the Committees on Agriculture of the House and Senate, and to strike the subparagraph on the use of the Food and Agricultural Sector Coordinating Council. (Section 14206)

**I. DISASTER ASSISTANCE TRUST FUND[1]**

(Sec. 12101 of the Senate amendment, sec. 901 of the Trade Act of 1974 and sec. 15101 of the conference agreement)

PRESENT LAW

The Farm Service Agency (''FSA'') of the United States Department of Agriculture (''USDA'') offers various ongoing programs for agricultural producers to facilitate recovery from losses caused by natural events. Ongoing programs include the Emergency Conservation Program (''ECP''), the Noninsured Crop Disaster Assistance Program (''NAP''), the Disaster Debt Set-Aside Program (''DSA''), and the Emergency Loan Program (''EM'').

ECP is a discretionary program funded through annual appropriations that provides funding for farmers and ranchers to rehabilitate farmland damaged by natural disaster and for carrying out emergency water conservation measures during severe drought. The natural disaster must create new conservation problems that if untreated would 1) impair or endanger the land; 2) materially affect the productive capacity of the land; 3) represent unusual damage which, except for wind erosion, is not the type likely to recur frequently in the same area; and 4) be so costly to repair that federal assistance is, or will be required, to return the land to productive agricultural use.

[1] The statement of managers does not contain descriptions of the provisions in the House bill and Senate amendment that were not agreed to by the conferees.

NAP provides a low level of insurance to producers who grow otherwise noninsurable crops. NAP provides coverage for crop losses and planting prevented by disasters. Landowners, tenants, or sharecroppers who share in the risk of producing an eligible crop may qualify for this program. Before payments can be issued, applications must first be received and approved, generally before the crop is planted, and the crop must have suffered a minimum of 50 percent loss in yield. Payments are 55 percent of the commodities' average market price on crop losses beyond 50 percent. Eligible crops include commercial crops and other agricultural commodities produced for food, including livestock feed or fiber for which the catastrophic level of crop insurance is unavailable. Also eligible for NAP coverage are controlled-environment crops (mushroom and floriculture), specialty crops (honey and maple sap), and value loss crops (aquaculture, Christmas trees, ginseng, ornamental nursery, and turfgrass sod).

DSA is available to those producers who are borrowers from the Farm Service Agency in primary or contiguous counties that have been declared by the President or designated by the Secretary of Agriculture (''Secretary'') as a disaster area. When borrowers affected by natural disasters are unable to make their scheduled payments on any debt, FSA is authorized to consider the set-aside of some payments to allow the farming operation to continue. After a disaster designation is made, FSA will notify borrowers of the availability of the DSA. Borrowers who are notified have eight months from the date of designation to apply. FSA borrowers may also request a release of income proceeds to meet current operating and family living expenses or may request special servicing provisions from their local FSA county offices to explore other options.

EM provides emergency loans to help producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine. Emergency loans may be made to farmers and ranchers who own or operate land located in a county declared by the President as a disaster area or designated by the Secretary as a disaster area or quarantine area (for physical losses only, the FSA administrator may authorize emergency loan assistance). EM funds may be used to: (1) restore or replace essential property; (2) pay all or part of production costs associated with the disaster year; (3) pay essential family expenses; (4) reorganize the farming operation; and (5) refinance certain debts.

HOUSE BILL

No provision.

SENATE AMENDMENT

*In general*

The provision amends the Trade Act of 1974 to create a permanent Agriculture Disaster Relief Trust Fund (''PADTF'') that would provide payments to farmers and ranchers who suffer losses in areas that are declared disaster areas by the USDA. The trust fund will be funded by an amount equal to 3.34 percent of the amounts received in the general fund of the Treasury that are attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule. The PADTF could make payments under four new disaster assistance programs: the permanent crop disaster assistance program, the permanent livestock indemnity program, the tree assistance program, and the emergency assistance program for livestock, honey bees, and farm raised fish. In addition, the PADTF will also fund a new pest and disease management and disaster prevention program. Amounts not required to meet current withdrawals may be invested in U.S. Treasury obligations with interest credited to the PADTF. The PADTF may also borrow, with interest, as repayable advances sums necessary to carry out the purposes of the fund.

*Permanent Crop Disaster Assistance Program (''PCDP'')*

Generally, PCDP payments will be paid to producers located in disaster counties on 52 percent of the difference between the disaster program guarantee and the sum of total farm revenue. Disaster counties include counties receiving disaster declarations by the Secretary due to production losses resulting directly or indirectly from adverse weather, counties contiguous to such counties, and any farm whose production due to weather was less than 50 percent of normal production. To be eligible for PCDP payments, the producer must have purchased or enrolled in both crop insurance for insurable crops at a minimum of 50 percent of yield at 55 percent of price and NAP for uninsurable crops. The Secretary may waive this requirement under certain conditions.

The disaster program guarantee for insurable crops is equal to the product of a measure of crop yield, the percentage of crop insurance yield guarantee, the percentage of crop insurance price elected by the producer, the crop insurance price, and 115 percent. The disaster program guarantee for noninsured crops is equal to the product of the yield as determined by NAP for each crop, 100 percent of the NAP established price, and 115 percent. The disaster program guarantee is the sum of the disaster program guarantee for insurable and noninsured crops.

Total farm revenue includes the sum of the estimated value of crops and grazing, crop insurance and NAP indemnities accruing to the farm, the value of prevented planting payments, the amount of other natural disaster assistance payments provided by the federal government to a farm for the same loss, and an amount equal to 20 percent of any direct payments made to the producer under section 1103 of the Farm Security and Rural Investment Act of 2002. The estimated value of crops is generally the product of actual crop acreage grazed or harvested, estimated actual yields of grazing land or crop production, and the average market price during the first five months of the marketing year in which a farm or portion of a farm is located.

*Permanent Livestock Indemnity Program*

The PADTF may also make payments under the permanent livestock indemnity program to eligible producers on farms that have incurred livestock death losses in excess of normal mortality rates during the calendar year due to adverse weather, as determined by the Secretary. Indemnity payments are made at a rate of 75 percent of the fair market value of the livestock on the day before the date of death of the livestock as determined by the Secretary.

*Tree Assistance Program*

The Secretary shall make payments to eligible orchardists as follows. Assistance is in the form of 1) 75 percent reimbursement for the cost of replanting trees lost due to a natural disaster if tree mortality is in excess of 15 percent, adjusted for normal mortality, or sufficient seedlings to reestablish a stand; and 2) 50 percent reimbursement of the cost of pruning, removal, and other costs incurred to salvage existing trees or to prepare land to replant trees lost due to a natural disaster in excess of 15 percent damage and/or mortality adjusted for normal tree damage and/or mortality.

*Buy-up NAP coverage*

Under NAP, FSA compensates eligible producers for losses of noninsurable crops exceeding 50 percent of the expected yield based on 55 percent of the average market price of the commodity. This provision permits producers to buy additional NAP coverage. Producers could purchase additional coverage guarantee up to 60 or 65 percent, as elected by the producers, of expected yield, and up to 100 percent of the average market price of the commodity. Fees would be established and collected by the Secretary to fully offset the cost of supplemental NAP coverage.

*Emergency assistance for livestock, honey bees, and farm-raised fish*

The Secretary shall use up to $35,000,000 annually from the trust fund to provide emergency relief to producers of livestock (including horses), honey bees, and farm-raised fish due to losses from adverse weather or other environmental conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under the authority of the Secretary to make qualifying natural disaster declarations. For purposes of the provision, farm-raised fish includes the propagation and rearing of aquatic species (including any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant) in controlled or semi-controlled environments.

*Limitations*

No eligible producer may receive more than $100,000 annually in total disaster assistance under this Act. A producer is not eligible for benefits under the provision if, as determined by the Secretary, such producer's adjusted gross income (as defined in section 1001D(a) of the Food Security Act of 1985 or any successor provision) exceeds $2.5 million, unless not less than 75 percent of the average adjusted gross income of such producer is derived from farming, ranching or forestry operations.

*Pest and disease management and disaster prevention*

The provision also establishes a new program under which USDA will conduct early pest detection and surveillance activities in coordination with State departments of agriculture, will prioritize and create action plans to address pest and disease threats to specialty crops, and will create an audit-based certification approach to protect against the spread of plant pests.

*Sunset of provision*

The authority provided by the provision expires at the same time as the 2007 Farm Bill.

CONFERENCE AGREEMENT

*Supplemental Agricultural Disaster Assistance Program description and provisions (For crop years 2008–2011)*

The provision amends the Trade Act of 1974 to create a Supplemental Agricultural Disaster Assistance trust fund (''Trust Fund'') that would provide payments to farmers and ranchers who suffer losses in areas that are designated disaster areas by the USDA. The Trust Fund could make payments under five new disaster assistance programs: the Supplemental Revenue Program (''SURE''), the Livestock Forage Disaster Program (''LFP''), the Livestock Indemnity Program (''LIP''), the Tree Assistance Program (''TAP''), and the Emergency Assistance Program for Livestock, Honey bees, and Farm raised fish.

*Supplemental Revenue Assistance Payments (SURE)*

Section 901(b) SURE Assistance will be available to eligible producers on farms in disaster determined and contiguous counties that have incurred crop production losses and/or crop quality losses.

901(a)(5) For purposes of the supplemental revenue assistance program, disaster counties are counties that received Secretarial Disaster declarations due to production losses resulting directly or indirectly from adverse weather. However, Secretarial designations are waived for farms with greater than 50% production losses.

901(b)(2)(A) SURE Assistance payments will be issued on 60% of the difference between the disaster assistance program guarantee AND total farm revenue (as defined).

The conferees expect that when payments are calculated, USDA will not discount any final payments for any activity that has already been deducted as an adjustment to a crop insurance indemnity or noninsured assistance payment such as harvest costs, packing, or transportation.

901(b)(3) The SURE Assistance Program Guarantee is the sum obtained by adding:

For each insurable commodity, the product obtained by multiplying: the higher of the Adjusted APH yield, or the counter-cyclical program payment yield the percentage of crop insurance yield guarantee, the crop insurance price election, the acres planted or prevented from being planted, and 115%, AND for each non-insurable commodity on the farm, the product obtained by multiplying: the higher of the adjusted noninsured assistance program yield guarantee or the counter-cyclical program payment yield, 100% of the NAP established price, the acres planted or prevented from being planted, and 120%.

The conferees intend the price election for revenue products to be the price the crop insurance indemnity would be calculated for the plan of insurance obtained by the producer.

901(a)(2) The Adjusted APH Yield and Section 901(a)(3) the Adjusted Noninsured Crop Disaster Assistance Yield are determined by dropping replacement yields for producers with at least four years of actual production history. For producers with four years or less, one replacement yield may be dropped from the calculation.

The SURE Assistance guarantee will be adjusted in the following manners. 901(b)(2)(B) The guarantee may not exceed 90% of the expected revenue for the whole farm. 901(b)(3)(B)&(C) Where crop insurance or the NAP makes adjustments for prevented planting or un-harvested production, the adjusted guarantee will be the basis for calculating the SURE Assistance guarantee.

901(b)(3)(D) The Secretary is also charged with the responsibility to establish equitable treatment for non-standard crop insurance products like AgriLite.

901(b)(4) The total Farm Revenue for the farm shall be equal to the sum obtained by adding: the estimated actual value of the production for each crop produced by multiplying the actual crop acreage harvested; the estimated actual yield; the national average market price for the marketing year for each commodity, as determined by the Secretary; the crop insurance or NAP indemnities accruing to the farm; the value of any other natural disaster assistance payments provided by the federal government on a farm for the same loss; 15% of direct payments accruing to the farm; all marketing loan proceeds (including certificate gains); and all counter-cyclical or average crop revenue payments.

The conferees encourage the Secretary to accept Loss Adjustment yields to determine estimated actual yield when available with the understanding that all of the units for the crop on the farm would need to be adjusted to arrive at total farm production.

When loss adjusted yields are not available, the conferees expect the Secretary to obtain APH certified yields submitted to the Risk Management Agency through participating crop insurance companies.

901(b)(4)(B) The Secretary shall adjust the average market price received to reflect average quality discounts applied to the local or regional market price of the crop during the year of production. The Secretary shall also account for crop value reduced due to excess moisture resulting from a disaster related condition.

The conferees expect the Secretary, assisted by Farm Service Agency State and County committees, will determine local or regional discounts for the marketing year in a manner similar to what has been used to administer recent ad hoc quality loss programs.

The conferees encourage the Secretary to consider salvage values when quality factors prevent the commodity from being marketed for its originally intended purpose.

901(b)(5) Expected crop revenue is used to calculate the 90% limit of the SURE Assistance Guarantee and is equal to the sum obtained by adding:

For each insured commodity, the product obtained by multiplying: the higher of the Actual Production History (APH) yield, the Adjusted APH yield, or the counter-cyclical program payment yield; the acreage planted or prevented from being planted; and the insurance price guarantee, AND for each non-insured crop, the product obtained by multiplying: the adjusted non-insurable assistance program (NAP) yield, the adjusted Actual Production History (APH) NAP yield; the acreage planted or prevented from being planted; and 100% of the NAP protection price.

The entire farm constitutes unit structure for this program including all crops in all counties in the farming operation and shared production.

*Livestock Indemnity Program (LIP)*

901(c)(1) The Trust Fund may also make payments under the Livestock Indemnity Program (LIP) to eligible producers on farms that have incurred livestock death losses in excess of normal mortality rates during the calendar year due to adverse weather, as determined by the Secretary.

901(c)(2) Indemnity payments are made at a rate of 75 percent of the fair market value of the livestock on the day before the date of death of the livestock as determined by the Secretary.

It is the intent of the conferees that the Secretary shall make LIP payments based upon individual producers' eligible losses. No state, county, or other trigger shall be used by the Secretary to define an eligible LIP area.

It is expected that the Secretary, through the State Farm Service Agency Committee will obtain recommendations from applicable state livestock organizations, state Cooperative Extension Service, and other knowledgeable and credible sources to establish the normal mortality rate for each type of livestock on a state-by-state basis.

When determining the market value of applicable livestock in order to determine payment rates for LIP, the Secretary shall establish market values for each type of livestock from credible livestock markets. Credible livestock markets include sale barns, local sales as well as terminal market centers or slaughtering facilities.

*Livestock Forage Disaster Program (LFP)*

901(d) The Livestock Forage Program provides ranchers assistance for forage losses due to drought. Ranchers in counties with droughts designated by the Drought Monitor as severe, extreme or exceptional qualify for assistance. Producers in a severe drought will receive one month's payment. Producers experiencing extreme drought will get two month's payment and producers in a county with an exceptional drought will receive three month's payment. The payment is 60 percent of either 1) the monthly feed cost for the total number of livestock covered or, 2) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land, whichever is smaller.

901(d)(4) LFP also covers losses to ranchers whose livestock utilize federal grazing permits. Payments are available to eligible livestock producers whose livestock are prohibited by a Federal agency from grazing due to fire. Payments will be made for the time period beginning on the date the Federal Agency excludes the eligible livestock producer and ending on the last day of the eligible producer's Federal lease. The payment rate is 50 percent of the monthly feed costs for the total number of livestock covered by the Federal lease.

The conferees intend this section to also apply to trust property and range units managed under the authority of the Department of Interior through the Bureau of Indian Affairs.

901(d)(1)(D) In order to disallow excessive payments to livestock producers who overgraze pasture and grazing lands the Secretary shall calculate the normal carrying capacity of the eligible livestock producer's grazing and pasture land and issue payments based on the lesser of the actual number of the livestock producer's eligible livestock or the maximum carrying capacity of the eligible livestock producer's pasture and grazing land for the type and weight of the eligible producer's livestock.

901(d)(5) One of the eligibility requirements for the LFP is that a livestock producer shall have timely applied for and obtained, if available, either crop insurance, including pilot programs implemented by the Risk Management Agency such as the Pastureland Rangeland Forage Program; or coverage under the NAP on the pasture or grazing land which suffered an eligible loss. Producers are not required to purchase any pilot program if they purchase NAP.

901(d)(5)(C) For the 2008 crop year only, if a livestock producer had not timely obtained either crop insurance or NAP coverage, if it was available, the Secretary shall waive this requirement if the livestock producer pays any fee that would have been required to enroll in either crop insurance or NAP.

901(d)(5)(D) For any year after 2008, the Secretary may on a case-by-case basis provide equitable relief for producers who the county Farm Service Agency Committee determines unintentionally failed to obtain crop insurance or NAP coverage on applicable grazing and pasture land.

The conferees recommend that for LFP applications for which payment would be less than $25,000, the State Farm Service Agency Committee may provide equitable relief; and that for LFP applications for which payments exceed $25,000 the Secretary or designee shall review a recommendation from the county and state Farm Service Agency committees and determine whether equitable relief applies.

*Emergency assistance for livestock, honey bees, and farm-raised fish*

901(e)(1) The Secretary shall use up to $50,000,000 annually from the Trust Fund to provide emergency relief to producers of livestock (including horses), honey bees, and farm-raised fish due to losses from adverse weather or other conditions, such as blizzards and wildfires, as determined by the Secretary.

The conferees wish to clarify that program is intended to cover disasters that are not adequately covered by any other disaster program.

*Tree Assistance Program (TAP)*

901(f) The Secretary shall make payments to eligible orchardists and nursery tree growers as follows. Assistance is in the form of 1) 70 percent reimbursement for the cost of replanting trees lost due to a natural disaster if tree mortality is in excess of 15 percent, adjusted for normal mortality, or sufficient seedlings to reestablish a stand; and 2) 50 percent reimbursement of the cost of pruning, removal, and other costs incurred to salvage existing trees or to prepare land to replant trees lost due to a natural disaster in excess of 15 percent damage and/or mortality adjusted for normal tree damage and/or mortality.

The conferees wish to clarify that the insurance requirement for TAP eligibility refers to insurance on the crop and not on the underlying vines or trees.

*Risk management purchase requirements*

901(g) To be eligible for SURE Assistance, the producer must have purchased or be enrolled in (at a minimum) the Catastrophic crop insurance (CAT) for insurable crops and the Noninsured Assistance Program (NAP) for uninsurable crops.

901(g)(4) For the 2008 crop year, the Secretary will waive the purchase requirement if producers pay a fee equal to the administrative fees for CAT and NAP on crops for which no coverage has been purchased within 90 days after the enactment of this subtitle.

The conferees intend that participation in pilot crop insurance programs may establish linkage, but pilot participation would not be necessary to establish linkage if CAT or NAP coverage is secured.

901(g)(5) The Secretary may provide equitable relief to producers who unintentionally fail to meet the crop insurance or NAP purchase requirements for one or more crops on a farm on a case-by-case basis. For 2008, the Secretary will have additional authority for producers who failed purchase requirements of this subtitle.

The conferees intend that the Secretary will use equitable relief provisions in circumstances where severe weather events result in revised planting intentions for crops for which the producer had not obtained a minimum CAT or NAP coverage.

901(g)(3) The Secretary may waive the crop insurance purchase requirement for limited resource, minority and/or beginning farmers and provide disaster assistance benefits at a level deemed appropriate by the Secretary.

The conferees do not expect the Secretary to conduct an annual signup to participate in the SURE Assistance program. The conferees anticipate an effective public information effort will be conducted by USDA with the cooperation of the Farm Service Agency, the Natural Resources Conservation Service, the Risk Management Agency (including crop insurance companies), the Cooperative State Research, Education, and Extension Service, and State Departments of Agriculture.

*Limitations*

901(h) No eligible producer may receive more than $100,000 annually in total disaster assistance under this section, excluding subsection 901(f). A producer is not eligible for benefits under the provision if, as determined by the Secretary, such producer's adjusted gross income (as defined in section 1001D(a) of the Food Security Act of 1985 or any successor provision). Direct attribution of benefits as described in subsection (e) and (f) of Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provision shall apply.

The conferees anticipate that the AGI limit would be consistent with limitations for the noninsured assistance program.

The conferees note that the Tree Assistance Program (TAP) has a separate $100,000 annual limitation.

*Period of effectiveness*

Section 901(i) states that the Supplemental Agricultural Disaster Assistance program shall cover disaster related losses occurring on or before September 30, 2011.

The conferees expect the Secretary to cover all losses for which disaster conditions were evident on or before September 30, 2011.

*Duplicate payments*

Section 901(j) instructs the Secretary to prevent duplicative payments.

The conferees expect Emergency Conservation Programs (ECP), or any other similar program not directed to production or revenue losses of the farm, are not intended to be covered by this section.

*Agricultural Disaster Relief Trust Fund (Trust Fund)*

902(b) The Trust Fund will be funded by an amount equal to 3.08 percent of the amounts received in the general fund of the Treasury that are attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule. Amounts not required to meet current withdrawals may be invested in U.S. Treasury obligations with interest credited to the trust fund. The Trust Fund may also borrow, with interest, as repayable advances sums necessary to carry out the purposes of the fund.

902(b)(3) Funds will not be appropriated to the Trust Fund if any changes are made to the operation of the programs within the Trust Fund that are not permitted by the Trust Fund.

*Jurisdiction*

Section 903 requires legislation in the Senate of the United States that amends section 901 or section 902 be referred to the Committee on Finance of the Senate.

## II. REVENUE PROVISIONS FOR AGRICULTURE PROGRAMS

### A. Extension of Custom User Fees

(Sec. 15201 of the conference agreement)

PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) (''COBRA'') authorizes the Secretary of the Treasury to collect certain customs services fees. Section 412 of the Homeland Security Act of 2002 authorizes the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Customs user fees include passenger and conveyance processing fees (e.g., fees for processing air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, cargo, and Customs broker permits) and merchandise processing fees. Congress has authorized collection of the passenger and conveyance processing fees through December 27, 2014. The current authorization for the collection of the merchandise processing fees is through December 27, 2014.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to extend the passenger and conveyance processing fees through September 30, 2017, and extend the merchandise processing fees through November 14, 2017. The conference agreement would require remittance, by no later than September 25, 2017, of passenger and conveyance fees for the period July 1, 2017 though September 20, 2017. It would also require an estimated prepayment of the merchandise processing fees no later than September 25, 2017 for merchandise entered on or after October 1, 2017 and before November 15, 2017. The estimated prepayment will be based on the amount paid in the equivalent period of the previous year, as determined by the Secretary of the Treasury. The conference agreement also holds service users harmless for overpayments or underpayments of merchandise processing fees by requiring the Secretary of Treasury to reconcile the fees paid with the actual fees incurred for services rendered. The Secretary of Treasury must then refund any overpayments with interest, and make adjustments for any underpayments of such merchandise processing fees.

EFFECTIVE DATE

The provision is effective on the date of enactment.

### B. Modifications to Corporate Estimated Tax Payments (Sec. 15202 of the conference agreement)

PRESENT LAW

*In general*

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

*Tax Increase Prevention and Reconciliation Act of 2005 (''TIPRA'')*

TIPRA provided the following special rules:

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September 2012, shall be increased to 106.25 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September 2013, shall be increased to 100.75 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

*Subsequent legislation*

Several public laws have been enacted since TIPRA which further increase the percentage of payments due under each of the two special rules enacted by TIPRA described above.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The provision makes a modification to the corporate estimated tax payment rules.

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September 2012, are increased by 7¾ percentage points of the payment otherwise due and the next required payment shall be reduced accordingly.

EFFECTIVE DATE

The provision is effective on the date of enactment.

## III. TAX PROVISIONS

### A. CONSERVATION

1. Exclusion of Conservation Reserve Program Payments from SECA tax for individuals receiving Social Security retirement or disability payments (Sec. 12202 of the Senate amendment, sec. 15301 of the conference agreement and sec. 1402(a) of the Code)

PRESENT LAW

Generally, the Self-Employment Contributions Act (''SECA'') tax is imposed on an individual's net earnings from self-employment income within the Social Security wage base. Net earnings from self-employment generally mean gross income (including the individual's net distributive share of partnership income) derived by an individual from any trade or business carried on by the individual less applicable deductions.[2]

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision excludes conservation reserve program payments from self-employment income for purposes of the SECA tax in the case of individuals who are receiving Social Security retirement or disability benefits. The treatment of conservation reserve program payments received by other taxpayers is not changed.

Effective date.—The provision is effective for payments made after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Make permanent the special rule encouraging contributions of capital gain real property for conservation purposes (Sec. 12203 of the Senate amendment, sec. 15302 of the conference agreement and sec. 170 of the Code)

PRESENT LAW

*Charitable contributions generally*

In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. The amount of deduction generally equals the fair market value of the contributed property on the date of the contribution. Charitable deductions are provided for income, estate, and gift tax purposes.[3]

In general, in any taxable year, charitable contributions by a corporation are not deductible to the extent the aggregate contributions exceed 10 percent of the corporation's taxable income computed without regard to net operating or capital loss carrybacks. For individuals, the amount deductible is a percentage of the taxpayer's contribution base, (i.e., taxpayer's adjusted gross income computed without regard to any net operating loss carryback). The applicable percentage of the contribution base varies depending on the type of donee organization and property contributed. Cash contributions of an individual taxpayer to public charities, private operating foundations, and certain types of private nonoperating foundations may not exceed 50 percent of the taxpayer's contribution base. Cash contributions to private foundations and certain other organizations generally may be deducted up to 30 percent of the taxpayer's contribution base.

In general, a charitable deduction is not allowed for income, estate, or gift tax purposes if the donor transfers an interest in property to a charity while also either retaining an interest in that property or transferring an interest in that property to a noncharity for less than full and adequate consideration. Exceptions to this general rule are provided for, among other interests, remainder interests in charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds, present interests in the form of a guaranteed annuity or a fixed percentage of the annual value of the property, and qualified conservation contributions.

*Capital gain property*

Capital gain property means any capital asset or property used in the taxpayer's trade or business the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of capital gain property to a qualified charity are deductible at fair market value within certain limitations. Contributions of capital gain property to charitable organizations described in section 170(b)(1)(A) (e.g., public charities, private foundations other than private non-operating foundations, and certain governmental units) generally are deductible up to 30 percent of the taxpayer's contribution base. An individual may elect, however, to bring all these contributions of capital gain property for a taxable year within the 50-percent limitation category by reducing the amount of the contribution deduction by the amount of the appreciation in the capital gain property. Contributions of capital gain property to charitable organizations described in section 170(b)(1)(B) (e.g., private non-operating foundations) are deductible up to 20 percent of the taxpayer's contribution base.

For purposes of determining whether a taxpayer's aggregate charitable contributions in a taxable year exceed the applicable percentage limitation, contributions of capital gain property are taken into account after other charitable contributions. Contributions of capital gain property that exceed the percentage limitation may be carried forward for five years.

*Qualified conservation contributions*

Qualified conservation contributions are not subject to the ''partial interest'' rule, which generally bars deductions for charitable contributions of partial interests in property. A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. A qualified real property interest is defined as: (1) the entire interest of the donor other than a qualified mineral interest; (2) a remainder interest; or (3) a restriction (granted in perpetuity) on the use that may be made of the real property. Qualified organizations include certain governmental units, public charities that meet certain public support tests, and certain supporting organizations. Conservation purposes include: (1) the preservation of land areas for outdoor recreation by, or for the education of, the general public; (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; (3) the preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy; and (4) the preservation of an historically important land area or a certified historic structure.

Qualified conservation contributions of capital gain property are subject to the same limitations and carryover rules of other charitable contributions of capital gain property.

*Special rule regarding contributions of capital gain real property for conservation purposes*

*In general*

Under a temporary provision that is effective for contributions made in taxable years beginning after December 31, 2005,[4] the 30-percent contribution base limitation on contributions of capital gain property by individuals does not apply to qualified conservation contributions (as defined under present law). Instead, individuals may deduct the fair market value of any qualified conservation contribution to an organization described in section 170(b)(1)(A) to the extent of the excess of 50 percent of the contribution base over the amount of all other allowable charitable contributions. These contributions are not taken into account in determining the amount of other allowable charitable contributions.

Individuals are allowed to carryover any qualified conservation contributions that exceed the 50-percent limitation for up to 15 years.

For example, assume an individual with a contribution base of $100 makes a qualified conservation contribution of property with a fair market value of $80 and makes other charitable contributions subject to the 50-percent limitation of $60. The individual is allowed a deduction of $50 in the current taxable year for the non-conservation contributions (50 percent of the $100 contribution base) and is allowed to carryover the excess $10 for up to 5 years. No current deduction is allowed for the qualified conservation contribution, but the entire $80 qualified conservation contribution may be carried forward for up to 15 years.

*Farmers and ranchers*

In the case of an individual who is a qualified farmer or rancher for the taxable year in which the contribution is made, a qualified conservation contribution is allowable up to 100 percent of the excess of the taxpayer's contribution base over the amount of all other allowable charitable contributions.

In the above example, if the individual is a qualified farmer or rancher, in addition to the $50 deduction for non-conservation contributions, an additional $50 for the qualified conservation contribution is allowed and $30 may be carried forward for up to 15 years as a contribution subject to the 100-percent limitation.

In the case of a corporation (other than a publicly traded corporation) that is a qualified farmer or rancher for the taxable year in which the contribution is made, any qualified conservation contribution is allowable up to 100 percent of the excess of the corporation's taxable income (as computed under section 170(b)(2)) over the amount of all other allowable charitable contributions. Any excess may be carried forward for up to 15 years as a contribution subject to the 100-percent limitation.[5]

As an additional condition of eligibility for the 100 percent limitation, with respect to any contribution of property in agriculture or livestock production, or that is available for such production, by a qualified farmer or rancher, the qualified real property interest must include a restriction that the property remain generally available for such production. (There is no requirement as to any specific use in agriculture or farming, or necessarily that the property be used for such purposes, merely that the property remain available for such purposes.) Such additional condition does not apply to contributions made on or before August 17, 2006.

A qualified farmer or rancher means a taxpayer whose gross income from the trade or

[2] Sec, 1402.

[3] Secs. 170, 2055, and 2522, respectively. Unless otherwise provided, all section references are to the Internal Revenue Code of 1986, as amended (the ''Code'').

[4] Sec. 170(b)(1)(E).

[5] Sec. 170(b)(2)(B).

business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

*Termination*

The special rule regarding contributions of capital gain real property for conservation purposes does not apply to contributions made in taxable years beginning after December 31, 2007.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes permanent the special rule regarding contributions of capital gain real property for conservation purposes.

*Effective date.*—The provision is effective for contributions made in taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment by extending the special rule regarding contributions of capital gain real property for conservation purposes. However, under the conference agreement, the special rule does not apply for contributions made in taxable years beginning after December 31, 2009.

3. Deduction for endangered species recovery expenditures (Sec. 12205 of the Senate amendment, sec. 15303 of the conference agreement and sec. 175 of the Code)

PRESENT LAW

Under present law, a taxpayer engaged in the business of farming may treat expenditures that are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion loss of land used in farming, as expenses that are not chargeable to capital account. Such expenditures are allowed as a deduction, not to exceed 25 percent of the gross income derived from farming during the taxable year.[6] Any excess above such percentage is deductible for succeeding taxable years, not to exceed 25 percent of the gross income derived from farming during such succeeding taxable year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that expenditures paid or incurred by a taxpayer engaged in the business of farming for the purpose of achieving site-specific management actions pursuant to the Endangered Species Act of 1973[7] are to be treated the same as expenditures for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, i.e., such expenditures are treated as not chargeable to capital account and are deductible subject to the limitation that the deduction may not exceed 25 percent of the farmer's gross income derived from farming during the taxable year.

*Effective date.*—The provision is effective for expenditures paid or incurred after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the conference agreement provision is effective for expenditures paid or incurred after December 31, 2008.

[6] Sec.175.

[7] 16 U.S.C. 1533(f)(B).

4. Temporary reduction in corporate tax rate for qualified timber gain; timber REIT provisions (Secs. 12212–12217 of the Senate amendment, secs. 15311–15315 of the conference agreement and secs. 856, 857, and 1201 of the Code)

PRESENT LAW

*Treatment of certain timber gain*

Under present law, if a taxpayer cuts standing timber, the taxpayer may elect to treat the cutting as a sale or exchange eligible for capital gains treatment (sec. 631(a)). The fair market value of the timber on the first day of the taxable year in which the timber is cut is used to determine the gain attributable to such cutting. Such fair market value is also considered the taxpayer's cost of the cut timber for all purposes, such as to determine the taxpayer's income from later sales of the timber or timber products. Also, if a taxpayer disposes of the timber with a retained economic interest or makes an outright sale of the timber, the gain is eligible for capital gain treatment (sec. 631(b)). This treatment under either section 631(a) or (b) requires that the taxpayer has owned the timber or held the contract right for a period of more than one year.

Under present law, for taxable years beginning before January 1, 2011, the maximum rate of tax on long term capital gain (''net capital gain'')[8] of an individual, estate, or trust is 15 percent. Any net capital gain that otherwise would be taxed at a 10- or 15-percent rate is taxed at a zero-percent rate. These rates apply for purposes of both the regular tax and the alternative minimum tax.[9]

For taxable years beginning after December 31, 2010, the maximum rate of tax on the net capital gain of an individual is 20 percent. Any net capital gain that otherwise would be taxed at a 10- or 15-percent rate is taxed at a 10-percent rate. In addition, any gain from the sale or exchange of property held more than five years that would otherwise have been taxed at the 10-percent rate is taxed at an eight-percent rate. Any gain from the sale or exchange of property held more than five years and the holding period for which began after December 31, 2000, which would otherwise have been taxed at a 20-percent rate, is taxed at an 18-percent rate.

The net capital gain of a corporation is taxed at the same rates as ordinary income, up to a maximum rate of 35 percent.[10]

Real estate investment trusts (''REITs'') are subject to a special taxation regime. Under this regime, a REIT is allowed a deduction for dividends paid to its shareholders.[11] As a result, REITs generally do not pay tax on distributed income, but the income is taxed to the REIT shareholders. A REIT that has long-term capital gain can declare a dividend that shareholders are entitled to treat as long-term capital gain.

REITs generally are required to distribute 90 percent of their taxable income (other than net capital gain). A REIT generally must pay tax at regular corporate rates on any undistributed income. However, a REIT that has net capital gain can retain that gain without distributing it, and the shareholders can report the net capital gain as if it were distributed to them. In that case the REIT pays a C corporation tax on the retained gain, but the shareholders who report the income are entitled to a credit or refund for the difference between the tax that would be due if the income had been distributed and the 35-percent rate paid by the REIT.[12] In effect, net capital gain of a REIT (including but not limited to timber gain) can be taxed as net capital gain of the shareholders, whether or not the gain is distributed.

*Other REIT provisions*

A REIT is also subject to a four-percent excise tax to the extent it does not distribute specified percentages of its income within any calendar year. The required distributed percentage is 85 percent in the case of the REIT ordinary income, and 95 percent in the case of the REIT capital gain net income (as defined).[13] The amount of the excess of the required distribution over the actual distribution is subject to the 4-percent tax.

A REIT generally is restricted to earning certain types of passive income. Among other requirements, at least 75 percent of the gross income of a REIT in a taxable year must consist of certain types of real estate related income, including rents from real property, income from the sale or exchange of real property (including interests in real property) that is not stock in trade, inventory, or held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business, and interest on mortgages secured by real property or interests in real property.[14] Interests in real property are specifically defined to exclude mineral, oil, or gas royalty interests.[15] A REIT will not qualify as a REIT, and will be taxable as a C corporation, for any taxable year if it does not meet this income test.

Some REITs have been formed to hold land on which trees are grown. Upon maturity of the trees, the standing trees are sold by the REIT. The Internal Revenue Service has issued private letter rulings in particular instances stating that the income from the sale of the trees under section 631(b) can qualify as REIT real property income because the uncut timber and the timberland on which the timber grew is considered real property and the sale of uncut trees can qualify as capital gain derived from the sale of real property.[16]

[8] Net capital gain is defined as the excess of net long-term capital gain over net short-term capital gain for the taxable year. Sec. 1222(11).

[9] Because the entire amount of the capital gain is included in alternative minimum taxable income (''AMTI''), for taxpayers subject to the alternative minimum tax with AMTI in excess of $112,500 ($150,000 in the case of a joint return), the gain may cause a reduction in the minimum tax exemption amount and thus effectively tax the gain at rates of 21.5 or 22 percent. Also the gain may cause the phase-out of certain benefits in computing the regular tax.

[10] Secs. 11 and 1201.

[11] A distribution to a corporate shareholder out of current or accumulated earnings and profits of the corporation is a dividend, unless the distribution is a redemption that terminates the shareholder's stock interest or reduces the shareholder's interest in the distributing corporation to an extent considered to result in treatment as a sale or exchange of the shareholder's stock. Secs. 301 and 302. A distribution in excess of corporate earnings and profits is treated by shareholders as first a recovery of their stock basis and then, to the extent the distribution exceeds a shareholder's stock basis, as a sale or exchange of the stock. Sec. 301. These rules generally apply to REITs.

[12] Sec. 857(b)(3)(D). The shareholders also obtain a basis increase in their REIT stock for the gross amount of the deemed distribution that is included in their income less the amount of corporate tax deemed paid by them that was paid by the REIT on the retained gain. Sec. 857(b)(3)(D)(iii).

[13] Section 4981. The definition is the excess of gains from sales or exchanges of capital assets over losses from such sales or exchanges for the calendar year, reduced by any net ordinary loss.

[14] Section 856(c) and section 1221(a). Income from sales that are not prohibited transactions solely by virtue of section 857(b)(6) is also qualified REIT income.

[15] Section 856(c)(5)(C).

[16] Timber income under section 631(b) has also been held to be qualified real estate income even if the one year holding period is not met. See, e.g., PLR 200052021, see also PLR 199945055, PLR 199927021, PLR 8838016. A private letter ruling may be relied upon only by the taxpayer to which the ruling is issued.

A REIT is subject to a 100-percent excise tax on gain from any sale that is a ''prohibited transaction,'' defined as a sale of property that is stock in trade, inventory, or property held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.[17] This determination is based on facts and circumstances. However, a safe-harbor provides that no excise tax is imposed if certain requirements are met. In the case of timber property, the safe harbor is met, regardless of the number of sales that occur during the taxable year, if (i) the REIT has held the property for not less than four years in connection with the trade or business of producing timber; (ii) the aggregate adjusted bases of the property sold (other than foreclosure property) during the taxable year does not exceed 10 percent of the aggregate bases of all the assets of the REIT as of the beginning of the taxable year, and if certain other requirements are met. These include requirements that limit the amount of expenditures the REIT can make during the 4-year period prior to the sale that are includible in the adjusted basis of the property,[18] that require marketing to be done by an independent contractor, and that forbid a sales price that is based on the income or profits of any person.[19] There is a similar but separate safe harbor for sales of non-timber property, with similar rules, including a 4-year holding period requirement and a limit on the percentage of the aggregate adjusted basis of property that can be sold in one taxable year.[20]

A REIT is not generally permitted to hold securities representing more than 10 percent of the voting power or value of the securities of any one issuer; nor may more than 5 percent of the fair market value of REIT assets be securities of any one issuer.[21] However, under an exception, a REIT may hold any amount of securities of one or more ''taxable REIT subsidiary'' (TRS) corporations, provided that such TRS securities do not represent more than 20 percent of the fair market value of REIT assets at the end of any quarter. A TRS is a C corporation that is subject to regular corporate tax on its income and that meets certain other requirements. A taxable REIT subsidiary may conduct activities that would produce disqualified non-passive or non-real estate income that could disqualify the REIT if conducted by a REIT itself. Such business could include business relating to processing timber, or holding timber products or other assets for sale to customers in the ordinary course of business. Such income would be subject to regular corporate rates of tax as income of the TRS.[22]

HOUSE BILL

No provision.

SENATE AMENDMENT

*Elective deduction for 60 percent of qualified timber gain*

The Senate amendment allows a taxpayer to elect to deduct an amount equal to 60 percent of the taxpayer's qualified timber gain (or, if less, the net capital gain) for a taxable year. In the case of an individual, the deduction reduces adjusted gross income. Qualified timber gain means the net gain described in section 631(a) and (b) for the taxable year.

The deduction is allowed in computing the regular tax and the alternative minimum tax (including the adjusted current earnings of a corporation).

If a taxpayer elects the deduction, the 40 percent of the gain subject to tax is taxed at ordinary income tax rates.[23]

In the case of a pass-thru entity other than a REIT, the election may be made separately by each taxpayer subject to tax on the gain. The Treasury Department may prescribe rules appropriate to apply this provision to gain taken into account by a pass-thru entity.

In the case of a REIT, the election to take the 60-percent deduction is made by the REIT. If a REIT makes the election, then the timber gain is excluded from the computation of capital gain or loss of the REIT and can no longer be designated as a capital gain dividend to shareholders. Instead, the gain is treated as ordinary income for purposes of applying the REIT income distribution requirements, but for this purpose 60-percent of the amount of the gain is deductible by the REIT in computing its income. REIT earnings and profits also exclude the portion of the timber gain that is deductible. Thus, 40 percent of the gain is subject to the REIT distribution requirements,[24] and 40 percent of the gain increases REIT earnings and profits. Accordingly, because REIT earnings and profits have been increased by the 40-percent amount, there is sufficient earnings and profits that a distribution of that 40-percent amount that otherwise qualifies as a dividend would be treated as an ordinary dividend distribution to shareholders. Since this dividend is from a REIT and is not derived from an entity that was taxed as a C corporation, it would not qualify for the current 15-percent qualified dividend rates and would be taxed at the ordinary income rates of the shareholders.

REIT shareholders obtain an upward basis adjustment in their REIT interests, equal to the 60 percent of the timber gain that is deductible by the electing REIT. Because the 60 percent of timber gain that was deductible by the REIT does not increase REIT earnings and profits, a distribution of such 60 percent to the shareholder generally will not be treated as a dividend (in the absence of other retained earnings) but as a return of basis under the general rules of section 301(c). Because the shareholders' basis has been increased by this 60 percent, this distribution would not exceed the shareholders' basis and thus would be nontaxable return of basis, rather than capital gain in excess of basis. However, if a REIT shareholder has obtained such an upward basis adjustment for a REIT interest and disposes of the interest before having held the interest for at least 6 months, then any loss on disposition of the interest is disallowed to the extent of such upward basis adjustment.

*Additional REIT provisions*

*Timber gain qualified REIT income without regard to 1 year holding period*

The Senate amendment specifically includes timber gain under section 631(a) as a category of statutorily recognized qualified real estate income of a REIT if the cutting is provided by a taxable REIT subsidiary, and also includes gain recognized under section 631(b). For purposes of such qualified income treatment under those provisions, the requirement of a one-year holding period is removed. Thus, for example, a REIT can acquire timber property and harvest the timber on the property within one year of the acquisition, with the resulting income being qualified real estate income for REIT qualification purposes, even though such income is not eligible for long-term capital gain treatment under sections 631(a) or (b). The provision specifically provides, however, that for all purposes of the Code, such income shall not be considered to be gain described in section 1221(a)(1), that is, it shall not be treated as income from the sale of stock in trade, inventory, or property held by the REIT primarily for sale to customers in the ordinary course of the REITs trade or business.

For purposes of determining REIT income, if the cutting is done by a taxable REIT subsidiary, the cut timber is deemed sold on the first day of the taxable year to the taxable REIT subsidiary (with subsequent gain, if any, attributable to the taxable REIT subsidiary).

*REIT prohibited transaction safe harbor for timber property*

For sales to a qualified organization for conservation purposes, as defined in section 170(h), the provision reduces to two years the present law four-year holding period requirement under section 857(b)(6)(D), which provides a safe harbor from ''prohibited transaction'' treatment for certain timber property sales. Also, in the case of such sales, the safe-harbor limitations on how much may be added, within the four-year period prior to the date of sale, to the aggregate adjusted basis of the property, are changed to refer to the two-year period prior to the date of sale.

The Senate amendment also removes the safe-harbor requirement that marketing of the property must be done by an independent contractor, and permits a taxable REIT subsidiary of the REIT to perform the marketing.

The Senate amendment states that any gain that is eligible for the timber property safe harbor is considered for all purposes of the Code not to be described in section 1221(a)(1), that is, it shall not be treated as income from the sale of stock in trade, inventory, or property held by the REIT primarily for sale to customers in the ordinary course of the REITs trade or business.

*Special rules for timber REITs*

The Senate amendment contains several provisions applicable only to a ''timber REIT,'' defined as a REIT in which more than 50 percent of the value of its total assets consists of real property held in connection with the trade or business of producing timber.

First, mineral royalty income from real property owned by a timber REIT and held, or once held, in connection with the trade or business of producing timber by such REIT, is included as qualifying real estate income for purposes of the REIT income tests.

Second, a timber REIT is permitted to hold TRS securities with a value up to 25 percent, (rather than 20 percent) of the value of the total assets of the REIT.

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However, such rulings provide an indication of administrative practice.

[17] Sections 857(b)(6) and 1221(a)(1). There is an exception for certain foreclosure property.

[18] Aggregate expenditures (other than timberland acquisition expenditures) during such period made by the REIT or a partner of the REIT, which are includible in basis, may not exceed 30 percent of the net selling price in the case of expenditures that are directly related to operation of the property for the production of timber or the preservation of the property for use as timberland, and may not exceed 5 percent of the net selling price in the case of expenditures that are not directly related to those purposes.

[19] Section 857(b)(6)(D).

[20] Section 857(b)(6)(C).

[21] Section 856(c)(4)(B)(ii) and (iii). Certain interests are not treated as ''securities'' for purposes of the rule forbidding the REIT to hold securities representing more than 10 percent of the value of securities of any one issuer. Sec. 856(m).

[22] A 100-percent excise tax is imposed on the amount of certain transactions involving a TRS and a REIT, to the extent such amount would exceed an arm's length amount under section 482. Sec. 857(b)(7).

[23] Under the provision, because only 40 percent of the gain is included in adjusted gross income and AMTI, only that amount of gain would result in the phase-out of tax benefits.

[24] For purposes of the section 4981 excise tax on undistributed REIT income, the amount treated as subject to the 95 percent distribution requirement is the 40 percent of timber gain income that remains after allowing the deduction.

*Effective date*

The provision applies to taxable years beginning after the date of enactment, but does not apply after the last day of the first taxable year beginning after the date of enactment.

CONFERENCE AGREEMENT

*Corporate rate reduction for qualified timber gain*

The conference agreement provides a 15-percent alternative tax rate for corporations on the portion of a corporation's taxable income that consists of qualified timber gain (or, if less, the net capital gain) for a taxable year.[25]

The alternative 15-percent tax rate applies to both the regular tax and the alternative minimum tax.

Qualified timber gain means the net gain described in section 631(a) and (b) for the taxable year, determined by taking into account only trees held more than 15 years.

*Effective date.*—The provision applies to taxable years ending after the date of enactment and beginning on or before the date which is one year after the date of enactment. In the case of a taxable year that includes the date of enactment, qualified timber gain may not exceed the qualified timber gain properly taken into account for the portion of the year after that date. In the case of a taxable year that includes the date that is one year after the date of enactment, qualified timber gain may not exceed the qualified timber gain properly taken into account for the portion of the year on or before that date.

*Additional REIT provisions*

The conference agreement follows the additional REIT provisions in the Senate amendment.

*Effective date.*—The additional REIT provisions apply only for the first taxable year of the REIT that begins after the date of enactment and before the date that is one year after the date of enactment. The provisions terminate after that time.

5. Qualified forestry conservation bonds (Sec. 12808 of the Senate amendment, and sec. 15316 of the conference agreement and new secs. 54A and 54B of the Code)

PRESENT LAW

*Tax-exempt bonds*

*In general*

Subject to certain Code restrictions, interest on bonds issued by State and local government generally is excluded from gross income for Federal income tax purposes. Bonds issued by State and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons. For this purpose, the term ''nongovernmental person'' generally includes the Federal Government and all other individuals and entities other than States or local governments. The exclusion from income for interest on State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes (''qualified private activity bonds'') and other Code requirements are met.

*Private activity bond tests*

Present law provides two tests for determining whether a State or local bond is in substance a private activity bond, the private business test and the private loan test.[26]

*Private business tests*

Private business use and private payments result in State and local bonds being private activity bonds if both parts of the two-part private business test are satisfied—

1. More than 10 percent of the bond proceeds is to be used (directly or indirectly) by a private business (the ''private business use test''); and

2. More than 10 percent of the debt service on the bonds is secured by an interest in property to be used in a private business use or to be derived from payments in respect of such property (the ''private payment test'').[27]

Private business use generally includes any use by a business entity (including the Federal Government), which occurs pursuant to terms not generally available to the general public. For example, if bond-financed property is leased to a private business (other than pursuant to certain short-term leases for which safe harbors are provided under Treasury regulations), bond proceeds used to finance the property are treated as used in a private business use, and rental payments are treated as securing the payment of the bonds. Private business use also can arise when a governmental entity contracts for the operation of a governmental facility by a private business under a management contract that does not satisfy Treasury regulatory safe harbors regarding the types of payments made to the private operator and the length of the contract.[28]

*Private loan test*

The second standard for determining whether a State or local bond is a private activity bond is whether an amount exceeding the lesser of (1) five percent of the bond proceeds or (2) $5 million is used (directly or indirectly) to finance loans to private persons. Private loans include both business and other (e.g., personal) uses and payments by private persons; however, in the case of business uses and payments, all private loans also constitute private business uses and payments subject to the private business test. Present law provides that the substance of a transaction governs in determining whether the transaction gives rise to a private loan. In general, any transaction which transfers tax ownership of property to a private person is treated as a loan.

*Qualified private activity bonds*

As stated, interest on private activity bonds is taxable unless the bonds meet the requirements for qualified private activity bonds. Qualified private activity bonds permit States or local governments to act as conduits providing tax-exempt financing for certain private activities. The definition of qualified private activity bonds includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond (sec. 141(e)). The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities (sec. 142(a)).

In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. For calendar year 2007, the State volume cap, which is indexed for inflation, equals $85 per resident of the State, or $256.24 million, if greater.

*Arbitrage restrictions*

The tax exemption for State and local bonds also does not apply to any arbitrage bond.[29] An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments.[30] In general, arbitrage profits may be earned only during specified periods (e.g., defined ''temporary periods'') before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., ''reasonably required reserve or replacement funds''). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal Government.

*Indian tribal governments*

Indian tribal governments are provided with a tax status similar to State and local governments for specified purposes under the Code.[31] Among the purposes for which a tribal government is treated as a State is the issuance of tax-exempt bonds. However, bonds issued by tribal governments are subject to limitations not imposed on State and local government issuers. Tribal governments are authorized to issue tax-exempt bonds only if substantially all of the proceeds are used for essential governmental functions or certain manufacturing facilities.[32]

*Clean renewable energy bonds*

As an alternative to traditional tax-exempt bonds, States and local governments may issue clean renewable energy bonds (''CREBs''). CREBs are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for qualified projects. ''Qualified projects'' are facilities that qualify for the tax credit under section 45 (other than Indian coal production facilities), without regard to the placed-in-service date requirements of that section.[33] The term ''qualified issuers'' includes (1) governmental bodies (including Indian tribal governments); (2) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or guarantee under the Rural Electrification Act); and (3) clean renewable energy bond lenders. The term ''qualified borrower'' includes a governmental body (including an Indian tribal government) and a mutual or cooperative electric company. A clean renewable energy

[25] The conference agreement does not contain the 60 percent deduction for qualified timber income that was contained in the Senate amendment, nor does it make any change to section 4981.

[26] Sec. 141(b) and (c).

[27] The 10-percent private business use and payment threshold is reduced to five percent for private business uses that are unrelated to a governmental purpose also being financed with proceeds of the bond issue. In addition, as described more fully below, the 10-percent private business use and private payment thresholds are phased-down for larger bond issues for the financing of certain ''output'' facilities. The term output facility includes electric generation, transmission, and distribution facilities.

[28] See Treas. Reg. sec. 1.141–3(b)(4) and Rev. Proc. 97–13, 1997–1 C.B. 632.

[29] Sec. 103(a) and (b)(2).

[30] Sec. 148.

[31] Sec. 7871.

[32] Sec. 7871(c).

[33] In addition, Notice 2006–7 provides that qualified projects include any facility owned by a qualified borrower that is functionally related and subordinate to any facility described in section 45(d)(1) through (d)(9) and owned by such qualified borrower.

bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002.

Unlike tax-exempt bonds, CREBs are not interest-bearing obligations. Rather, the taxpayer holding CREBs on a credit allowance date is entitled to a tax credit. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of CREBs without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

CREBs are subject to a maximum maturity limitation. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a CREBs being equal to 50 percent of the face amount of such bond. In addition, the Code requires level amortization of CREBs during the period such bonds are outstanding.

CREBs also are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. Principles under section 148 and the regulations thereunder apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to CREBs.

In addition to the above requirements, at least 95 percent of the proceeds of CREBs must be spent on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as CREBs if unspent proceeds are used within 90 days from the end of such five-year period to redeem any ''nonqualified bonds.'' The five-year spending period may be extended by the Secretary upon the qualified issuer's request demonstrating that the failure to satisfy the five-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

Issuers of CREBs are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. There is a national CREB limitation of $1.2 billion. The maximum amount of CREBs that may be allocated to qualified projects of governmental bodies is $750 million. CREBs must be issued before January 1, 2009.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment creates a new category of tax-credit bonds, qualified forestry conservation bonds. Qualified forestry conservation bonds are bonds issued by qualified issuers to finance qualified forestry conservation projects. The term ''qualified issuer'' means a State or a section 501(c)(3) organization. The term ''qualified forestry conservation project'' means the acquisition by a State or section 501(c)(3) organization from an unrelated person of forest and forest land that meets the following qualifications: (1) some portion of the land acquired must be adjacent to United States Forest Service Land; (2) at least half of the land acquired must be transferred to the United States Forest Service at no net cost and not more than half of the land acquired may either remain with or be donated to a State; (3) all of the land must be subject to a habitat conservation plan for native fish approved by the United States Fish and Wildlife Service; and (4) the amount of acreage acquired must be at least 40,000 acres.

There is a national limitation on qualified forestry conservation bonds of $500 million. Allocations of qualified forestry conservation bonds are among qualified forestry conservation projects in the manner the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date that is 24 months after the date of enactment. The Senate amendment also requires the Secretary to solicit applications for allocations of qualified forestry conservation bonds no later than 90 days after the date of enactment.

The Senate amendment requires 100 percent of the available project proceeds of qualified forestry conservation bonds to be used within the three-year period that begins on the date of issuance. The Senate amendment defines available project proceeds as proceeds from the sale of the issue less issuance costs (not to exceed two percent) and any investment earnings on such sale proceeds. To the extent less than 100 percent of the available project proceeds are used to finance qualified forestry conservation purposes during the three-year spending period, bonds will continue to qualify as qualified forestry conservation bonds if unspent proceeds are used within 90 days from the end of such three-year period to redeem bonds. The three-year spending period may be extended by the Secretary upon the issuer's request demonstrating that the failure to satisfy the three-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

Qualified forestry conservation bonds generally are subject to the arbitrage requirements of section 148. However, available project proceeds invested during the three-year spending period are not subject to the arbitrage restrictions (i.e., yield restriction and rebate requirements). In addition, amounts invested in a reserve fund are not subject to the arbitrage restrictions to the extent: (1) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue; and (2) the yield on such fund is not greater than the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the qualified forestry conservation bonds are issued.

The maturity of qualified forestry conservation bonds is the term that the Secretary estimates will result in the present value of the obligation to repay the principal on such bonds being equal to 50 percent of the face amount of such bonds, using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the qualified forestry conservation bonds are issued.

As with present-law tax credit bonds, the taxpayer holding qualified forestry conservation bonds on a credit allowance date is entitled to a tax credit. The credit rate is set by the Secretary at 70 percent of the rate that would permit issuance of qualified forestry conservation bonds without discount and interest cost to the issuer. The amount of the tax credit to the holder is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit accrues quarterly, is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability. Unused credits in one year may be carried forward to succeeding taxable years. In addition, credits may be separated from the ownership of the underlying bond similar to how interest coupons can be stripped for interest-bearing bonds.

Issuers of qualified forestry conservation bonds are required to certify that the financial disclosure requirements that apply to State and local bonds offered for sale to the general public are satisfied with respect to any Federal, State, or local government official directly involved with the issuance of such bonds. The Senate amendment authorizes the Secretary to impose additional financial reporting requirements by regulation.

*Effective date.*—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. Under the conference agreement, the credit rate on qualified forestry conservation bonds is determined by the Secretary at the rate that permits issuance of such bonds without discount and interest cost to the qualified issuer.

The conference agreement also provides that a qualified issuer receiving an allocation to issue qualified forestry conservation bonds may, in lieu of issuing bonds, elect to treat such allocation as a deemed payment of tax (regardless of whether the issuer is subject to tax under chapter 1 of the Code) that is equal to 50 percent of the amount of such allocation. An election to treat an allocation of qualified forestry conservation bonds as a deemed payment is not valid unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer will be used exclusively for one or more qualified forestry conservation purposes. The deemed tax payment may not be used as an offset or credit against any other tax and shall not accrue interest. In addition, if the qualified issuer fails to use any portion of the overpayment for qualified forestry conservation purposes, the issuer shall be liable to the United States in an amount equal to such portion, plus interest, for the period from the date such portion was refunded to the date such amount is paid.

*Effective date.*—The provision is effective for bonds issued after the date of enactment.

B. ENERGY PROVISIONS

1. Credit for production of cellulosic biofuel (Sec. 12312 of the Senate amendment, sec. 15321 of the conference agreement and sec. 40 of the Code)

PRESENT LAW

In the case of ethanol, the Code provides a separate 10-cents-per-gallon credit for up to 15 million gallons per year for small producers, defined generally as persons whose production capacity does not exceed 60 million gallons per year. The ethanol must (1) be sold by such producer to another person (a) for use by such other person in the production of a qualified alcohol fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c). A cooperative may pass through the small ethanol producer credit to its patrons. The credit is includible in income and is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The alcohol fuels tax credit, of which the small producer credit is a part, is scheduled to expire after December 31, 2010.

Under the Renewable Fuels Standard Program all renewable fuel produced or imported on or after September 1, 2007 must have a renewable identification number (RIN) associated with it. Producers and importers must generate RINs to represent all

the renewable fuel they produce or import and provide those RINs to the EPA. For cellulosic ethanol, 2.5 RINs are generated for every gallon produced.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an income tax credit for each gallon of qualified cellulosic fuel production of the producer for the taxable year. The amount of the credit per gallon is $1.25 less the credit amount for alcohol fuel and the credit amount for small ethanol producers as of the date the cellulosic biofuel fuel is produced. This credit is in addition to any credit that may be available under section 40 of the Code.

Qualified cellulosic biofuel production is any cellulosic biofuel which is produced by the taxpayer and which is sold by such producer to another person (a) for use by such other person in the production of a qualified biofuel fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such biofuel at retail to another person and places such biofuel in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c).

Cellulosic biofuel means any alcohol, ether, ester, or hydrocarbon that is produced in the United States and is derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis. However, it does not include any alcohol with a proof of less than 150. Examples of lignocellulosic or hemicellulosic matter that is available of a renewable or recurring basis include dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste. A qualified cellulosic biofuel mixture is a mixture of cellulosic biofuel and any petroleum fuel product which is sold by the person producing such mixture to any person for use as a fuel, or is used as a fuel by the person producing such mixture.

The credit terminates on April 1, 2015.

The Senate amendment waives the 15 million gallon limitation of the small ethanol producer credit for cellulosic biofuel that is ethanol.

*Effective date.*—The provision is effective for fuel produced after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement adds a new component to section 40 of the Code, the ''cellulosic biofuel producer credit.'' This credit is a nonrefundable income tax credit for each gallon of qualified cellulosic fuel production of the producer for the taxable year. The amount of the credit per gallon is $1.01, except in the case of cellulosic biofuel that is alcohol. In the case of cellulosic biofuel that is alcohol, the $1.01 credit amount is reduced by (1) the credit amount applicable for such alcohol under the alcohol mixture credit as in effect at the time cellulosic biofuel is produced and (2) in the case of cellulosic biofuel that is ethanol, the credit amount for small ethanol producers as in effect at the time the cellulosic biofuel fuel is produced. The reduction applies regardless of whether the producer claims the alcohol mixture credit or small ethanol producer credit with respect to the cellulosic alcohol. When the alcohol mixture credit and small ethanol producer credit expire after December 31, 2010, cellulosic biofuel will receive the $1.01 without reduction.

''Qualified cellulosic biofuel production'' is any cellulosic biofuel which is produced by the taxpayer and which is sold by the taxpayer to another person (a) for use by such other person in the production of a qualified biofuel fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such biofuel at retail to another person and places such biofuel in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c).

''Cellulosic biofuel'' means any liquid fuel that (1) is produced in the United States and used as fuel in the United States,[34] (2) is derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis and (3) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act. Thus, to qualify for the credit the fuel must be approved by the Environmental Protection Agency. Cellulosic biofuel does not include any alcohol with a proof of less than 150. Examples of lignocellulosic or hemicellulosic matter that is available of a renewable or recurring basis include dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

A ''qualified cellulosic biofuel mixture'' is a mixture of cellulosic biofuel and a special fuel or of cellulosic biofuel and gasoline, which is sold by the person producing such mixture to any person for use as a fuel, or is used as a fuel by the person producing such mixture. The term ''special fuel'' includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

The cellulosic biofuel producer credit terminates on December 31, 2012. The conference agreement requires cellulosic biofuel producers to be registered with the IRS. The cellulosic biofuel producer credit cannot be claimed unless the taxpayer is registered with the IRS as a producer of cellulosic biofuel.

With respect to the small ethanol producer credit, the conference agreement also waives the 15 million gallon limitation for cellulosic biofuel that is ethanol. Thus the small ethanol producer credit may be claimed for cellulosic ethanol in excess of 15 million gallons. The other requirements for the small ethanol producer credit continue to apply for ethanol other than cellulosic ethanol, including the 15 million gallon limitation.

Under the conference agreement, cellulosic biofuel and alcohols cannot qualify as biodiesel, renewable diesel, or alternative fuel for purposes of the credit and payment provisions relating to those fuels.

*Effective date.*—The provision is effective for fuel produced after December 31, 2008.

2. Comprehensive study of biofuels (Sec. 15322 of the conference agreement)

PRESENT LAW

The National Academy of Sciences serves to investigate, examine, experiment and report upon any subject of science whenever called upon to do so by any department of the government. The National Research Council is part of the National Academies. The National Research Council was organized by the National Academy of Sciences in 1916 and is its principal operating agency for conducting science policy and technical work.

HOUSE BILL

No provision.[35]

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires the Secretary, in consultation with the Department of Energy and the Department of Agriculture and the Environmental Protection Agency, to enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine:

1. Current biofuels production, as well as projections for future production;
2. The maximum amount of biofuels production capable on U.S. forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels;
3. The domestic effects of a increase in biofuels production on, for example, (a) the price of fuel, (b) the price of land in rural and suburban communities, (c) crop acreage and other land use, (d) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors, (e) the price of feed, (f) the selling price of grain crops, and forest products, (g) exports and imports of grains and forest products, (h) taxpayers, through cost or savings to commodity crop payments, and (i) the expansion of refinery capacity;
4. The ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel;
5. A comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation;
6. The impact of the credit for production of cellulosic biofuel (as established by this Act) on the regional agricultural and silvicultural capabilities of commercially available forest inventories; and
7. The need for additional scientific inquiry, and specific areas of interest for future research.

The Secretary shall submit an initial report of the findings to the Congress not later than six months after the date of enactment, and a final report not later than 12 months after the date of enactment. In the case of information relating to the impact of the tax credits established by the Act on the regional agricultural and silvicultural capabilities of commercially available forest inventories, the initial report is due 36 months after the date of enactment and the final report is due 42 months after the date of enactment.

*Effective date.*—The provision is effective on the date of enactment.

3. Modification of alcohol credit (Sec. 12315 of the Senate amendment, and sec. 15331 of the conference agreement and secs. 40 and 6426 of the Code)

PRESENT LAW

*Income tax credit*

The alcohol fuels credit is the sum of three credits: the alcohol mixture credit, the alcohol credit, and the small ethanol producer credit. Generally, the alcohol fuels credit expires after December 31, 2010.[36]

Taxpayers are eligible for an income tax credit of 51 cents per gallon of ethanol (60 cents in the case of alcohol other than ethanol) used in the production of a qualified mixture (the ''alcohol mixture credit''). A ''qualified mixture'' means a mixture of alcohol and gasoline, (or of alcohol and a special fuel) sold by the taxpayer as fuel, or

[34] For this purpose, ''United States'' includes any possession of the United States.

[35] A provision requiring a comprehensive study on biofuels was included in section 402 of H.R. 5351, passed by the House on February 27, 2008.

[36] The alcohol fuels credit is unavailable when, for any period before January 1, 2011, the tax rates for gasoline and diesel fuels drop to 4.3 cents per gallon.

used as fuel by the taxpayer producing such mixture. The term ''alcohol'' includes methanol and ethanol but does not include (1) alcohol produced from petroleum, natural gas, or coal (including peat), or (2) alcohol with a proof of less than 150.

Taxpayers may reduce their income taxes by 51 cents for each gallon of ethanol, which is not in a mixture with gasoline or other special fuel, that they sell at the retail level as vehicle fuel or use themselves as a fuel in their trade or business (''the alcohol credit''). For alcohol other than ethanol, the rate is 60 cents per gallon.[37]

In the case of ethanol, the Code provides an additional 10–cents-per-gallon credit for up to 15 million gallons per year for small producers. Small producer is defined generally as persons whose production capacity does not exceed 60 million gallons per year. The ethanol must (1) be sold by such producer to another person (a) for use by such other person in the production of a qualified alcohol fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c). A cooperative may pass through the small ethanol producer credit to its patrons.

The alcohol fuels credit is includible in income and is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The credit is allowable against the alternative minimum tax.

*Excise tax credit and payment provision for alcohol fuel mixtures*

The Code also provides an excise tax credit and payment provision for alcohol fuel mixtures. Like the income tax credit, the amount of the credit is 60 cents per gallon of alcohol used as part of a qualified mixture (51 cents in the case of ethanol). For purposes of the excise tax credit and payment provisions, alcohol includes methanol and ethanol but does not include (1) alcohol produced from petroleum, natural gas, or coal (including peat), or (2) alcohol with a proof of less than 190. Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from alcohol. In lieu of a tax credit, a person making a qualified mixture eligible for the credit may seek a payment from the Secretary in the amount of the credit. The payment provisions and credits are coordinated such that the incentive is not claimed more than once for each gallon of alcohol used as part of qualified mixture.

*Renewable Fuels Standard Program*

Under the Renewable Fuels Standard Program all renewable fuel produced or imported on or after September 1, 2007 must have a renewable identification number (RIN) associated with it. Producers and importers must generate RINs to represent all the renewable fuel they produce or import and provide those RINs to the Environmental Protection Agency. For cellulosic ethanol, 2.5 RINs are generated for every gallon produced.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the 51-cent-per-gallon incentive for ethanol is adjusted to 46 cents per gallon beginning with the first calendar year after the year in which 7.5 billion gallons of ethanol (including cellulosic ethanol) have been produced in or imported into the United States after the date of enactment, as certified by the Secretary in consultation with the Administrator of the Environmental Protection Agency.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, the 51-cent-per-gallon incentive for ethanol is adjusted to 45 cents per gallon for the calendar year 2009 and thereafter.[38] If the Secretary makes a determination, in consultation with the Administrator of the Environmental Protection Agency, that 7,500,000,000 gallons of ethanol (including cellulosic ethanol) were not produced in or imported into the United States in 2008, the reduction in the credit amount will be delayed. If a determination is made that the threshold was not reached in 2008, the reduction for 2010 also will be delayed if the Secretary determines 7,500,000,000 gallons were not produced or imported in 2009. In the absence of a determination, the reduction remains in effect. In the event the determination is made subsequent to the start of a calendar year, those persons claiming the reduced amount prior to the Secretary's determination will be entitled to the difference between the correct credit amount for that year and the credit amount claimed, e.g. between 51 cents per gallon and 45 cents per gallon.

*Effective date.*—The provision is effective on the date of enactment.

4. Calculation of volume of alcohol for fuel credits (Sec. 12316 of the Senate amendment, and sec. 15332 of the conference agreement and sec. 40 of the Code)

PRESENT LAW

The Code provides a per-gallon credit for the volume of alcohol used as a fuel or in a qualified mixture. For purposes of determining the number of gallons of alcohol with respect to which the credit is allowable, the volume of alcohol includes any denaturant, including gasoline.[39] The denaturant must be added under a formula approved by the Secretary and the denaturant cannot exceed five percent of the volume of such alcohol (including denaturants).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reduces the amount of allowable denaturants to two percent of the volume of the alcohol.

*Effective date.*—The provision is effective for fuel sold or used after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

*Effective date.*—The provision is effective for fuel sold or used after December 31, 2008.

5. Ethanol tariff extension (Sec. 12317 of the Senate amendment and sec. 15333 of the conference agreement)

PRESENT LAW

Heading 9901.00.50 of the Harmonized Tariff Schedule of the United States imposes a cumulative general duty of 14.27 cents per liter (approximately 54 cents per gallon) to imports of ethyl alcohol, and any mixture containing ethyl alcohol, if used as a fuel or in producing a mixture to be used as a fuel, that are entered into the United States prior to January 1, 2009.

Taxpayers who blend ethanol with gasoline are eligible to claim an alcohol fuels tax credit of 51 cents per gallon, irrespective of whether the ethanol used is produced domestically or imported. Heading 9901.00.50 applies a temporary duty to ethanol imports that offsets the benefit of the alcohol fuels tax credit to imported ethanol.

Heading 9901.00.52 of the Harmonized Tariff Schedule of the United States imposes a general duty of 5.99 cents per liter to imports of ethyl tertiary-butyl ether, and any mixture containing ethyl tertiary-butyl ether, that are entered into the United States prior to January 1, 2009.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the existing effective period for ethyl alcohol as classified under heading 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States from before January 1, 2009 to before January 1, 2011.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

*Effective date.*—The provision is effective on the date of enactment.

6. Limitations on duty drawback on certain imported ethanol (Sec. 12318 of the Senate amendment and sec. 15334 of the conference agreement)

PRESENT LAW

Subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States (''HTSUS''), imposes an additional duty on ethanol that is used as fuel or used to make fuel. Subsection (b) of Section 313 of the Tariff Act of 1930 permits the refund of duty if the duty-paid good, or a substitute good, is used to make an article that is exported. Subsection (j)(2) of Section 313 permits the refund of duty if the duty-paid good, or a substitute good, is exported. Subsection (p) of section 313 permits the substitution on exportation for drawback eligibility of one motor fuel for another motor fuel. A person who manufactures or acquires gasoline with ethanol subject to the duty imposed by subheading 9901.00.50, HTSUS, can export jet fuel (which does not involve the use of ethanol) and obtain a refund of the duty paid under subheading 9901.00.50, HTSUS.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment eliminates the ability to obtain a refund of the duty imposed by subheading 9901.00.50, HTSUS, by substitution of ethanol not subject to the duty under 9901.00.50 of the HTSUS for ethanol subject to the duty imposed under subheading 9901.00.50, HTSUS, for drawback purposes. Also, under the provision, an exported article that does not contain ethyl alcohol or a mixture of ethyl alcohol shall not be treated as the same kind and quality as a qualified article that does contain ethyl alcohol or a mixture of ethyl alcohol, for substitution duty drawback purposes under section 313(p) of the Tariff Act of 1930. In particular, this eliminates the ability to export jet fuel as a substitute for motor fuel made with imports of ethyl alcohol or a mixture of ethyl alcohol, and receive duty drawback based upon the import duty paid under subheading 9901.00.50, HTSUS.

*Effective date.*—Effective for articles exported on or after the date that is 15 days after the date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, any duty paid under subheading 9901.00.50, HTSUS, on

[37] In the case of any alcohol (other than ethanol) with a proof that is at least 150 but less than 190, the credit is 45 cents per gallon (the ''low-proof blender amount''). For ethanol with a proof that is at least 150 but less than 190, the low-proof blender amount is 37.78 cents.

[38] The low-proof blender amount is adjusted accordingly to 33.33 cents.

[39] Sec. 40(d)(4).

imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol. In particular, the provision eliminates the ability to export jet fuel as a substitute for motor fuel made with imports of ethyl alcohol or a mixture of ethyl alcohol, and then receive duty drawback based upon the import duty paid on the ethyl alcohol or the mixture of ethyl alcohol under subheading 9901.00.50, HTSUS.

*Effective date.*—The provision applies to imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008. With respect to claims for substitution duty drawback that are based upon imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, such claims must be filed not later than September 30, 2010; otherwise, such claims are disallowed.

C. AGRICULTURAL PROVISIONS

1. Qualified small issue bonds for farming (Sec. 12401 of the Senate amendment, sec. 15341 of the conference agreement and sec. 144 of the Code)

PRESENT LAW

Qualified small issue bonds are tax-exempt bonds issued by State and local governments to finance private business manufacturing facilities (including certain directly related and ancillary facilities) or the acquisition of land and equipment by certain first-time farmers. A first-time farmer means any individual who has not at any time had any direct ownership interest in substantial farmland in the operation of which such individual materially participated. In addition, an individual does not qualify as a first-time farmer if such individual has received more than $250,000 in qualified small issue bond financing. Substantial farmland means any parcel of land unless (1) such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located and (2) the fair market value of the land does not at any time while held by the individual exceed $125,000.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the maximum amount of qualified small issue bond proceeds available to first-time farmers to $450,000 and indexes this amount for inflation. The provision also eliminates the fair market value test from the definition of substantial farmland.

*Effective date.*—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Allowance of section 1031 for exchanges involving certain mutual ditch, reservoir, or irrigation company stock (Sec. 12403 of the Senate amendment, sec. 15342 of the conference agreement and sec. 1031 of the Code)

PRESENT LAW

An exchange of property, like a sale, generally is a taxable event. However, no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged for property of a ''like-kind'' which is to be held for productive use in a trade or business or for investment.[40] If section 1031 applies to an exchange of properties, the basis of the property received in the exchange is equal to the basis of the property transferred, decreased by any money received by the taxpayer, and further adjusted for any gain or loss recognized on the exchange. In general, section 1031 does not apply to any exchange of stock in trade or other property held primarily for sale; stocks, bonds or notes; other securities or evidences of indebtedness or interest; interests in a partnership; certificates of trust or beneficial interests; or choses in action.[41]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the general exclusion from section 1031 treatment for stocks shall not apply to shares in a mutual ditch, reservoir, or irrigation company, if at the time of the exchange: (1) the company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses); and (2) the shares in the company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.

*Effective date.*—The provision is effective for transfers after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Agricultural chemicals security tax credit (Sec. 12405 of the Senate amendment, sec. 15343 of the conference agreement and new sec. 45O of the Code)

PRESENT LAW

Present law does not provide a credit for agricultural chemicals security.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment establishes a 30 percent credit for qualified chemical security expenditures for the taxable year with respect to eligible agricultural businesses. The credit is a component of the general business credit.[42]

The credit is limited to $100,000 per facility, this amount is reduced by the aggregate amount of the credits allowed for the facility in the prior five years. In addition, each taxpayer's annual credit is limited to $2,000,000.[43] The credit only applies to expenditures paid or incurred before December 31, 2012. The taxpayer's deductible expense is reduced by the amount of the credit claimed.

Qualified chemical security expenditures are amounts paid for: (1) employee security training and background checks; (2) limitation and prevention of access to controls of specific agricultural chemicals stored at a facility; (3) tagging, locking tank valves, and chemical additives to prevent the theft of specific agricultural chemicals or to render such chemicals unfit for illegal use; (4) protection of the perimeter of areas where specified agricultural chemicals are stored; (5) installation of security lighting, cameras, recording equipment and intrusion detection sensors; (6) implementation of measures to increase computer or computer network security; (7) conducting security vulnerability assessments; (8) implementing a site security plan; and (9) other measures provided for by regulation. Amounts described in the preceding sentences are only eligible to the extent they are incurred by an eligible agricultural business for protecting specified agricultural chemicals.

Eligible agricultural businesses are businesses that: (1) sell agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers; or (2) manufacture, formulate, distribute, or aerially apply specified agricultural chemicals.

Specified agricultural chemicals means: (1) fertilizer commonly used in agricultural operations which is listed under section 302(a)(2) of the Emergency Planning and Community Right-to know Act of 1986, section 101 or part 172 of title 49, Code of Federal Regulations, or part 126, 127 or 154 of title 33, Code of Federal Regulations; and (2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act) including all active and inert ingredients which are used on crops grown for food, feed or fiber.

*Effective date.*—The provision is effective for expenses paid or incurred after date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Three-year depreciation for all race horses (Sec. 12509(a) of the Senate amendment, and sec. 15344 of the conference agreement and sec. 168 of the Code)

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system (''MACRS'').[44] The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56.[45] Any race horse that is more than two years old at the time it is placed in service is assigned a three-year recovery period.[46] A seven-year recovery period is assigned to any race horse that is two years old or younger at the time it is placed in service.[47]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides a three-year recovery period for any race horse.

*Effective date.*—The provision applies to property placed in service on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the provision applies to any race horse that is two years old or younger at the time that it is placed in service after December 31, 2008 and before January 1, 2014.

5. Temporary relief for Kiowa County, Kansas and surrounding area[48]

(a) Suspension of certain limitations on personal casualty losses (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400S(b) of the Code)

PRESENT LAW

Under present law, a taxpayer may generally claim a deduction for any loss sustained during the taxable year and not compensated by insurance or otherwise (sec. 165).

[40] Sec. 1031(a)(1).

[41] Sec. 1031(a)(2).

[42] Sec. 38(b)(1).

[43] The term taxpayer includes controlled groups under rules similar to the rules set out in section 41(f)(1) and (2).

[44] Sec. 168.

[45] 1987–2 C.B. 674 (as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785).

[46] Sec. 168(e)(3)(A)(i).

[47] Rev. Proc. 87–56, 1987–2 C.B. 674, asset class 01.225.

[48] The provisions of this Act generally provide tax relief similar to certain other disaster areas. They

For individual taxpayers, deductible losses must be incurred in a trade or business or other profit-seeking activity or consist of property losses arising from fire, storm, shipwreck, or other casualty, or from theft. Personal casualty or theft losses are deductible only if they exceed $100 per casualty or theft (the ''$100 limitation'') (sec. 165(h)). In addition, aggregate net casualty and theft losses are deductible only to the extent they exceed 10 percent of an individual taxpayer's adjusted gross income (the ''AGI limitation'') (sec. 165(h)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment removes two limitations on personal casualty or theft losses to the extent those losses arose from such events in the Kansas disaster area after May 4, 2007, and are attributable to the disaster occurring at that time. For purposes of the provisions of this Act, the term ''Kansas disaster area'' means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to storms and tornados. These personal casualty or theft losses are deductible without regard to either the $100 limitation or the AGI limitation. For purposes of applying the AGI limitation to other personal casualty or theft losses, losses deductible under this provision are disregarded. Thus, the provision has the effect of treating personal casualty or theft losses from the disaster separate from all other casualty losses.

*Effective date.*—The provision is effective for losses arising on or after May 4, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(b) Extension of replacement period for nonrecognition of gain (Sec. 12701 of the Senate amendment, and sec. 15345 of the conference agreement)

PRESENT LAW

Generally, a taxpayer realizes gain to the extent the sales price (and any other consideration received) exceeds the taxpayer's basis in the property. The realized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer's basis in the replacement property generally is the cost of such property, reduced by the amount of gain not recognized.

The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or if earlier, the earliest date of the threat or imminence of requisition or condemnation of the converted property) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized (the ''replacement period'').

Special rules extend the replacement period for certain real property[49] and principal residences damaged by a Presidentially declared disaster[50] to three years and four years, respectively, after the close of the first taxable year in which gain is realized. Similarly, the replacement period for livestock sold on account of drought, flood, or other weather-related conditions is extended from two years to four years after the close of the first taxable year in which any part of the gain on conversion is realized.[51]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends from two to five years the replacement period in which a taxpayer may replace converted property, in the case of property that is in the Kansas disaster area and that is compulsorily or involuntarily converted on or after May 4, 2007, by reason of the May 4, 2007, storms and tornados. Substantially all of the use of the replacement property must be in this area.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(c) Employee retention credit (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400R(a) of the Code)

PRESENT LAW

For employers affected by Hurricanes Katrina, Rita, or Wilma, section 1400R provides a credit of 40 percent of the qualified wages (up to a maximum of $6,000 in qualified wages per employee) paid by an eligible employer to an eligible employee.

*Hurricane Katrina*

An eligible employer is any employer (1) that conducted an active trade or business on August 28, 2005, in the GO Zone and (2) with respect to which the trade or business described in (1) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

An eligible employee is, with respect to an eligible employer, an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the GO Zone. An employee may not be treated as an eligible employee for any period with respect to an employer if such employer is allowed a credit under section 51 with respect to the employee for the period.

Qualified wages are wages (as defined in section 51(c)(1) of the Code, but without regard to section 3306(b)(2)(B) of the Code) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, during the period (1) beginning on the date on which the trade or business first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and (2) ending on the date on which such trade or business has resumed significant operations at such principal place of employment. Qualified wages include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

The credit is a part of the current year business credit under section 38(b) and therefore is subject to the tax liability limitations of section 38(c). Rules similar to sections 51(i)(1) and 52 apply to the credit.

*Hurricane Rita and Wilma*

The credit for employers affected by Hurricanes Rita and Wilma is subject to the same rules as Katrina, except the reference dates for affected employers, comparable to the August 28, 2005 date for Katrina, are September 23, 2005, and October 23, 2005, respectively.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the retention credit, as modified to include an employer size limitation, for employers affected by the Kansas storms and tornados. The reference dates for these employers, comparable to the August 28, 2005 and January 1, 2006 dates of present law for employers affected by Hurricane Katrina, are May 4, 2007, and January 1, 2008, respectively.

The retention credit for employers affected by the Kansas storms and tornados includes an employer size limitation. The credit only applies to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(d) Special depreciation allowance (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(d) of the Code)

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system (''MACRS'').[52] Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 20 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

For qualified Gulf Opportunity Zone property, the Code provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis.[53] In order to qualify, property generally must be placed in service on or before December 31, 2007 (December 31, 2008 in the case of nonresidential real property and residential rental property).

The additional first-year depreciation deduction is allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service. The additional first-year depreciation deduction is subject to the general rules regarding whether an item is deductible under section 162 or subject to capitalization under section 263 or section 263A. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. In addition, the provision provides that

do not modify the otherwise applicable tax relief to those other disaster areas.

[49] Sec. 1033(g)(4).

[50] Sec. 1033(h)(1)(B).

[51] Sec. 1033(e)(2).

[52] Sec. 168.

[53] Sec. 1400N(d).

there is no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to property to which the provision applies. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements. First, the property must be property to which the general rules of the Modified Accelerated Cost Recovery System (''MACRS'') apply with (1) an applicable recovery period of 20 years or less, (2) computer software other than computer software covered by section 197, (3) water utility property (as defined in section 168(e)(5)), (4) certain leasehold improvement property, or (5) certain nonresidential real property and residential rental property. Second, substantially all of the use of such property must be in the Gulf Opportunity Zone and in the active conduct of a trade or business by the taxpayer in the Gulf Opportunity Zone. Third, the original use of the property in the Gulf Opportunity Zone must commence with the taxpayer on or after August 28, 2005.[54] Finally, the property must be acquired by purchase (as defined under section 179(d)) by the taxpayer on or after August 28, 2005 and placed in service on or before December 31, 2007 (December 31, 2008, for qualifying nonresidential real property and residential rental property). Property does not qualify if a binding written contract for the acquisition of such property was in effect before August 28, 2005. However, property is not precluded from qualifying for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to August 28, 2005.

Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies if the taxpayer begins the manufacture, construction, or production of the property after August 27, 2005, and before January 1, 2008, and the property is placed in service on or before December 31, 2007 (and all other requirements are met). In the case of qualified nonresidential real property and residential rental property, the property must be placed in service on or before December 31, 2008. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

The special allowance for Gulf Opportunity Zone property was extended for certain nonresidential real property and residential rental property, and certain personal property if substantially all of the use of such property is in such building,[55] placed in service in specified portions of the GO Zone by the taxpayer on or before December 31, 2010.[56] The extension only applies to nonresidential real property and residential rental property to the extent of the adjusted basis attributable to manufacture, construction, or production before January 1, 2010.[57]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis for qualified Recovery Assistance property. In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements: (1) The property must be property to which the general rules of the MACRS apply with (a) an applicable recovery period of 20 years or less, (b) computer software other than computer software covered by section 197, (c) water utility property (as defined in section 168(e)(5)), (d) certain leasehold improvement property, or (e) certain nonresidential real property and residential rental property; (2) substantially all of the use of such property must be in the Kansas Disaster Zone and in the active conduct of a trade or business by the taxpayer in the Kansas Disaster Zone. Third, the original use of the property in the Kansas Disaster Zone must commence with the taxpayer on or after May 5, 2007.[58] Finally, the property must be acquired by purchase (as defined under section 179(d)) by the taxpayer on or after May 5, 2007 and placed in service on or before December 31, 2008 (December 31, 2009, for qualifying nonresidential real property and residential rental property). Property does not qualify if a binding written contract for the acquisition of such property was in effect before May 5, 2007. However, property is not precluded from qualifying for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to May 5, 2007.

Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies if the taxpayer begins the manufacture, construction, or production of the property after May 4, 2007, and before January 1, 2009, and the property is placed in service on or before December 31, 2008 (and all other requirements are met). In the case of qualified nonresidential real property and residential rental property, the property must be placed in service on or before December 31, 2009. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(e) Increase in expensing under section 179 (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(e) of the Code)

PRESENT LAW

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct (or ''expense'') such costs under section 179. Present law provides that the maximum amount a taxpayer may expense, for taxable years beginning in 2007 through 2010, is $125,000 of the cost of qualifying property placed in service for the taxable year.[59] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. Off-the-shelf computer software placed in service in taxable years beginning before 2010 is treated as qualifying property. The $125,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $500,000. The $125,000 and $500,000 amounts are indexed for inflation in taxable years beginning after 2007 and before 2011.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179. An expensing election is made under rules prescribed by the Secretary.[60]

For taxable years beginning in 2011 and thereafter (or before 2003), the following rules apply. A taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. The $25,000 and $200,000 amounts are not indexed. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business (not including off-the-shelf computer software). An expensing election may be revoked only with consent of the Commissioner.[61]

For qualified section 179 Gulf Opportunity Zone property, the maximum amount that a taxpayer may elect to deduct is increased by the lesser of $100,000 or the cost of qualified section 179 Gulf Opportunity Zone property for the taxable year.[62] The provision applies with respect to qualified section 179 Gulf Opportunity Zone property acquired on or after August 28, 2005, and placed in service on or before December 31, 2007. This placed in service date was extended to December 31, 2008 for property substantially all of the use of which is in one or more specified portions of the GO Zone. The threshold for reducing the amount expensed is computed by increasing the $500,000 present-law amount by the lesser of (1) $600,000, or (2) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year. Neither the $100,000 nor $600,000 amounts are indexed for inflation.

Qualified section 179 Gulf Opportunity Zone property means section 179 property (as defined in section 179(d)) that also meets the

[54] Used property may constitute qualified property so long as it has not previously been used within the Gulf Opportunity Zone. In addition, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which in the Gulf Opportunity Zone began with the taxpayer would satisfy the ''original use'' requirement. See Treasury Regulation sec. 1.48–2, Example 5.

[55] Such personal property must be placed in service by the taxpayer not later than 90 days after such building is placed in service.

[56] Sec. 1400N(d)(6).

[57] Sec. 1400N(d)(6)(D).

[58] Used property may constitute qualified property so long as it has not previously been used within the Kansas Disaster Zone. In addition, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which in the Kansas Disaster Zone began with the taxpayer would satisfy the ''original use'' requirement. See Treasury Regulation sec. 1.48–2, Example 5.

[59] Additional section 179 incentives are provided with respect to qualified property meeting applicable requirements that is used by a business in an empowerment zone (sec. 1397A), a renewal community (sec. 1400J), or the Gulf Opportunity Zone (sec. 1400N(e)).

[60] Sec. 179(c)(1). Under Treas. Reg. sec. 1.179–5, applicable to property placed in service in taxable years beginning after 2002 and before 2008, a taxpayer is permitted to make or revoke an election under section 179 without the consent of the Commissioner on an amended Federal tax return for that taxable year. This amended return must be filed within the time prescribed by law for filing an amended return for the taxable year. T.D. 9209, July 12, 2005.

[61] Sec. 179(c)(2).

[62] Sec. 1400N(e).

following requirements: (1) The property must be property to which the general rules of the MACRS apply with (a) an applicable recovery period of 20 years or less, (b) computer software other than computer software covered by section 197, (c) water utility property (as defined in section 168(e)(5)), (d) certain leasehold improvement property; (2) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in that Zone; (3) the original use of which commences with the taxpayer on or after August 28, 2005; (4) which is acquired by the taxpayer by purchase on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005; and (5) which is placed in service by the taxpayer on or before December 31, 2007.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the amount that a taxpayer may elect for qualified section 179 Recovery Assistance property. The maximum amount that a taxpayer may elect to deduct under section 179 is increased by the lesser of $100,000 or the cost of qualified section 179 Recovery Assistance property for the taxable year. The provision applies with respect to qualified section 179 Recovery Assistance property acquired on or after May 5, 2007, and placed in service on or before December 31, 2008. The threshold for reducing the amount expensed is computed by increasing the $500,000 present-law amount by the lesser of (1) $600,000, or (2) the cost of qualified section 179 Recovery Assistance property placed in service during the taxable year. Neither the $100,000 nor $600,000 amounts are indexed for inflation.

Qualified section 179 Recovery Assistance property means section 179 property (as defined in section 179(d)) that also meets the following requirements: (1) The property must be property to which the general rules of the MACRS apply with (a) an applicable recovery period of 20 years or less, (b) computer software other than computer software covered by section 197, (c) water utility property (as defined in section 168(e)(5)), or (d) certain leasehold improvement property; (2) substantially all of the use of which is in the Kansas Disaster Zone and is in the active conduct of a trade or business by the taxpayer in that Zone; (3) the original use of which commences with the taxpayer on or after May 5, 2007; (4) which is acquired by the taxpayer by purchase on or after May 5, 2007, but only if no written binding contract for the acquisition was in effect before May 5, 2007; and (5) which is placed in service by the taxpayer on or before December 31, 2008.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(f) Expensing for certain demolition and clean-up costs (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(f) of the Code)

PRESENT LAW

Under present law, the cost of demolition of a structure is capitalized into the taxpayer's basis in the land on which the structure is located.[63] Land is not subject to an allowance for depreciation or amortization.

The treatment of the cost of debris removal depends on the nature of the costs incurred. For example, the cost of debris removal after a storm may in some cases constitute an ordinary and necessary business expense which is deductible in the year paid or incurred. In other cases, debris removal costs may be in the nature of replacement of part of the property that was damaged. In such cases, the costs are capitalized and added to the taxpayer's basis in the property. For example, Revenue Ruling 71–161[64] permits the use of clean-up costs as a measure of casualty loss but requires that such costs be added to the post-casualty basis of the property.

Under section 1400N(f), a taxpayer is permitted a deduction for 50 percent of any qualified Gulf Opportunity Zone clean-up cost paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007. The remaining 50 percent is capitalized and treated as described above. A qualified Gulf Opportunity Zone clean-up cost is an amount paid or incurred for the removal of debris from, or the demolition of structures on, real property located in the Gulf Opportunity Zone to the extent that the amount would otherwise be capitalized. In order to qualify, the property must be held for use in a trade or business, for the production of income, or as inventory.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, a taxpayer is permitted a deduction for 50 percent of any qualified Recovery Assistance clean-up cost paid or incurred during the period beginning on May 4, 2007, and ending on December 31, 2009. The remaining 50 percent is treated as under present law. A qualified Recovery Assistance clean-up cost is an amount paid or incurred for the removal of debris from, or the demolition of structures on, real property located in the Kansas disaster area to the extent that the amount would otherwise be capitalized. In order to qualify, the property must be held for use in a trade or business, for the production of income, or as inventory.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(g) Treatment of public utility property disaster losses (Sec. 12701 of the Senate amendment, Sec. 15345 of the conference agreement and sec. 1400N(o) of the Code)

PRESENT LAW

Under section 165(i), certain losses attributable to a disaster occurring in a Presidentially declared disaster area may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

Section 6411 provides a procedure under which taxpayers may apply for tentative carryback and refund adjustments with respect to net operating losses, net capital losses, and unused business credits.

Section 1400N(o) provides an election for taxpayers who incurred casualty losses attributable to Hurricane Katrina with respect to public utility property located in the Gulf Opportunity Zone. Under the election, such losses may be taken into account in the fifth taxable year (rather than the 1st taxable year) immediately preceding the taxable year in which the loss occurred. If the application of this provision results in the creation or increase of a net operating loss for the year in which the casualty loss is taken into account, the net operating loss may be carried back or carried over as under present law applicable to net operating losses for such year.

For purposes of section 1400N(o), public utility property is property used predominantly in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services; gas or steam through a local distribution system; telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962; or transportation of gas or steam by pipeline. Such property is eligible regardless of whether the taxpayer's rates are established or approved by any regulatory body.

A taxpayer making the election under the provision is eligible to file an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the election. As under present law with respect to tentative carryback and refund adjustments, the IRS generally has 90 days to act on the refund claim. Under the provision, the statute of limitations with respect to such a claim can not expire earlier than one year after the date of enactment. Also, a taxpayer making the election with respect to a loss is not entitled to interest with respect to any overpayment attributable to the loss.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an election for taxpayers who incurred casualty losses attributable to the Kansas storms and tornados with respect to public utility property located in the Kansas Disaster Zone. Under the election, such losses may be taken into account in the fifth taxable year (rather than the 1st taxable year) immediately preceding the taxable year in which the loss occurred. If the application of this provision results in the creation or increase of a net operating loss for the year in which the casualty loss is taken into account, the net operating loss may be carried back or carried over as under present law applicable to net operating losses for such year. The other definitions and rules that apply under section 1400N(o) shall apply to the losses claimed in the Kansas Disaster Zone.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(h) Treatment of net operating losses attributable to storm losses (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(k) of the Code)

PRESENT LAW

Under present law, a net operating loss (''NOL'') is, generally, the amount by which a taxpayer's business deductions exceed its gross income. In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years.[65] NOLs offset taxable income in the order of the taxable years to which the NOL may be carried.[66]

Different rules apply with respect to NOLs arising in certain circumstances. A three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback applies to NOLs (1) arising from a farming loss (regardless of

[63] Sec. 280B.

[64] 1971–1 C.B. 76.

[65] Sec. 172(b)(1)(A).

[66] Sec. 172(b)(2).

whether the loss was incurred in a Presidentially declared disaster area), or (2) certain amounts related to Hurricane Katrina and the Gulf Opportunity Zone. Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10–year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction). Additionally, a special rule applies to certain electric utility companies.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides rules in connection with certain net operating losses similar to the rules provided for Gulf Opportunity Zone losses under section 1400N(k). The rules, as applied to qualified Recovery Assistance losses, are as follows:

*In general*

The provision provides a special five-year carryback period for NOLs to the extent of certain specified amounts related to the Kansas storms and tornados. The amount of the NOL which is eligible for the five year carryback (''eligible NOL'') is limited to the aggregate amount of the following deductions: (i) qualified Recovery Assistance casualty losses; (ii) certain moving expenses; (iii) certain temporary housing expenses; (iv) depreciation deductions with respect to qualified Recovery Assistance property for the taxable year the property is placed in service; and (v) deductions for certain repair expenses resulting from the Kansas storms and tornados. The provision applies for losses paid or incurred after May 3, 2007, and before January 1, 2010; however, an irrevocable election not to apply the five-year carryback under the provision may be made with respect to any taxable year.

*Qualified Recovery Assistance casualty losses*

The amount of qualified Gulf Opportunity Zone casualty losses which may be included in the eligible NOL is the amount of the taxpayer's casualty losses with respect to (1) property used in a trade or business, and (2) capital assets held for more than one year in connection with either a trade or business or a transaction entered into for profit. In order for a casualty loss to qualify, the property must be located in the Kansas Disaster Zone and the loss must be attributable to Kansas storms or tornados. As under present law, the amount of any casualty loss includes only the amount not compensated for by insurance or otherwise. In addition, the total amount of the casualty loss which may be included in the eligible NOL is reduced by the amount of any gain recognized by the taxpayer from involuntary conversions of property located in the Kansas Disaster Zone caused by the Kansas storms or tornados.

To the extent that a casualty loss is included in the eligible NOL and carried back under the provision, the taxpayer is not eligible to also treat the loss as having occurred in the prior taxable year under section 165(i). Similarly, the five year carryback under the provision does not apply to any loss taken into account for purposes of the ten-year carryback of public utility casualty losses which is provided under another provision in the Act.

*Moving expenses*

Certain employee moving expenses of an employer may be included in the eligible NOL. In order to qualify, an amount must be paid or incurred after May 3, 2007, and before January 1, 2010 with respect to an employee who (i) lived in the Kansas Disaster Zone before May 4, 2007, (ii) was displaced from their home either temporarily or permanently as a result of the Kansas storms or tornados, and (iii) is employed in the Kansas Disaster Zone by the taxpayer after the expense is paid or incurred.

For this purpose, moving expenses are defined as under present law to include only the reasonable expenses of moving household goods and personal effects from the former residence to the new residence, and of traveling (including lodging) from the former residence to the new place of residence. However, for purposes of the provision, the former residence and the new residence may be the same residence if the employee initially vacated the residence as a result of the Kansas storms or tornados. It is not necessary for the individual with respect to whom the moving expenses are incurred to have been an employee of the taxpayer at the time the expenses were incurred. Thus, assuming the other requirements are met, a taxpayer who pays the moving expenses of a prospective employee and subsequently employs the individual in the Kansas Disaster Zone may include such expenses in the eligible NOL.

*Temporary housing expenses*

Any deduction for expenses of an employer to temporarily house employees who are employed in the Kansas Disaster Zone may be included in the eligible NOL. It is not necessary for the temporary housing to be located in the Kansas Disaster Zone in order for such expenses to be included in the eligible NOL; however, the employee's principal place of employment with the taxpayer must be in the Kansas Disaster Zone. So, for example, if a taxpayer temporarily houses an employee at a location outside of the Kansas Disaster Zone, and the employee commutes into the Kansas Disaster Zone to the employee's principal place of employment, such temporary housing costs will be included in the eligible NOL (assuming all other requirements are met).

*Depreciation of Gulf Opportunity Zone property*

The eligible NOL includes the depreciation deduction (or amortization deduction in lieu of depreciation) with respect to qualified Recovery Assistance property placed in service during the year. The special carryback period applies to the entire allowable depreciation deduction for such property for the year in which it is placed in service, including both the regular depreciation deduction and the additional first-year depreciation deduction, if any. An election out of the additional first-year depreciation deduction for qualified Recovery Assistance property does not preclude eligibility for the five-year carryback.

*Repair expenses*

The eligible NOL includes deductions for repair expenses (including the cost of removal of debris) with respect to damage caused by the Kansas storms or tornados. In order to qualify, the amount must be paid or incurred after May 3, 2007 and before January 1, 2010, and the property must be located in the Kansas Disaster Zone.

*Other rules*

The amount of the NOL to which the five-year carryback period applies is limited to the amount of the corporation's overall NOL for the taxable year. Any remaining portion of the taxpayer's NOL is subject to the general two-year carryback period. Ordering rules similar to those for specified liability losses apply to losses carried back under the provision.

In addition, the general rule which limits a taxpayer's NOL deduction to 90 percent of AMTI does not apply to any NOL to which the five-year carryback period applies under the provision. Instead, a taxpayer may apply such NOL carrybacks to offset up to 100 percent of AMTI.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(i) Representations regarding income eligibility for purposes of qualified residential rental project requirements (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(n) of the Code)

PRESENT LAW

*In general*

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes (''qualified private activity bonds'').

*Qualified private activity bonds*

The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities.

Subject to certain requirements, qualified private activity bonds may be issued to finance residential rental property or owner-occupied housing. Residential rental property may be financed with exempt facility bonds if the financed project is a ''qualified residential rental project.'' A project is a qualified residential rental project if 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income (the ''20–50 test''). Alternatively, a project is a qualified residential rental project if 40 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income (the ''40–60 test''). The issuer must elect to apply either the 20–50 test or the 40–60 test. Operators of qualified residential rental projects must annually certify that such project meets the requirements for qualification, including meeting the 20–50 test or the 40–60 test.

HOUSE BILL

No provision

SENATE AMENDMENT

Under the provision, the operator of a qualified residential rental project may rely on the representations of prospective tenants displaced by reason of the severe storms and tornados in the Kansas disaster area beginning on May 4, 2007 for purposes of determining whether such individual satisfies the income limitations for qualified residential rental projects and, thus, the project is in compliance with the 20–50 test or the 40–60

test. This rule only applies if the individual's tenancy begins during the six-month period beginning on the date when such individual was displaced.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

(j) Use of retirement funds from retirement plans relating to the Kansas Disaster Zone (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400Q of the Code)

PRESENT LAW

*In general*

WITHDRAWALS FROM RETIREMENT PLANS

Under present law, a distribution from a qualified retirement plan under section 401(a), a qualified annuity plan under section 403(a), a tax-sheltered annuity under section 403(b) (a ''403(b) annuity''), an eligible deferred compensation plan maintained by a State or local government under section 457 (a ''governmental 457 plan''), or an individual retirement arrangement under section 408 (an ''IRA'') generally is included in income for the year distributed (secs. 402(a), 403(a), 403(b), 408(d), and 457(a)). (These plans are referred to collectively as ''eligible retirement plans''.) In addition, a distribution from a qualified retirement or annuity plan, a 403(b) annuity, or an IRA received before age 59½, death, or disability generally is subject to a 10-percent early withdrawal tax on the amount includible in income, unless an exception applies (sec. 72(t)).

An eligible rollover distribution from a qualified retirement or annuity plan, a 403(b) annuity, or a governmental 457 plan, or a distribution from an IRA, generally can be rolled over within 60 days to another plan, annuity, or IRA. The IRS has the authority to waive the 60-day requirement if failure to waive the requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual. Any amount rolled over is not includible in income (and thus also not subject to the 10-percent early withdrawal tax).

Distributions from a qualified retirement or annuity plan, 403(b) annuity, a governmental 457 plan, or an IRA are generally subject to income tax withholding unless the recipient elects otherwise. An eligible rollover distribution from a qualified retirement or annuity plan, 403(b) annuity, or governmental 457 plan is subject to income tax withholding at a 20-percent rate unless the distribution is rolled over to another plan, annuity or IRA by means of a direct transfer. Any distribution is an eligible rollover distribution unless specifically excepted. Exceptions include a distribution that is part of a series of substantially equal periodic payments made at least annually for the life of the employee.

Certain amounts held in a qualified retirement plan that includes a qualified cash-or deferred arrangement (a ''401(k) plan'') or in a 403(b) annuity may not be distributed before severance from employment, age 59½, death, disability, or financial hardship of the employee. Amounts deferred under a governmental 457 plan may not be distributed before severance from employment, age 70½, or an unforeseeable emergency of the employee.

*Loans from retirement plans*

An individual is permitted to borrow from a qualified plan in which the individual participates (and to use his or her accrued benefit as security for the loan) provided the loan bears a reasonable rate of interest, is adequately secured, provides a reasonable repayment schedule, and is not made available on a basis that discriminates in favor of employees who are officers, shareholders, or highly compensated.

Subject to certain exceptions, a loan from a qualified employer plan to a plan participant is treated as a taxable distribution of plan benefits. A qualified employer plan includes a qualified retirement plan under section 401(a), a qualified annuity plan under section 403(a), a tax-deferred annuity under section 403(b), and any plan that was (or was determined to be) a qualified employer plan or a governmental plan.

An exception to this general rule of income inclusion is provided to the extent that the loan (when added to the outstanding balance of all other loans to the participant from all plans maintained by the employer) does not exceed the lesser of (1) $50,000 reduced by the excess of the highest outstanding balance of loans from such plans during the one-year period ending on the day before the date the loan is made over the outstanding balance of loans from the plan on the date the loan is made or (2) the greater of $10,000 or one-half of the participant's accrued benefit under the plan (sec. 72(p)). This exception applies only if the loan is required, by its terms, to be repaid within five years. An extended repayment period is permitted for the purchase of the principal residence of the participant. Plan loan repayments (principal and interest) must be amortized in level payments and made not less frequently than quarterly, over the term of the loan.

*Plan amendments*

Present law provides a remedial amendment period during which, under certain circumstances, a plan may be amended retroactively in order to comply with the qualification requirements (sec. 401(b)). In general, plan amendments required to reflect changes in the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs. The Secretary of the Treasury may extend the time by which plan amendments need to be made.

*Use of retirement funds related to disaster relief for Hurricanes Katrina, Rita, and Wilma*

*In general*

Section 1400Q provides exceptions to certain rules regarding distributions from retirement plans, for loans from retirement plans, and for plan amendments to retirement plans.[67]

*Tax favored withdrawals from retirement plans*

Section 1400Q(a) provides an exception to the 10-percent early withdrawal tax in the case of a qualified hurricane distribution from a qualified retirement or annuity plan, a 403(b) annuity, or an IRA. In addition, as discussed more fully below, income attributable to a qualified hurricane distribution may be included in income ratably over three years, and the amount of a qualified hurricane distribution may be recontributed to an eligible retirement plan within three years.

A qualified hurricane distribution includes certain distributions from an eligible retirement plan related to Hurricanes Katrina, Wilma, and Rita. Specifically, qualified hurricane distributions include the following distributions from an eligible retirement plan: Any distribution made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina; any distribution made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita; and any distribution made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

The total amount of qualified hurricane distributions that an individual can receive from all plans, annuities, or IRAs is $100,000. Thus, any distributions in excess of $100,000 during the applicable periods are not qualified hurricane distributions.

Any amount required to be included in income as a result of a qualified hurricane distribution is included in income ratably over the three-year period beginning with the year of distribution unless the individual elects not to have ratable inclusion apply.

Any portion of a qualified hurricane distribution may, at any time during the three-year period beginning the day after the date on which the distribution was received, be recontributed to an eligible retirement plan to which a rollover can be made. Any amount recontributed within the three-year period is treated as a rollover and thus is not includible in income. For example, if an individual receives a qualified hurricane distribution in 2005, that amount is included in income, generally ratably over the year of the distribution and the following two years, but is not subject to the 10-percent early withdrawal tax. If, in 2007, the amount of the qualified hurricane distribution is recontributed to an eligible retirement plan, the individual may file an amended return (or returns) to claim a refund of the tax attributable to the amount previously included in income. In addition, if, under the ratable inclusion provision, a portion of the distribution has not yet been included in income at the time of the contribution, the remaining amount is not includible in income.

A qualified hurricane distribution is a permissible distribution from a 401(k) plan, 403(b) annuity, or governmental 457 plan, regardless of whether a distribution would otherwise be permissible. A plan is not treated as violating any Code requirement merely because it treats a distribution as a qualified hurricane distribution, provided that the aggregate amount of such distributions from plans maintained by the employer and members of the employer's controlled group does not exceed $100,000. A plan is not treated as violating any Code requirement merely because an individual might receive total distributions in excess of $100,000, taking into account distributions from plans of other employers or IRAs.

Qualified hurricane distributions are subject to the income tax withholding rules applicable to distributions other than eligible rollover distributions. Thus, 20-percent mandatory withholding does not apply.

*Recontributions of withdrawals for home purchases*

Section 1400Q(b) generally provides that a distribution received from a 401(k) plan, 403(b) annuity, or IRA in order to purchase a home in the Hurricane Katrina, Rita, or Wilma disaster areas may be recontributed to such a plan, annuity, or IRA in certain circumstances.

The ability to recontribute applies to an individual who receives a qualified distribution. A qualified distribution is a hardship

[67] The relief with respect to Hurricane Katrina was initially provided in the Katrina Emergency Relief Act of 2005 (Pub. L. No. 109–73). The IRS provided guidance on those relief provisions in Notice 2005–92, 2005–2 CB 1165. The relief was codified in section 1400Q and was expanded to the Hurricanes Rita and Wilma Disaster areas in the Gulf Opportunity Zone Act of 2005 (Pub. L. No. 109–135).

distribution from a 401(k) plan or 403(b) annuity, or a qualified first-time homebuyer distribution from an IRA, that is a qualified Katrina distribution, a qualified Rita distribution, or a qualified Wilma distribution.

A qualified Katrina distribution is a distribution: (1) that is received after February 28, 2005, and before August 29, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but the residence is not purchased or constructed on account of Hurricane Katrina. Any portion of a qualified Katrina distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

A qualified Hurricane Rita distribution is a distribution: (1) that is received after February 28, 2005, and before September 24, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but the residence is not purchased or constructed on account of Hurricane Rita. Any portion of a qualified Hurricane Rita distribution may, during the period beginning on September 23, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

A qualified Hurricane Wilma distribution is a distribution: (1) that is received after February 28, 2005, and before October 24, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but the residence is not purchased or constructed on account of Hurricane Wilma. Any portion of a qualified Hurricane Wilma distribution may, during the period beginning on October 23, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

Any amount recontributed is treated as a rollover. Thus, that portion of the qualified distribution is not includible in income (and also is not subject to the 10-percent early withdrawal tax).

*Loans from qualified plans to individuals sustaining an economic loss*

Section 1400Q(c) provides an exception to the income inclusion rule for loans from a qualified employer plan related to Hurricanes Katrina, Rita, and Wilma made to a qualified individual during an applicable period and provides a repayment delay for loans that are outstanding on or after a qualified beginning date if the due date for any repayment with respect to such loan occurs after the qualified beginning date and December 31, 2006.

The exception to the general rule of income inclusion is provided to the extent that the loan (when added to the outstanding balance of all other loans to the participant from all plans maintained by the employer) does not exceed the lesser of (1) $100,000 reduced by the excess of the highest outstanding balance of loans from such plans during the one-year period ending on the day before the date the loan is made over the outstanding balance of loans from the plan on the date the loan is made or (2) the greater of $10,000 or the participant's accrued benefit under the plan.

In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan, if the due date for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date, and ending on December 31, 2006, such due date is delayed for one year. Any subsequent repayments with respect to such loan shall be appropriately adjusted to reflect the delay in the due date and any interest accruing during such delay. The period during which required repayment is delayed is disregarded in complying with the requirements that the loan be repaid within five years and that level amortization payments be made.

A qualified individual entitled to this plan loan relief includes a qualified Katrina individual, a qualified Rita individual, or a qualified Wilma individual. A qualified Hurricane Katrina individual is an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina. The qualified beginning date for a qualified Katrina individual is August 25, 2005 and the applicable period is the period beginning on September 24, 2005, and ending December 31, 2006.

A qualified Hurricane Rita individual is an individual whose principal place of abode on September 23, 2005, is located in a Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita. The qualified beginning date for a qualified Hurricane Rita individual is September 23, 2005, and the applicable period is the period beginning on September 23, 2005, and ending on December 31, 2006.

A qualified Hurricane Wilma individual is an individual whose principal place of abode on October 23, 2005, is located in a Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma. The qualified beginning date for a qualified Hurricane Wilma individual is October 23, 2005, and the applicable period is the period beginning on October 23, 2005, and ending on December 31, 2006.

An individual cannot be a qualified individual with respect to more than one hurricane.

*Plan amendments relating to Hurricanes Katrina, Rita, and Wilma*

Section 1400Q(d) permits certain plan amendments made pursuant to any provision in section 1400Q, or regulations issued thereunder, to be retroactively effective. If the plan amendment meets the requirements of section 1400Q, then the plan will be treated as being operated in accordance with its terms. In order for this treatment to apply, the plan amendment is required to be made on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as provided by the Secretary of the Treasury. Governmental plans are given an additional two years in which to make required plan amendments. If the amendment is required to be made to retain qualified status as a result of the changes made by section 1400Q (or regulations), the amendment is required to be made retroactively effective as of the date on which the change became effective with respect to the plan, and the plan is required to be operated in compliance until the amendment is made. Amendments that are not required to retain qualified status but that are made pursuant to section 1400Q may be made retroactively effective as of the first day the plan is operated in accordance with the amendment. A plan amendment will not be considered to be pursuant to section 1400Q (or regulations) if it has an effective date before the effective date of the provision (or regulations) to which it relates.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides relief similar to the relief provided in section 1400Q with respect to use of retirement funds in connection with the tornadoes and storms that occurred in the Kansas disaster area.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Modification of the advanced coal project credit and the gasification project credit (Sec. 15346 of the conference agreement and secs. 48A and 48B of the Code)

PRESENT LAW

*Advanced coal project credit*

An investment tax credit is available for power generation projects that use integrated gasification combined cycle (''IGCC'') or other advanced coal-based electricity generation technologies.[68] The credit amount is 20 percent for investments in qualifying IGCC projects and 15 percent for investments in qualifying projects that use other advanced coal-based electricity generation technologies.

To qualify, an advanced coal project must be located in the United States and use an advanced coal-based generation technology to power a new electric generation unit or to retrofit or repower an existing unit. Generally, an electric generation unit using an advanced coal-based technology must be designed to achieve a 99 percent reduction in sulfur dioxide and a 90 percent reduction in mercury, as well as to limit emissions of nitrous oxide and particulate matter.[69]

The fuel input for a qualifying project, when completed, must use at least 75 percent coal. The project, consisting of one or more electric generation units at one site, must have a nameplate generating capacity of at least 400 megawatts, and the taxpayer must provide evidence that a majority of the output of the project is reasonably expected to be acquired or utilized.

Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy. Certifications are issued using a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after August 8, 2005,[70] and each project application must be submitted during the three-year period beginning on the date such certification program is established. An applicant for certification has two years from the date the Secretary accepts the application to provide the Secretary with evidence that the requirements for certification have been met. Upon certification, the applicant has five years from the date of issuance of the certification to place the project in service.

The Secretary of Treasury may allocate $800 million of credits to IGCC projects and $500 million to projects using other advanced coal-based electricity generation technologies. Qualified projects must be economically feasible and use the appropriate clean coal technologies. With respect to IGCC projects, credit-eligible investments include only investments in property associated with the gasification of coal, including any coal handling and gas separation equipment. Thus, investments in equipment that could operate by drawing fuel directly from a natural gas pipeline do not qualify for the credit.

In determining which projects to certify that use IGCC technology, the Secretary

[68] Sec. 48A.

[69] For advanced coal project certification applications submitted after October 2, 2006, an electric generation unit using advanced coal-based generation technology designed to use subbituminous coal can meet the performance requirement relating to the removal of sulfur dioxide if it is designed either to remove 99 percent of the sulfur dioxide or to achieve an emission limit of 0.04 pounds of sulfur dioxide per million British thermal units on a 30-day average.

[70] The Secretary issued guidance establishing the certification program on February 21, 2006 (IRS Notice 2006–24).

must allocate power generation capacity in relatively equal amounts to projects that use bituminous coal, subbituminous coal, and lignite as primary feedstock. In addition, the Secretary must give high priority to projects which include greenhouse gas capture capability, increased by-product utilization, and other benefits.

*Gasification project credit*

A 20-percent investment tax credit is also available for investments in certain qualifying coal gasification projects.[71] Only property which is part of a qualifying gasification project and necessary for the gasification technology of such project is eligible for the gasification credit.

Qualified gasification projects convert coal, petroleum residue, biomass, or other materials recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion. Qualified projects must be carried out by an eligible entity, defined as any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to (1) chemicals, (2) fertilizers, (3) glass, (4) steel, (5) petroleum residues, (6) forest products, and (7) agriculture, including feedlots and dairy operations.

Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy. Certifications are issued using a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after August 8, 2005,[72] and each project application must be submitted during the three-year period beginning on the date such certification program is established. The Secretary of Treasury may not allocate more than $350 million in credits. In addition, the Secretary may certify a maximum of $650 million in qualified investment as eligible for credit with respect to any single project.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

In implementing either section 48A (relating to the credit described above) or section 48B (relating to the coal gasification credit), the provision directs the Secretary to modify the terms of any competitive certification award and any associated closing agreements in certain cases. Specifically, modification is required when it (1) is consistent with the objectives of such section, (2) is requested by the recipient of the award, and (3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base. However, no modification is required if the Secretary determines that the dollar amount of tax credits available to the taxpayer under the applicable section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary must consult with other relevant Federal agencies, including the Department of Energy.

EFFECTIVE DATE

The provision is effective for credit allocation awards issued before, on, or after the date of enactment.

[71] Sec. 48B.

[72] The Secretary issued guidance establishing the certification program on February 21, 2006 (IRS Notice 2006–25).

D. OTHER REVENUE PROVISIONS

1. Limitation on farming losses of certain taxpayers (Sec. 12501 of the Senate amendment, sec. 15351 of the conference agreement and sec. 461 of the Code)

PRESENT LAW

For taxpayers who materially participate (as defined in section 469(h)) in a farming activity, net farming losses are reported in full as a reduction to income from both passive and nonpassive sources. For taxpayers who do not materially participate in a farming activity, the passive activity rules of section 469 limit the ability to use such losses to reduce income from nonpassive sources.

Farming income generally includes sales of livestock, produce, grains, and other products; cooperative distributions; Agricultural Program Payments; certain Commodity Credit Corporation (''CCC'') loans (if an election is made to include loan proceeds in income in the year received); certain crop insurance proceeds and federal crop disaster payments; and other income. Farm expenses generally include feed, fertilizers, gasoline, fuel, and oil; insurance; interest; hired labor; rent and lease payments; repairs and maintenance; taxes; utilities; depreciation; and other business-related expenses. Living expenses and other personal expenses are not deductible farming expenses.

Present law (section 263A(e)(4))[73] defines a farming business as the trade or business of farming, including the trade or business of operating a nursery or sod farm, or the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees (excluding evergreen trees that are more than six years old at the time severed from the roots). Treasury regulation section 1.263A–4(a)(4) further provides that a farming business generally means a trade or business involving the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity. The raising, shearing, feeding, caring for, training, and management of animals are included in this definition. For example, the raising of cattle for sale is considered a farming business. However, the mere buying and reselling of plants or animals grown or raised entirely by another is not considered to be raising an agricultural or horticultural commodity. While a farming business does include processing activities that are normally incident to the growing, raising, or harvesting of agricultural or horticultural products (e.g., harvesting, washing, inspecting, and packing fruits and vegetables for sale), it does not include the processing of commodities or products beyond those activities that are normally incident to the growing, raising, or harvesting of such products.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment limits the amount of losses that can be claimed by an individual, estate, trust, or partnership on Schedule F to $200,000 in cases where the taxpayer has received Agricultural Program Payments or CCC loans. Losses that are limited in a particular year may be carried forward to subsequent years.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement limits the farming loss of a taxpayer, other than a C corporation, for any taxable year in which any applicable subsidies are received to the greater of (1) $300,000 ($150,000 in the case of a married person filing a separate return), or (2) the taxpayer's total net farm income for the prior five taxable years. For purposes of the provision, applicable subsidies are (1) any direct or counter-cyclical payments under title I of the Food, Conservation, and Energy Act of 2008 (or any payment elected in lieu of any such payment), or (2) any CCC loan. Total net farm income is an aggregation of all income and loss from farming businesses for the prior five taxable years.

The following examples illustrate the operation of this provision:

*Example 1.*—Assume an individual taxpayer has $1 million of net income from a farming business in each taxable year 2010 to 2014, and incurs a $5 million farming loss in 2015. For purposes of this provision, the farming loss in 2015 is limited to the greater of (1) $300,000 or (2) $5 million (total net farm income for the prior five taxable years). Thus, the farming loss is allowable in full in 2015. Assuming the taxpayer had no other income or deductions in any of the taxable years 2010 to 2015, the $5 million net operating loss for 2015 is carried back to the prior five taxable years under the present-law net operating loss carryback rules and reduces the taxpayer's taxable income in each of those years to zero.[74]

*Example 2.*—Assume an individual taxpayer has $300,000 of net farm income and $700,000 of non-farm income in 2010, and $1 million of net farm income in each taxable year 2011 to 2014. In 2015, the taxpayer incurs a $7 million farming loss. For purposes of this provision, the farming loss in 2015 is limited to the greater of (1) $300,000 or (2) $4.3 million (total net farm income for the prior five taxable years). Thus, $2.7 million of the farming loss is disallowed under the provision and will be treated as a deduction attributable to a farming business in 2016. The $4.3 million farming loss allowed for 2015 is carried back to the prior five taxable years and allowed as a deduction under present-law rules. The taxpayer's taxable income in each of the years 2010[75] to 2013 is reduced to zero and taxable income in 2014 is reduced by the remaining farm loss of $300,000 to $700,000.

For purposes of calculating total net farm income for the prior five years, losses that are limited under the provision are taken into account in the year in which they are allowed as a deduction. For example, if a taxpayer has a $500,000 excess farm loss in 2010 that is not allowed as a deduction until 2012, the calculation in 2011 of total net farm income for the prior five years does not take into account the $500,000 as a farm loss. Instead, the $500,000 loss would be included in the calculation of prior year's total net farm income for taxable years 2013 through 2017. In the case where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the five-year period, the Treasury Department is authorized to provide guidance for the computation of total net farm income.

In the case of a partnership or S corporation, the limit is applied at the partner or shareholder level.[76] Therefore, each partner

[73] This is the same definition of ''farming business'' used for averaging of farm income under section 1301.

[74] Under section 172(b)(1)(G), farming losses may be carried back to each of the five taxable years preceding the taxable year of the loss.

[75] The loss carryback to 2010 reduces both the $300,000 of net farm income and $700,000 of non-farm income to zero.

[76] The Treasury Department may provide guidance for the application of this provision to any other pass-thru entity to the extent necessary to carry out the purposes of this provision. In the case of tiered partnership or pass-thru entity structures,

Continued

or shareholder takes into account its proportionate share of income, gain, or deduction from farming businesses of a partnership or S corporation, and any applicable subsidies received by a partnership or S corporation during the taxable year (regardless of whether such items are treated as income for Federal tax purposes).

For purposes of the provision, the term ''farming business'' has the meaning provided in present-law section 263A(e)(4), with a modification for certain processing activities. Thus, for purposes of this provision, the conference agreement broadens the definition of ''farming business'' to include the processing of commodities, without regard to whether such activity is incidental, by a taxpayer otherwise engaged in a farming business with respect to such commodities. The farming activities of a cooperative are attributed to each member for purposes of this rule. Thus, a member of a cooperative who raises a commodity and sells it to the cooperative for processing is considered to be the processor of such commodity. In this case, patronage dividends received from a cooperative that is engaged in a farming business are considered to be income from a farming business for purposes of this provision.

As under the Senate amendment, any loss that is disallowed under the provision in a particular year is carried forward to the next taxable year and treated as a deduction attributable to farming businesses in that year.

Farming losses arising by reason of fire, storm, or other casualty, or by reason of disease or drought, are disregarded for purposes of calculating the limitation.

Treasury regulatory authority is provided to prescribe such additional reporting requirements as appropriate to carry out the purposes of this provision.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2009.

2. INCREASE AND INDEX DOLLAR THRESHOLDS FOR FARM OPTIONAL METHOD AND NONFARM OPTIONAL METHOD FOR COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT (SEC. 12502 OF THE SENATE AMENDMENT, SEC. 15352 OF THE CONFERENCE AGREEMENT AND SEC. 1402(A) OF THE CODE)

PRESENT LAW

*In general*

Generally, tax under the Self-Employment Contributions Act (SECA) is imposed on the self-employment income of an individual. SECA tax has two components. Under the old-age, survivors, and disability insurance component, the rate of tax is 12.40 percent on self-employment income up to the Social Security wage base ($97,500 for 2007). Under the hospital insurance component, the rate is 2.90 percent of all self-employment income (without regard to the Social Security wage base).

Self-employment income subject to the SECA tax is determined as the net earnings from self-employment. An individual may use one of three methods to calculate net earnings from self-employment. Under the generally applicable rule, net earnings from self-employment means gross income (including the individual's net distributive share of partnership income) derived by an individual from any trade or business carried on by the individual, less the deductions attributable to the trade or business that are allowed under the SECA tax rules. Alternatively, an individual may elect to use one of two optional methods for calculating net earnings from self-employment. These methods are: (1) the farm optional method; and (2) the nonfarm optional method. The farm optional method allows individuals to pay SECA taxes (and secure Social Security benefit coverage) when they have low net income or losses from farming. The nonfarm optional method is similar to the farm optional method.

*Farm optional method*

If an individual is engaged in a farming trade or business, either as a sole proprietor or as a partner, the individual may elect to use the farm optional method in one of two instances. The first instance is an individual engaged in a farming business who has gross farm income of $2,400 or less for the taxable year. In this instance, the individual may elect to report two-thirds of gross farm income as net earnings from self-employment. In the second instance, an individual engaged in a farming business may elect the farm optional method even though gross farm income exceeds $2,400 for the taxable year but only if the net farm income is less than $1,733 for the taxable year. In this second instance, the individual may elect to report $1,600 as net earnings from self-employment for the taxable year. In all other instances (i.e., more than $2,400 of gross farm income and net farm income of at least $1,733) a person engaged in a farming business must compute net earnings from self-employment under the generally applicable rule. There is no limit on the number of years that an individual may elect the farm optional method during such individual's lifetime.

The dollar limits in the farm optional method are not indexed for inflation.

*Nonfarm optional method*

The nonfarm optional method is available only to individuals who have been self-employed for at least two of the three years before the year in which they seek to elect the nonfarm optional method and who meet certain other requirements. Specifically, an individual may elect the nonfarm optional method if the individual's: (1) net nonfarm income for the taxable year is less than $1,733; and (2) net nonfarm income for the taxable year is less than 72.189 percent of gross nonfarm income. If a qualified individual engaged in a nonfarming business who elects the nonfarm optional method has gross nonfarm income of $2,400 or less for the taxable year, then the individual may elect to report two-thirds of gross nonfarm income as net earnings from self-employment. If the electing individual engaged in a nonfarming business has gross nonfarm income of at least $2,400 for the taxable year, then the individual may elect to report $1,600 as net earnings from self-employment for the taxable year. In all other instances, a person engaged in a nonfarming business must compute net earnings from self-employment under the generally applicable rule. An individual may elect to use the nonfarm optional method for no more than five years in the course of the individual's lifetime.

The dollar limits in the nonfarm optional method are not indexed for inflation.

*Other rules applicable to farm optional and nonfarm optional methods*

In the case of a cash method trade or business, gross income is defined as the gross receipts from such trade or business less the cost or other basis of property sold in carrying out such trade or business with certain adjustments. In the case of an accrual method trade or business, gross income is defined as the gross income from the trade or business with certain adjustments. If an individual (including a member of a partnership) derives gross income from more than one trade or business then such gross income (including the individual's distributive share of the gross income of any partnership) is treated as derived from a single trade or business.

*Social Security benefit eligibility*

Generally, Social Security benefits can be paid to an individual (and dependents or survivors) only if that individual has worked long enough in covered employment to be insured. Insured status is measured in terms of ''credits,'' previously called ''quarters of coverage.'' For this purpose, Social Security uses the lifetime record of earnings reported for that individual. In the case of a self-employed individual, net earnings from self-employment is used to calculate Social Security benefit eligibility.

Up to four quarters of coverage can be earned for a year, depending on covered wages for the year and the amount needed to earn each quarter of coverage. For 2007, credit for a quarter of coverage is provided for each $1,000 of wages.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the farm optional method so that electing taxpayers may be eligible to secure four credits of Social Security benefit coverage each taxable year by increasing and indexing the thresholds. The provision makes a similar modification to the nonfarm optional method.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Information reporting for commodity credit corporation transactions (Sec. 12503 of the Senate amendment, sec. 15353 of the conference agreement and new sec. 6039J of the Code)

PRESENT LAW

The Farm Security and Rural Investment Act of 2002[77] authorizes a marketing assistance loan program through the Commodity Credit Corporation (''CCC''). Under such program, the CCC may make loans for eligible commodities at a specified rate per unit of commodity (the original loan rate). The repayment amount for such a loan secured by an eligible commodity generally is based on the lower of the original loan rate or the alternative repayment rate, as determined by the CCC, as of the date of repayment. The alternative repayment rate may be adjusted to reflect quality and location for each type of commodity. A taxpayer receiving a CCC loan can use cash to repay such a loan, purchase CCC certificates for use in repayment of the loan, or deliver the pledged collateral as full payment for the loan at maturity.

If a taxpayer uses cash or CCC certificates to repay a CCC loan, and the loan is repaid at a time when the repayment rate is less than the original loan rate, the difference between the original loan amount and the lesser repayment amount is market gain. Regardless of whether a taxpayer repays a CCC loan in cash or uses CCC certificates in repayment of the loan, the market gain is taken into account either as income or as an adjustment to the basis of the commodity (if the taxpayer has made an election under section 77).

If a farmer uses cash instead of certificates, the farmer will receive a Form CCC–1099–G Information Return showing the market gain realized. For transactions prior to January 1, 2007, however, if a farmer uses CCC certificates to facilitate repayment of a

the Treasury Department may provide guidance as necessary to carry out the purposes of this provision.

[77] Pub. L. No. 107–171.

CCC loan, the farmer will not receive an information return. For loans repaid on or after January 1, 2007, IRS Notice 2007–63 provides that the CCC reports market gain associated with the repayment of a CCC loan whether the taxpayer repays the loan with cash or uses CCC certificates in repayment of the loan.[78] The CCC reports the market gain on Form 1099–G, Certain Government Payments.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment codifies the requirements of IRS Notice 2007–63 providing that the CCC reports market gain associated with the repayment of a CCC loan, regardless of whether the taxpayer repays the loan with cash or uses CCC certificates in repayment of the loan.

*Effective date.*—The provision is effective for loans repaid on or after January 1, 2007.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

E. PROTECTION OF SOCIAL SECURITY (SEC. 15361 OF THE CONFERENCE AGREEMENT)

To ensure that the assets of the trust funds established under section 201 of the Social Security Act are not reduced as the result of the enactment of this Act, the Secretary of the Treasury shall transfer certain amounts annually from the general revenues of the Federal Government to those trust funds.

## IV. TRADE PROVISIONS

A. EXTENSION OF CERTAIN TRADE BENEFITS

(Secs. 15401–15407 and 15410–15411 of the conference agreement)

PRESENT LAW

Sec. 213A of the Caribbean Basin Recovery Act (19 U.S.C. 2703a) establishes the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (''HOPE I''). HOPE I extended preferences to Haiti for apparel meeting certain rules of origin, and for certain automotive wire harnesses.

With respect to apparel, HOPE I extended preferential treatment to three categories of apparel: (1) apparel meeting a value-added rule of origin; (2) limited quantities of woven apparel wholly assembled in Haiti; and (3) brassieres meeting a cut and sew requirement.

HOPE I (in section 213A(d)) conditions Haiti's eligibility for these preferences on the President determining and certifying that Haiti has either established, or is making continual progress towards establishing, protection of internationally recognized worker rights. These rights include the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age of employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

The use of the HOPE I preference program has been very limited to date.

In fact, just 1.6% of Haiti's apparel exports in 2007 were under the HOPE I program. The Conferees believe that the limited use of the program is largely attributable to HOPE I's complex value-added rule of origin. As a result, the economic benefits — namely, new investment and significant new job creation — that the preference program was intended to spread widely to foster stability and security in Haiti have not been forthcoming.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

[78] 2007–33 IRB.

CONFERENCE AGREEMENT

To address the deficiencies in HOPE I, the conference report includes the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), which provides additional ways (under simplified rules) that Haitian apparel can qualify for duty-free treatment, as well as authorizing a new apparel sector labor capacity building and monitoring program (the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program or ''TAICNAR program'') to ensure the benefits of the new preferences are spread widely. The Conferees intend HOPE II to help Haitian industry attract new investment and create immediate jobs, generate income for workers to cover increased food costs and pay for other necessities, and continue to provide incentives to encourage the use of inputs manufactured by U.S. companies.

Key aspects of the HOPE II apparel provisions are outlined below. The Conferees note that HOPE II creates six discrete stand alone rules for apparel (and some textile) products to qualify for preferential treatment: (1) the value-added rule (as provided for in HOPE I, subject to a change in the cap); (2) a capped benefit for woven apparel meeting a wholly assembled/knit-to-shape rule; (3) a capped benefit for certain knit apparel meeting a wholly assembled/knit-to-shape rule; (4) an uncapped benefit for certain types of apparel meeting a wholly assembled/knit-to-shape rule; (5) an uncapped benefit for apparel meeting a wholly assembled/knit-to-shape rule under the ''3 for 1'' Earned Import Allowance Program; and (6) an uncapped benefit for apparel meeting a wholly assembled/knit-to-shape rule, where the apparel is made from ''short supply'' yarns or fabrics. The Conferees note that if a capped benefit is filled in a given year, an importer can still use one or more of the other rules. In addition, apparel from Haiti may also qualify for preferential access to the U.S. market under the United States—Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) (CBTPA).

*Ten Year Duration.*—The conference report extends most apparel preferences, including all apparel preferences created under HOPE II, for 10 years, until September 30, 2018. The ten year duration is aimed at fostering a more stable investment climate for businesses seeking to use HOPE I or II preferences.

*Expanded Preferences for Woven Apparel.*—The conference report expands the HOPE I ''woven apparel cap'' to 70 million square meters equivalents (''SMEs''), and extends the benefit for 10 years. Apparel exported under this provision can qualify for preferences if the apparel is ''wholly assembled'' or knit-to-shape, or both, in Haiti, without regard to the origin of the fabric (or fabric components, or components knit to shape, or yarn) comprising the apparel article. The definition of ''wholly assembled'' is taken from existing Customs regulations.

*New Knit Apparel Cap.*—HOPE II creates a new ''knit apparel cap'' of 70 million SMEs, with exclusions for men's/boys' cotton t-shirts, men's/boys' mmf t-shirts, certain men's/boys' sweatshirts/pullovers, and certain men's/boy's cotton-blend sweatshirts. Apparel exported under this provision can qualify for preferences if the apparel is ''wholly assembled'' or knit-to-shape, or both, in Haiti, without regard to the origin of the fabric (or fabric components, or components knit to shape, or yarn) comprising the apparel article.

*Modified Single Transformation Rule for Certain Apparel and Certain Luggage.*—HOPE II extends preferential treatment to certain apparel articles wholly assembled, or knit to shape, or both, in Haiti, without regard to the origin of the fabric (or fabric components, or components knit to shape, or yarn) comprising the apparel article. The apparel articles covered by this provision are: (1) brassieres; (2) those apparel articles covered by the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA–DR) ''single transformation'' rule; (3) headgear; and (4) certain sleepwear.

With regard to covered sleepwear, HOPE II extends preferences to women's and girls' pajama bottoms (*i.e.*, sleep pants), regardless of whether such bottoms are a separate garment or are part of a set.

HOPE II also extends preferential treatment to luggage and handbags wholly assembled in Haiti, without regard to the source of the fabric, materials or components. The Conferees did not include the concept of knit-to-shape in this provision, because such processing does not typically occur for such luggage/handbags.

*''3 for 1'' EIA Program for Knit or Woven Apparel.*—HOPE II creates a ''3 for 1'' earned import allowance program (EIA) to be developed and administered by the Secretary of Commerce. Under the ''3 for 1'' EIA, Haitian producers or entities controlling production that purchase qualifying fabric for apparel production in Haiti may export other apparel to the United States duty-free, and not subject to quantitative limitations, regardless of the origin of the fabric (or fabric components, components knit to shape, or yarns) from which the apparel product is made. Specifically, for every 3 SMEs of qualifying fabric purchased, a producer or entity controlling production receives a ''credit'' for 1 SME that can be used in the manufacture of apparel using non-qualifying fabric (*e.g.*, Taiwanese fabric). The Secretary of Commerce is to establish electronic ''accounts'' for producers or entities controlling production where such ''credits'' can be deposited. A producer or entity controlling production can then withdraw these credits for an ''earned import allowance certificate'' that reflects the requested number of credits. Apparel wholly assembled, or knit to shape, or both, in Haiti using non-qualifying fabric may enter the United States duty-free, if the apparel is accompanied by such an ''earned import allowance certificate'' that reflects the number of credits equal to the SMEs of the apparel for which preferential treatment is sought.

An example may help illustrate the process: Producer A in Haiti purchases 300 SMEs of denim fabric woven in the United States using U.S. yarns in order to manufacture jeans in Haiti. Producer A, upon submission of documentation supporting the purchase of the U.S. denim (such documentation can include information submitted by the U.S. textile mill that exported the fabric), will receive 100 credits in Producer A's Commerce Department account. If Producer A subsequently wants to export jeans that are wholly assembled in Haiti to the United States duty-free and such jeans are wholly assembled in Haiti from Italian denim, Producer A would redeem all or part of the accrued 100 credits for the requisite earned import allowance certificate. For instance, if the jeans made with the Italian fabric account for 50 SMEs, Producer A would request a certificate that equaled 50 credits.

In HOPE II, the Conferees have established principles for the ''3 for 1'' EIA program. The Conferees expect and intend the Secretary of Commerce to establish additional requirements in order to make the program efficient, workable, and administrable, and have provided the Secretary with the authority to promulgate and enforce such requirements. In addition, the Conferees urge the Secretary of Commerce to establish the ''3 for 1'' EIA

program as an electronic program, including with respect to the EIA certificate.

The Conferees note that woven and knit fabrics are treated differently under the HOPE II-created EIA program. Specifically, qualifying woven fabric must be wholly formed in the United States, from U.S. yarns (subject to some limited exceptions). Qualifying knit fabric may be wholly formed or knit to shape in the United States, U.S. free trade agreement (FTA) partner country or U.S. preference partner country (*e.g.*, a beneficiary country under the African Growth and Opportunity Act), or any combination, from U.S. yarns (subject to some limited exceptions).

*Modified Single Transformation Rule for Apparel Made from ''Short Supply'' Fabrics/Yarns.*—HOPE II also includes a provision to extend duty-free treatment to any apparel article wholly assembled or knit to shape, or both, in Haiti where the apparel article is made from fabrics or yarns designated as not being available in commercial quantities under any U.S. preference program or FTA, or is covered by certain provisions of Annex 401 of the NAFTA (*i.e.*, those provisions which extend duty-free treatment to apparel notwithstanding the origin of fabric or yarns). The Conferees note that the entire apparel article need not be made from a ''short supply'' fabric or yarn—only the fabric, fabric components, components knit to shape, or yarns that make up the component that determines the tariff classification of the article need be made of ''short supply'' fabrics or yarns for entry under this rule.

*Transition Value-Added Rule.*—HOPE II preserves the existing value-added rule of origin from HOPE I, but freezes the cap for exports qualifying for this rule at the 2008 level (*i.e.*, 1.25% of U.S. apparel imports). Under HOPE II, the value-added rule retains the termination date provided for in HOPE I (five years from enactment of HOPE I). The Conferees chose to sunset this provision as provided for in HOPE I and not extend the rule for an additional ten years, because Haitian exports under the value-added rule have been minimal, reflecting the complexity of the rule. The conferee notes that more flexible value-added rules applied to apparel in other preferential trade arrangements (*e.g.*, the United States-Jordan Free Trade Agreement) have been effective in increasing trade.

*Allow Direct Shipment from and Co-production in the Dominican Republic.*—HOPE II recognizes the unique situation of Haiti and the Dominican Republic, the two sovereign nations that share the Caribbean island of Hispaniola, and the ties between the textile and apparel industries of both countries. The Conferees believe that existing ties between the textiles and apparel industries of both countries should be maintained and strengthened. Toward that end, HOPE II allows direct shipment from the Dominican Republic of apparel qualifying under section 213A, as amended by HOPE II. The direct shipment provision will minimize transit times and costs when apparel wholly assembled or knit to shape in Haiti is sent to the Dominican Republic for packaging or post-assembly operations.

The Conferees have included direction to the Commissioner responsible for U.S. Customs and Border Protection to provide technical and other assistance to Haiti and the Dominican Republic to develop procedures to prevent unlawful transshipment and use of counterfeit documents. The Conferees intend that assistance to be provided expeditiously and in a manner that facilitates trade, and to include assisting Haiti and the Dominican Republic in developing a secure, electronic system to combat unlawful transshipment and use of counterfeit documents.

The Conferees also expect the processing requirement necessary for an apparel article to qualify under HOPE II—that is, that apparel be wholly assembled or knit to shape, or both, in Haiti—to facilitate co-production between Haiti and the Dominican Republic. The HOPE II processing requirement does not preclude assembly or other operations from occurring outside Haiti. Co-production operations performed in the Dominican Republic could include, but are not limited to, activities such as minor assembly, repair, embellishment, and finishing.

*Clarifications on Administration of Caps.*—HOPE II clarifies that exports qualifying for preferences under apparel provisions not subject to quantitative limitations (*e.g.*, the apparel qualifying under the rules contained in section 213A(b)(3), as amended by HOPE II) should not be included in the calculation of any quantitative limitations contained in HOPE II. In addition, apparel qualifying under a rule subject to a particular cap (*e.g.*, the woven or knit apparel caps in section 213A(b)(2), as amended by HOPE II), should not be counted against another cap (*e.g.*, the value—added cap, included in section 213A(b)(1), as amended by HOPE II). Finally, the legislation clarifies that HOPE II benefits are in addition to preferences extended to Haitian exports under the Caribbean Basin Economic Recovery Act (CBERA), including apparel preferences under section 213(b)(2) of the CBERA, as amended, and that apparel exports qualifying for preferences under 213(b)(2) should not be counted against the quantitative limitations established in HOPE II.

*Labor Provisions.* The conference agreement amends Section 213A of the Caribbean Basin Recovery Act to include new provisions to promote compliance with core labor standards, as enumerated in the legislation, and to improve working conditions, in particular in the textile and apparel sector. The Conferees recognize that the core labor standards defined in the legislation refer to the rights as listed in the 1998 International Labor Organization Declaration on Fundamental Principles and Rights at Work and its Follow Up. Specifically, HOPE II requires that the President certify, within 16 months of enactment, that Haiti has created an independent Labor Ombudsman's Office responsible for performing the functions set forth in the conference agreement and established, with the assistance of the International Labor Organization (''ILO''), the TAICNAR Program. Unless the President extends the period for meeting these requirements, which is permitted under certain limited conditions set out in the conference agreement, the President is required to terminate Haiti's eligibility for preferential treatment under the section.

The functions of the Labor Ombudsman include overseeing the implementation of the TAICNAR Program, maintaining a registry of the textile and apparel producers that may seek preferential treatment and coordinating a committee comprised of representatives of government agencies, employers, and workers to consult on the implementation of the TAICNAR Program and other matters of common concern. The Labor Ombudsman is also responsible for receiving comments from interested parties about the labor conditions in the facilities of the registered producers and, where such comments are submitted in good faith and supported with evidence, directing the comments to the ILO or the appropriate Haitian government official. Further, where registered producers are found to have deficiencies, the Labor Ombudsman also shares responsibility for assisting them in complying with core labor standards and national labor laws directly relating to the standards and acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety. In performing its functions, the Labor Ombudsman is expected to coordinate and consult with other appropriate Haitian government officials (*e.g.*, in the Ministry of Labor).

The TAICNAR Program is comprised of two elements. The first element of the program is technical assistance from the ILO to build Haiti's own capacity to inspect the facilities of 80 registered textile and apparel producers, enforce its labor laws, and resolve labor disputes. The scope of such assistance is broad, including ILO assistance in reviewing national labor laws and regulations and bringing them into compliance with core labor standards, increasing awareness of worker rights, and on-the-job training for labor inspectors, judicial officers, and other government officials.

The second element of the TAICNAR Program is ILO assessment of compliance with core labor standards and national labor laws in the facilities of the producers registered with the Labor Ombudsman and, where necessary, assistance with remediating deficiencies. Consistent with existing practice under its Better Factories Cambodia and Better Works programs, the ILO has a number of tools to perform such assessments, including unannounced site visits and confidential interviews with management and workers. The results of the assessment are reported, confidentially in the first instance, to the management and workers (or, where there is union representation, worker representatives) together with suggestions for remediation of deficiencies. Under the program, the ILO then aids the producer in remediating any deficiencies, with assistance, if necessary, from the Labor Ombudsman or other parties. Every six months, following implementation of the TAICNAR Program by Haiti, the ILO is expected to publish a public report on the assessments it has conducted during the preceding six-months. Such reports will identify the specific factories assessed and the conditions in these factories.

To encourage compliance with core labor standards and national labor laws directly related to core labor standards, the conference agreement provides for preferential treatment to be denied in certain circumstances. Specifically, the conference agreement directs the President to identify (on a biennial basis, beginning in the second year after implementation) producers who are failing to comply with these compliance conditions. The President is directed to offer assistance to any such producers in meeting the compliance conditions and, if the assistance is refused or if the producer otherwise fails to come into compliance, to withdraw, suspend, or limit preferential treatment to articles of the producer. The preferential treatment may be reinstated if the President later determines that the producer has come into compliance with core labor standards and national labor laws directly related to core labor standards. In making both the initial identification of non-compliant producers and any later reinstatement determination, the President is to consider the reports of the ILO.

B. EXTENSION OF CBTPA

(Sec. 15408–15409 of the conference agreement)

PRESENT LAW

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)), as amended by the United States–Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) (CBTPA), provides that eligible textile and apparel articles of a designated CBTPA beneficiary country shall enter the United States

free of duty and free of quantitative limitations, provided that the President determines that the country has implemented the necessary procedures and requirements. These preference program provisions expire on September 30, 2008.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends section 213(b) of the Caribbean Basin Economic Recovery Act to extend the Caribbean Basin Trade Partnership Act, including the textile and apparel preference program provisions, through September 30, 2010.

C. UNUSED MERCHANDISE DRAWBACK

(Sec. 15421 of the conference agreement)

PRESENT LAW

Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) currently provides for unused merchandise drawback. Unused drawback is permitted if imported merchandise is exported or destroyed within 3 years of import without being used in the United States. Pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), domestic or imported merchandise that is commercially interchangeable with the imported merchandise may be substituted for the imported merchandise and drawback granted on the export or destruction of the substituted merchandise within the 3-year period beginning on the date of importation. The drawback is limited to 99% of the duty, tax and fee imposed under Federal law on the imported merchandise upon entry or importation.

Section 313(j)(2) of the Tariff Act of 1930 does not contain a definition of ''commercially interchangeable.'' From late 2001 to May 2007, U.S. Customs and Border Protection (CBP) paid drawback claims on wine based on white domestic and imported table wine being commercially interchangeable with relatively valued imported white table wine. Red domestic and imported table wine was also considered to be commercially interchangeable with relatively valued imported red table wine. Relatively valued wine was considered to be wine within a price range of 50%.

CBP informed wine drawback claimants in May 2007 that, effective immediately, the above standard for commercial interchangeability was no longer applicable. CBP did not provide a definitive new standard but stated that the criterion of the varietal wine should have been a determining factor in determining commercial interchangeability.

The new provision carries forward the standard used for commercial interchangeability from 2001 to May 2007, and provides certainty for the filing and processing of unused drawback claims for imported and exported wine.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends section 313(j)(2) of the Tariff Act of 1930, to provide a standard for what is considered to be ''commercially interchangeable'' for purposes of unused merchandise drawback for wine. The provision is effective for claims filed for drawback on or after the date of enactment.

D. REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE

(Sec. 15422 of the conference agreement)

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The Conference agreement includes an importer declaration requirement for one year to assist in gathering information on the valuation of goods imported into the United States.

The value of merchandise imported into the United States is determined primarily under transaction value. Transaction value is defined in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)(1)) as the price actually paid or payable for the merchandise when sold for exportation to the United States. Import transactions can involve one sale of the imported goods prior to importation or a series of sales. In the multiple sale scenario, Customs and Border Protection (''CBP'') currently permits importers to base transaction value on the price paid by the buyer in the first or earlier sale (*e.g.* the sale between the manufacturer and the intermediary), provided the importer can establish by sufficient evidence that the sale was at arm's length and that at the time of such sale, the merchandise was clearly destined for exportation to the United States.

On January 24, 2008, CBP published in the Federal Register a proposed interpretation of the expression ''sold for exportation to the United States.'' 73 Fed. Reg. 4254 (Jan. 24, 2008). In the publication, CBP proposed that when imported merchandise has been subject to a series of sales prior to importation, the price actually paid or payable for the imported goods when sold for exportation is the price paid in the last sale occurring prior to the introduction of the goods into the United States.

Congress has serious concerns that CBP did not provide Congress or the importing community with any notice about its proposed interpretation. Congress also has serious concerns that CBP proposed its new interpretation without conducting adequate analysis of the proposed impact of such interpretation. Moreover, Congress has received several concerns and questions about CBP's proposed interpretation, including questions of the number and value of importations that would be impacted by the change. CBP informed Congress that it does not keep records indicating which importers are basing transaction value on the price paid by the buyer in the first or earlier sale. Therefore, there is no information available to assess which sectors are using this provision, the extent of its use, and probable impact on the United States.

The Conferees through section (a) require Customs to collect adequate information regarding the impact of such proposal by requiring that importers declare whether the transaction value of the imported merchandise is determined on the basis of the price paid in the first or earlier sale occurring prior to introduction of the merchandise into the United States. The term ''first or earlier sale'' as used in subsection (a)(2) is intended to refer to the current CBP interpretation expressed in the January 24, 2008 Federal Register Notice.

Subsection (b) requires CBP to provide the collected information to the United States International Trade Commission (''ITC'') on a monthly basis. The Conferees intend for CBP and ITC to mutually agree on the format in which CBP will submit the data for ITC use. Subsection (c) requires the ITC to submit a report to the House Ways and Means Committee and the Senate Finance Committee within ninety days of receipt of CBP's last monthly report.

In subsection (d), the Conferees express a sense of Congress that CBP should not before January 1, 2011, implement a change of interpretation of the expression ''sold for exportation to the United States'' for purposes of applying the transaction value of the imported merchandise in a series of sales. It is the sense of Congress that after January 1, 2011, CBP may propose to change or change its interpretation only if CBP: (1) consults with and provides notice to the appropriate committees not less than 180 days prior to proposing a change and not less than 90 days prior to publishing a change; (2) consults with, provides notice to, and takes into consideration views expressed by the Commercial Operations Advisory Committee not less than 120 days prior to proposing a change and not less than 60 days prior to publishing a change; and (3) receives the explicit approval of the Secretary of Treasury prior to publishing a change. The term ''publishing'', as used in subsection (d), includes any notice CBP may provide to the regulated community through a public notice.

Through subsection (d)(3), the Conferees express a sense of Congress that CBP should take into consideration the ITC report as referenced in subsection (b) before publishing any change to the expression ''sold for exportation to the United States.''

## V. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the ''IRS Reform Act'') requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the ''Code'') and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that have ''widespread applicability'' to individuals or small businesses.

## COMPLIANCE WITH RULE XXI, CL.9 (HOUSE) AND WITH RULE XLIV (SENATE)

The following list is submitted in compliance with clause 9 of rule XXI of the Rules of the House of Representatives and rule XLIV of the Standing Rules of the Senate, which require publication of a list of congressionally directed spending items (Senate), congressional earmarks (House), limited tax benefits, and limited tariff benefits included in the conference report, or in the joint statement of managers accompanying the conference report, including the name of each Senator, House Member, Delegate, or Resident Commissioner who submitted a request to the Committee of jurisdiction for each item so identified. Congressionally directed spending items (as defined in the Senate rule) and congressional earmarks (as defined in the House rule) in this division of the conference report or joint statement of managers are listed below. Neither the conference report nor the statement of managers contains any limited tax benefits or limited tariff benefits as defined in the applicable House and Senate rules.

| Member | Program description | Funding level |
|---|---|---|
| Baucus | National Sheep and Goat Industry Improvement Center | $1 million. |
| Baucus | Appropriate Technology Transfer to Rural Areas | Authorized for appropriation. |
| Baucus | Camelina Pilot Program | $9 million. |
| Biden | Chesapeake Bay Watershed Conservation Program | $382 million. |
| Cardin | Chesapeake Bay Watershed Conservation Program | $382 million. |
| Casey | Chesapeake Bay Watershed Conservation Program | $382 million. |
| Chambliss | Cost Share Assistance for Wildlife Corridors | Up to $100 million. |
| Cochran | Natural Products Research Laboratory | Authorized for appropriation. |
| Conrad | Grants to Broadcasting Systems | Authorized for appropriation. |
| Harkin | Congressional Hunger Center | Authorized for appropriation. |
| Harkin | Appropriate Technology Transfer to Rural Areas | Authorized for appropriation. |
| Harkin | Policy Research Centers | Authorized for appropriation. |
| Hinojosa | Housing Assistance Council | Authorized for appropriation. |
| Inouye | Insular Pacific Sun Grant Sub-Center | Authorized for appropriation. |
| Inouye | Education Grants to Alaska Native Serving Institutions and Native Hawaiian Serving Institutions | Authorized for appropriation. |
| Kohl | Housing Assistance Council | Authorized for appropriation. |
| Nelson | Drought Mitigation Center/University of Nebraska | Authorized for appropriation. |
| Reid | Desert Terminal Lakes/Nevada | $175 million FY 08–12. |
| Roberts | Consortium for Agricultural Soils Mitigation of Greenhouse Gases/Kansas State University | Authorized for appropriation. |
| Stevens | Education Grants to Alaska Native Serving Institutions and Native Hawaiian Serving Institutions | Authorized for appropriation. |
| Stevens | Water Systems for Rural and Native Villages in Alaska | Authorized for appropriation. |

From the Committee on Agriculture, for consideration of the House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

COLLIN C. PETERSON,
TIM HOLDEN,
MIKE MCINTYRE,
BOB ETHERIDGE,
LEONARD L. BOSWELL,
JOE BACA,
DENNIS L. CARDOZA,
DAVID SCOTT,
BOB GOODLATTE,
ROBIN HAYES,
MARILYN MUSGRAVE,
RANDY NEUGEBAUER,

From the Committee on Education and Labor, for consideration of secs. 4303 and 4304 of the House bill, and secs. 4901–4905, 4911, and 4912 of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
CAROLYN MCCARTHY,
TODD R. PLATTS,

From the Committee on Energy and Commerce, for consideration of secs. 6012, 6023, 6024, 6028, 6029, 9004, 9005, and 9017 of the House bill, and secs. 6006, 6012, 6110–6112, 6202, 6302, 7044, 7049, 7307, 7507, 9001, 11060, 11072, 11087, and 11101–11103 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
FRANK PALLONE,

From the Committee on Financial Services, for consideration of sec. 11310 of the House bill, and secs. 6501–6505, 11068, and 13107 of the Senate amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
MAXINE WATERS,

From the Committee on Foreign Affairs, for consideration of secs. 3001–3008, 3010–3014, and 3016 of the House bill, and secs. 3001–3022, 3101–3107, and 3201–3204 of the Senate amendment, and modifications committed to conference:

HOWARD L. BERMAN,
BRAD SHERMAN,
ILEANA ROS-LEHTINEN,

From the Committee on Judiciary, for consideration of secs. 11102, 11312, and 11314 of the House bill, and secs. 5402, 10103, 10201, 10203, 10205, 11017, 11069, 11076, 13102, and 13104 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS,
BOBBY SCOTT,

From the Committee on Natural Resources, for consideration of secs. 2313, 2331, 2341, 2405, 2607, 2607A, 2611, 5401, 6020, 7033, 7311, 8101, 8112, 8121–8127, 8204, 8205, 11063, and 11075 of the Senate amendment, and modifications committed to conference:

NICK RAHALL,
MADELEINE Z. BORDALLO,
CATHY MCMORRIS RODGERS,

From the Committee on Oversight and Government Reform, for consideration of secs. 1501 and 7109 of the House bill, and secs. 7020, 7313, 7314, 7316, 7502, 8126, 8205, and 10201 of the Senate amendment, and modifications committed to conference:

EDOLPHUS TOWNS,

From the Committee on Science and Technology, for consideration of secs. 4403, 9003, 9006, 9010, 9015, 9019, and 9020 of the House bill, and secs. 7039, 7051, 7315, 7501, and 9001 of the Senate amendment, and modifications committed to conference:

BART GORDON,
MICHAEL T. MCCAUL,

From the Committee on Small Business, for consideration of subtitle D of title XI of the Senate amendment, and modifications committed to conference:

NYDIA M. VELÁZQUEZ,
HEATH SHULER,

From the Committee on Transportation and Infrastructure, for consideration of secs. 2203, 2301, 6019, and 6020 of the House bill, and secs. 2604, 6029, 6030, and 11087 of the Senate amendment, and modifications committed to conference:

JAMES L. OBERSTAR,
ELEANOR H. NORTON,

From the Committee on Ways and Means, for consideration of sec. 1303 and title XII of the House bill, and secs. 12001–12601, and 12701–12808 of the Senate amendment, and modifications committed to conference:

CHARLES B. RANGEL,
EARL POMEROY,

For consideration of House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

ROSA L. DELAURO,
ADAM H. PUTNAM,
*Managers on the Part of the House.*

TOM HARKIN,
PATRICK LEAHY,
KENT CONRAD,
MAX BAUCUS,
BLANCHE L. LINCOLN,
DEBBIE STABENOW,
SAXBY CHAMBLISS,
THAD COCHRAN,
PAT ROBERTS
*(For purposes of Title XV only),*
CHUCK GRASSLEY,
*Managers on the Part of the Senate.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under clause 7(c) of rule XXII, the filing of the conference report on H.R. 2419 has vitiated the following two motions to instruct conferees on that measure:

The motion to instruct offered by the gentleman from Michigan (Mr. UPTON) which was debated on May 8 and on which further proceedings were postponed under clause 8 of rule XX; and

The motion to instruct offered by the gentleman from Illinois (Mr. SHIMKUS) which was debated on May 8 and on which further proceedings were postponed under clause 8 of rule XX.

## PENTAGON SPIN MACHINE

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, a report released today by the nonprofit research organization Media Matters has found that military analysts secretly cultivated by the Pentagon's communications apparatus appeared over 4,500 times on major TV and radio networks since 2002 in segments covering the Iraq War, Guantanamo Bay, Abu Ghraib and other foreign policy and national security issues.

The New York Times exposed this extensive, coordinated campaign by the Pentagon and the Bush administration to influence the commentary of what viewers rightfully believed were independent television military analysts. It is an unethical, possibly illegal propaganda machine, a media Trojan horse designed to shape war coverage from inside the major TV and radio networks.

It was also apparent that the motivation on the part of many was the extraordinary access they were granted to the Pentagon for their defense contractor employers.

One particularly disturbing example is when troops in Iraq were dying because of inadequate body armor, a senior Pentagon official wrote to his colleagues, ''I think our analysts . . . can push back in that arena.'' The analysts, of course, were 75 retired military officers.

This is conduct unbefitting of our military officers and our Nation, Mr. Speaker.

## FARM BILL

(Mr. NEUGEBAUER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. NEUGEBAUER. Mr. Speaker, I rise today to encourage my colleagues to support the final conference report that was just brought to this House of the Food, Conservation, and Energy Act of 2008.

As a conferee, I participated in many hours of bipartisan and bicameral negotiations at which point we reached a bill that will be good for American agriculture, and it will be good for the American consumer.

Mr. Speaker, it is important that we have a strong agricultural industry in this country today. We've already seen the implications of having other countries furnish our energy needs on a daily basis, and the last thing in the world that we need to happen is to rely on other countries to feed and clothe the American people.

That's the reason, Mr. Speaker, it is so important that we get this important piece of legislation passed, sooner rather than later. Many producers all across America, farmers and ranchers, have already planted crops, and they do not have any policy to operate under.

And so I urge my colleagues, when this bill comes to the floor this week, to vote positively for American agriculture and the American people.

## WAR SUPPLEMENTAL FUNDING

(Mr. CULBERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CULBERSON. Mr. Speaker, it is approximately 2:10 p.m. on the east coast, and in less than 24 hours, the Speaker of the House has announced that she is going to drop on this House floor a $250 billion spending bill for the United States war against terror.

It has always been the policy of this Nation that party labels end at the water's edge. Until today, it has always been the policy of this House that the Members of this House were given the privilege and opportunity of debating in committee and offering amendments.

On legislation as important as funding a war for the survival of the American people and a war against barbarians from the Dark Ages, this House of Representatives has been shut out. It's appalling, it's embarrassing, it's outrageous, it's unacceptable for the Speaker of the House and the chairman of the Appropriations Committee to be the only two people in this institution allowed to see the bill. No one has seen the bill.

All 300 million Americans have been shut out of this appropriations process to fund our soldiers. To ensure their protection and survival in the field, to ensure the survival of this Nation, this entire House of Representatives needs to be involved, and the country needs to know that this Speaker is running this House like the Supreme Soviet.

## PROPOSED AGREEMENT WITH RUSSIAN FEDERATION FOR COOPERATION IN THE FIELD OF PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–112)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the ''Act''), the text of a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement, and a Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement (in accordance with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately). The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The proposed Agreement provides a comprehensive framework for peaceful nuclear cooperation with Russia based on a mutual commitment to nuclear non-proliferation. It has a term of 30 years, and permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It does not permit transfers of Restricted Data, and permits transfers of sensitive nuclear technology, sensitive nuclear facilities, and major critical components of such facilities by amendment to the Agreement. In the event of termination, key non-proliferation conditions and controls continue with respect to material and equipment subject to the Agreement.

The Russian Federation is a nuclear weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons. Like the United States, it has a ''voluntary offer'' safeguards agreement with the International Atomic Energy Agency (IAEA). That agreement gives the IAEA the right to apply safeguards on all source or special fissionable material at peaceful nuclear facilities on a Russia-provided list. The Russian Federation is also a party to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the use, storage, and transport of nuclear material. It is also a member of the Nuclear Suppliers Group, whose non-legally binding Guidelines set forth standards for the responsible export of nuclear commodities for peaceful use. A more detailed discussion of Russia's domestic civil nuclear program and its nuclear nonproliferation policies and practices, including its nuclear export policies and practices, is provided in the NPAS and in the classified annex to the NPAS submitted to the Congress separately.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Agreement and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and House Foreign Affairs Committee as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123d. shall commence.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 12, 2008*.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

□ 1415

## STRATEGIC PETROLEUM RESERVE FILL SUSPENSION AND CONSUMER PROTECTION ACT OF 2008

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6022) to suspend the acquisition of petroleum for the Strategic Petroleum Reserve, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6022

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008''.

**SEC. 2. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any acquisition method.

(b) RESUMPTION IN CALENDAR YEAR 2008.—During the period specified in subsection (a) but not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any acquisition method.

(c) EXISTING CONTRACTS.—

(1) DEPARTMENT OF THE INTERIOR CONTRACTS.—In the case of any royalty-in-kind oil scheduled to be delivered to the Department of Energy for the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Interior prior to, and in effect on, the date of enactment of this Act, the Secretary of Energy shall accept delivery of such oil.

(2) DEPARTMENT OF ENERGY CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as you know, I have long supported filling the Strategic Petroleum Reserve and strongly support the Energy Policy Act of 2005 provision that directed the Secretary of Energy to fill the reserve ''as expeditiously as practicable'' to the full 1 billion barrel capacity authorized by the Energy Policy and Conservation Act. The Energy Policy Act of 2005, however, also requires that the Secretary time SPR acquisitions in a manner that does not incur excessive costs or do not appreciably affect the consumer price of petroleum products.

On May 8, I wrote the President urging him to direct the Secretary of Energy not to enter into any new contracts to fill the SPR during calendar year 2008. This, regrettably, is what the Department of Energy has proposed to do under an April 4 solicitation for royalty-in-kind oil to be delivered between August and December of this year. In light of the record cost of oil and resulting hardship for average Americans, businesses, farmers, and the general economy, I believe it would be imprudent for DOE to take these barrels off the market.

While there is no guarantee that putting this oil onto the market rather than into the SPR will lower prices, even such a modest step could potentially prick the speculative bubble now characterizing oil markets. In 2006, DOE suspended filling SPR during the summer driving season, and that is what is appropriate for it to do now.

While it is in the discretion of DOE whether or not to enter into new contracts at this time, the administration seems determined to forge ahead. Common sense would say to us not to take the oil off the market at a time of record high prices. Given the administration's apparent determination to pursue this course, the Congress must act and I support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to the bill and recognize myself for such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, let me say at the beginning that I speak for myself, I don't necessarily speak for the House Republican leadership. I have asked if we had a minority position on the bill, and as of 30 minutes ago we did not. So I am speaking for myself as the ranking member of the committee of jurisdiction, the Energy and Commerce Committee.

And let me say at the beginning that I think it is good to have a piece of energy legislation on the floor at this point in time. I think the American people are fed up with high gasoline prices, they're fed up with increasing imports, they're fed up with rising food prices that are caused, at least in part, by higher energy prices. So I think it's a good thing that we are beginning to debate energy legislation on the floor of the House of Representatives. I think it is a good thing that the chairman of the committee with primary jurisdiction, my good friend, JOHN DINGELL, is leading that debate on the majority side.

Having said that, I don't think it's a good thing that we bring a bill on the Strategic Petroleum Reserve to the floor with no process at all. Chairman DINGELL and Subcommittee Chairman BOUCHER and I have spoken informally in the last 2 weeks about doing something on the Strategic Petroleum Reserve. And I am very open to having a full vetting of the issue of the Strategic Petroleum Reserve.

I am fully supportive of the underlying policy in this bill, which is to suspend taking shipments into the Strategic Petroleum Reserve when oil prices are at record levels. I am not supportive of doing that in a way that there is absolutely no input from the minority side. We've had no legislative hearing, no committee hearing, no markup, no nothing. We were notified late yesterday afternoon that the bill would be on the floor this morning, and as far as I can tell the bill wasn't printed until some time this morning. So one reason I'm opposed to the bill is because of process.

Now I want to talk about the substance of the bill. Again, the Strategic Petroleum Reserve was created in the 1970s in response to a coordinated Arab Oil Embargo against the United States of America when shipments of oil were suspended by the OPEC cartel for political reasons. We created the Strategic Petroleum Reserve. And my guess is, although I wasn't in Congress at that time, that JOHN DINGELL, who was a member of the committee—I don't believe he was chairman in the seventies—probably had a very positive influence on creating the Strategic Petroleum Reserve. It was a good idea then and it's a good idea now. So that's a good thing.

Now, we have been filling the Strategic Petroleum Reserve since the late seventies. Most of the oil was put in under President Reagan's tenure from 1980 to 1988, but even since then we have continued to fill the Reserve. There have been little appropriated funds appropriated to fill it, and in the last 5 or 6 years most of the increase has been by taking what this bill would suspend, which is the royalty-in-kind oil, and putting that into the Reserve. Royalty-in-kind oil is oil that, instead of the oil companies that produce on Federal lands and the Federal OCS, instead of giving money to the Federal Government and to the taxpayer, they give royalty-in-kind oil. And that right now is about 62,000 barrels a day. So it is not a bad idea to suspend taking the royalty-in-kind oil.

Where I have a policy difference with this bill is that the bill is either silent or ambiguous on what happens to the royalties that continue to accrue. The fact that you're not taking oil doesn't mean that the Federal Government doesn't have a royalty that should be paid.

So one of the questions I would have is, do we receive the money, which 62,000 barrels of oil at $120 a barrel is, over the life of this bill, over a billion dollars. What happens to that billion dollars? Does it just go to the general revenue? Does it just go to the general treasury?

If I were drafting the bill, I would direct that some of that royalty, in terms of cash, go into a LIHEAP fund for low-income heating and cooling assistance. I would direct that some of the funds go into a reserve to buy oil for the Strategic Petroleum Reserve when oil falls below the target price in this bill, which I believe is $75 a barrel. I would direct that some of the funds go to an alternative energy fund. Those are things that we would have discussed in committee. Those were the things that we would have had amendments on. And those are the things that we're not allowed to do because this bill is being considered under suspension.

As Chairman DINGELL has pointed out, the fact that we're not going to take royalty-in-kind oil and put it in the Strategic Petroleum Reserve is probably not going to affect the price much on the world market. I think we would have as much impact on prices, if that's our goal, if all the Members on both sides of the aisle went out on the steps of the Capitol and we all clapped our hands three times and said, ''Down prices. Down prices. Down prices.'' That would probably have as much impact as passing this bill. It would be a lot more fun, too. We would all get a little exercise. And it would be a pretty good photo op, the united Congress, you know, dictating that oil prices go down. But it would have about the same impact that this bill does.

So, Mr. Speaker, again, I don't quarrel with the fact that we are directing to suspend shipments of the Strategic Petroleum Reserve. We need to do a lot more than that, however, if we really want to bring oil prices down. And even in doing something on the SPR, I think we should go through committee, we should have a legislative hearing, we should have a markup, and we should really rethink the strategy of the Strategic Petroleum Reserve.

In the 1970s, the oil markets and the U.S. economy were significantly different than they are today. And the size of the Reserve, the uses of the Reserve are at least subject to a real debate today. And what we're getting is a bill that apparently was drafted in Majority Leader HOYER's office late last night or early this morning that several Members have put their names on. And we're on a suspension calendar that we have no ability to amend it or do anything about it except vote ''yes'' or ''no,'' so I'm going to encourage Members to vote ''no.'' If we were somehow to get 146 ''no'' votes, then we could have the debate and have the markup process that I've asked about and we could come back next week sometime and do it the right way.

Mr. Speaker, I rise in opposition to H.R. 6022, the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008. I am opposed to this bill for two reasons: process and substance.

First, let's talk about process: I found out that this bill was going to be on the floor today less than 24 hours ago. I am the ranking member of the Energy and Commerce Committee, which has jurisdiction over energy in general and the Strategic Petroleum Reserve, SPR, in particular. While there has been a lot of talk and press recently about the SPR, it has not been the subject of any committee briefings, hearings, or markups at all. I am not even aware of any discussions about this SPR bill at the staff level, except for Chairman DINGELL's staff notifying my staff yesterday afternoon that this bill would be on the suspension calendar today.

And now we are on the suspension calendar, where we get an up or down vote, with no chance for any amendments. It seems that, once again, the majority leadership of the House is shamelessly dictating the legislative process of the House in a way that demeans the jurisdiction of the Energy & Commerce Committee in order to make us vote on a bill before Memorial Day so the Democrats can send out press releases about how they are addressing the Pelosi Premium.

Which leads me to my second point—the substance of this bill. When it comes to dealing with high energy prices, there are two groups in Congress. Those who want to say they are doing something, and those who want to do something. Today's bill is for those who want to say they are doing something.

This bill tells the President, as long as oil prices stay above $75 a barrel, to quit filling the SPR for the rest of calendar year 2008, but do it in a way that does not affect current contracts. So, if this bill is signed into law, the real world effect will be to prevent about 11.4 million barrels of oil from going into the SPR between August 1 and December 31 of this year—or about 76 thousand barrels a day for the rest of the year.

Will this help with gas prices? We could probably have more effect on lowering gas prices if we stood on the steps of the Capitol and clapped our hands three times and shouted, ''Lower, lower, lower.'' It certainly won't do anything for prices for Memorial Day weekend because it will not start having any effect until August 1st. If the Majority wanted to have an immediate effect, they should have considered a provision to direct the Department of Energy to sell the SPR oil it is currently receiving into the open market.

The title of this bill also indicates that it somehow protects consumers, but I cannot find anything in the bill that actually does that. The bill says to quit filling the SPR which would happen in August, but the bill is silent about a number of things: What happens to the Royalty-in-Kind oil that the Departments of Interior and Energy are currently getting? Do these departments sell it? Do the lessees sell it and give the proceeds to the Departments? I assume the lessees still owe the government the royalty payments, so I assume any cash would go into the general treasury. How does this help protect consumers?

A better way to protect consumers, or at least help consumers by offsetting the current record energy prices would have been to do something useful with the revenue generated with the SPR oil. Perhaps we could have dedicated a portion of it to low income heating assistance. Or perhaps we could have dedicated a portion of it to developing alternative energy sources. Or, we even could have reserved a portion of it to start replenishing the SPR again sometime in the future when oil prices are not at $125 a barrel.

But, since we had no process for this bill, we will never know what could have been. We're faced with an up or down vote, with no chance to discuss the policy of either this bill, or the policy of the SPR generally.

I, for one, am in favor of having a policy discussion on the entire Strategic Petroleum Reserve. I think the circumstances of today's energy markets are much different than they were when we created the SPR, and therefore I think it would be a good idea to have a policy debate about the future of the SPR. Ultimately I may end up wanting to continue to have a billion barrel SPR, but I think the policy discussion would be a good thing to have. Unfortunately, the process for this bill does not foster such a debate.

So where does this leave those of who want to not just say we're doing something about energy costs, but actually want to do something?

In 1985 we produced 9 million barrels of oil per day and imported another 3 million per day. Since 1995 we've cut our domestic production in half and tripled our imports. Why? Because we continue to lock up our domestic resources, particularly in Alaska and in the OCS.

Two of the most unstable foreign sources of oil today are Nigeria and Venezuela. That instability is a big factor in high oil prices because of the risk of supply cut-off. ANWR alone could be replacing all our imports from Venezuela or all our imports from Nigeria and only use a few thousand acres of a vast tundra.

Better legislation comes from the deliberative process, a process that's inclusive. No sooner will this bill become law than people will be either calling for its repeal or wondering why we bothered at all. But that was true of the 2007 no-energy bill, as well.

Let's go back to Committee and do the job we are capable of doing with SPR. Let it do some good for somebody. And let's let Congress turn to the real energy issue facing this country, domestic production.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent at this time that the gentleman from Vermont (Mr. WELCH) be permitted to control the remainder of the time on this side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. WELCH of Vermont. Mr. Speaker, I yield myself such time as I may consume.

First, I want to thank Chairman DINGELL for his leadership on energy issues and for assisting in bringing this legislation to the floor for consideration by the full House.

I want to address a couple of observations by my friend from Texas. Number one, the revenues that would be generated from drilling on Federal lands

would go into the Treasury. And there are many uses and debates that can be had about whether that money ultimately should go into alternative energy, whether it should go into LIHEAP, and those will all be had in due course as part of other legislation.

The question that we have before us today is whether or not taking a small step that in the past has been taken by this President Bush, by his father, by President Clinton, that when it has been taken has proven to actually have a direct and immediate impact on lowering the price of gas at the pump from 5 cents to 25 cents a gallon.

All of us know, we're going home every weekend and we're hearing from our constituents. It doesn't matter what district we're in, it doesn't matter what part of the country we're from, folks are really feeling burdened by these ever-escalating home energy heating bills and the cost of filling up their pick-up truck and their car. And basically the question for us is whether or not, even as we have to proceed with long-term debates about our future energy policy, this Congress is going to be willing to take a short-term step that has the potential to bring down energy prices.

You know, we could go out and clap, but I actually think this would be more effective. History tells us that, in fact, when we've used this Strategic Petroleum Reserve as an asset belonging to the American people and suspended purchases—and incidentally, this Strategic Petroleum Reserve is nearly full, we're talking about topping it off, it's very expensive to do so now with $126 per barrel oil—that when we've done it in the past, it has actually reduced that pump price. And just two examples of what it would mean in my small State of Vermont. I talked to a trucker from Barre, Vermont; they've got a company and drive a lot. It would put $300,000 on his bottom line if the price of gas went down 25 cents. A school district in a rural area, it would be $30,000 off their bottom line if we could get the price down 25 cents.

No one here is suggesting that this is an answer to our energy situation. What we are suggesting—and, really, recommendations on a bipartisan basis—is that the tool that's within our reach we should use and do all we can on a short-term basis even as we debate long-term energy policies.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, if it's possible, I'd like to enter into a dialogue with any of the three sponsors of the bill. Mr. MARKEY is on the floor. Mr. LAMPSON is on the floor. Mr. WELCH is on the floor. I'd like to ask them some questions if one of them would like to try to respond on my time. I'm not going to use their time. So Mr. MARKEY, Mr. WELCH or Mr. LAMPSON. I just want to ask some questions about the bill to the main sponsors.

□ 1430

My question, Mr. Speaker, and this is on my time, if either of those three gentlemen would like to respond. I'm not trying to be cute. I'm way too old to be cute.

The bill is silent on whether or not the money that is the equivalent cash of the royalty in kind to oil is what's done with it. So my first question I would like one of the sponsors to answer is, instead of getting 62,000 barrels of oil a day, if this bill becomes law, does the general treasury get the equivalent of 62,000 barrels of oil times whatever the market price of oil that day is, which right now is over $120 a barrel? Is that revenue generated, and does it come to the Federal treasury, or do the oil companies keep it? That's my first question.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I would be happy to yield to my good friend from Massachusetts.

Mr. MARKEY. Thank you very much for yielding.

The money actually goes back to the general Treasury.

Mr. BARTON of Texas. It goes back to the general Treasury. All right.

And my next question is the bill's effective date is upon termination of the contract. I think it goes into effect on July 31 and it runs through December 31 of 2008; is that correct?

Mr. MARKEY. That is correct, yes.

Mr. BARTON of Texas. What happens after December 31, 2008?

Mr. MARKEY. Well, at that point we return to operations as they exist today.

Mr. BARTON of Texas. My next question is, if this bill were to become law, does the Secretary of Energy or the Secretary of the Interior have any discretion about accepting royalty in kind to oil or the cash equivalent, or is it a flat suspension with no exceptions?

Mr. MARKEY. It is a flat suspension.

Mr. BARTON of Texas. I thank my good friend from Massachusetts for those answers.

Mr. Speaker, I reserve the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, just in response, as a clarification for my friend from Texas, my understanding of the bill is we will continue to accept and will honor contracts during that 45-day period for royalty in kind.

Mr. Speaker, at this time I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman very much for yielding.

This is an historic debate. The history is quite clear. At the point of which President Bush was sworn in as President in January of 2001, as a renowned oil industry veteran, the price of a barrel of oil was $30. Today, as we are now in the eighth year of the President's term of office, it is $126 a barrel, an historic high, nearly a quadrupling of the price of a barrel of oil.

Other interesting facts: On the day that the President was sworn in, again, as President, gas was $1.45 a gallon, the good old days when the Bush administration was sworn into office. Today it has hit a record high of $3.72, on average, for self serve regular. So that is something else that is quite dramatically negative in terms of the impact on American consumers.

Now, here's what has happened over the years with the Strategic Petroleum Reserve. Back in 1991 President Bush's father actually deployed the Strategic Petroleum Reserve, and the price of a barrel of oil dropped 33 percent. In 2000 President Clinton deployed the Strategic Petroleum Reserve, and the price of a barrel of oil went down 18 percent. In fact, President Bush himself deployed the Strategic Petroleum Reserve in 2005, which led to a 5.6 percent drop in the price of a barrel of oil.

Now, this is an interesting U-turn that the President has taken because what he said in 2006 was——

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. WELCH of Vermont. Mr. Speaker, I yield an additional 1½ minutes to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman.

What the President said, President Bush said, in April 25, 2006, was, ''I have directed the Department of Energy to defer filling the Strategic Petroleum Reserve this summer. So by deferring deposits until the fall, we will leave a little more oil on the market. Every little bit helps.'' The price of a barrel of oil when President Bush said that in 2006: $67 a barrel.

Now here's what the President said as of April 29, just 2 weeks ago, in 2008. He said: ''In this case, I have analyzed the Strategic Petroleum Reserve issue, and I don't think it would affect the price.''

Well, that's a surprising change of economic analysis by the President in just 2 years. And as we debate this out here on the House floor, he seems to find himself in the minority because, in fact, what the President has at his disposal is the ability to be able to do something about this issue.

As consumers get the shakedown at the pump, this Friday President Bush is going to meet with the sheiks in Saudi Arabia to ask for more oil. And while the President sent troops to the Middle East to look for weapons of mass destruction, he's avoiding using a weapon of price reduction here at home. The President has said he does not have a magic wand to wave away high gas prices, but he does carry a big stick. It's called the Strategic Petroleum Reserve.

The SPEAKER pro tempore. The gentleman's time has again expired.

Mr. WELCH of Vermont. Mr. Speaker, I yield the gentleman another 15 seconds.

Mr. MARKEY. I thank the gentleman.

So here is the checklist right now to turn on the spigot of the Strategic Petroleum Reserve: OBAMA, yes; CLINTON,

yes; MCCAIN, yes; George Bush, no. He's saying ''no'' to the American consumer, ''no'' to the American economy. It is a dangerous economic position for our country to be in.

Mr. BARTON of Texas. Mr. Speaker, I am going to recognize Mr. SHIMKUS, a member of the committee.

But before I do that, I just want the record to show that the last day that I was chairman of the Energy and Commerce Committee, the price of gasoline in my district was $2 a gallon.

Mr. Speaker, I recognize the gentleman from Illinois (Mr. SHIMKUS) for 3 minutes, a member of the committee.

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Battling charge, that's what I like. Finally we get to talk about supply.

Mr. Speaker, for 18 months I have been coming to the floor to talk about the importance of bringing more supply to our economy so that prices would go down.

Finally we have it, and I want to thank you for making the point. If you want to lower the cost, you've got to bring on supply.

It was $58 a barrel when your majority came into power, $58. What is it today? It's $126.

What has it done? I'm glad my friend talked about gas prices. It wasn't George Bush who promised to lower gas prices. It was Speaker PELOSI in 2006, STENY HOYER in 2006, JIM CLYBURN in 2006, who said, ''We have a plan to lower gas prices.'' That's their quote. I have said it here 20 times here on this floor. ''We have a plan.''

They've got a plan all right. It's not to lower gas prices; it's to raise gas prices.

What has happened to a gallon of gas? It was $2.33 when this majority came in. What is it today? It is $3.77. Now my colleague from Massachusetts brings on climate change for a 50 cent additional tax per gallon of gas, per the chairman of the Commerce Committee. We would be paying $4.27 for a gallon of gas. That's not the type of change we need. We need to bring on supply.

I thank you for finally coming to the floor and recognizing that if we bring on just some barrels more supply, you guys say we're going to lower prices 5 cents to 25 cents. Well, let's multiply that by bringing on a million barrels of crude oil into our supply. Where do we get that? We can get billions of barrels of crude oil from coal-to-liquid technologies right in the heartland, right in Southern Illinois, Fischer-Tropsch Technology, established in the World War II generation, currently developed by a South African oil company.

And one of my personal favorites is the Outer Continental Shelf. Billions of barrels of oil on the eastern seaboard, on the western seaboard, on the eastern gulf coast. Trillions of cubic feet of natural gas.

What's your policy? Let's don't go there. Oh, yes, let's settle for a little bit of oil out of the SPR and claim great victory for lowering prices when we could have billions of barrels of oil, trillions of cubic feet of natural gas if we just went to the Outer Continental Shelf, if we just went to the eastern gulf, if we just used coal-to-liquid technologies, a bipartisan bill Congressman BOUCHER and I would like to take.

We are the number one coal country in the world. So let's don't settle for a half step. This is good. We can do much better.

Mr. WELCH of Vermont. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. I thank the gentleman for yielding.

Mr. Speaker, I first want to thank the leadership of both Chairman DINGELL and Ranking Member BARTON on what is being done and has been done for a long time with the Strategic Petroleum Reserve in making sure that it stays strong and effective for us at a time that we do need it and will need it. And I think that if we keep cool heads and look for simple ways that we can reach and try to find commonsense solutions to some of the problems that we face, then we're going to have a good solution to those problems.

And we are taking one step today. That's all. One of hopefully many to try to curb the price of gasoline for the American consumer and invest in alternative energy research to provide for the long-term energy solutions that we're going to need. Many of these things are going to be required for us to get the price of gasoline down to the point where we're going to be comfortable again, and let's hope that we accomplish it.

This bill directs the President to suspend shipments to the Strategic Petroleum Reserve through the end of the year or until prices drop below $75 a barrel.

High oil prices are straining family budgets at the pump, and we know that they're driving prices up on groceries and other household goods. And families are starting to rethink even summer vacations, and it's going to have a negative impact on so many of our communities that depend on tourism. This ripple effect, well, from the high price of gasoline and diesel, there's going to be a touch to every family, to every industry, to every person, to every business in the United States and even around the globe.

Not realizing the urgency of this situation is naive. Consumers need lower prices now, not later. This bill provides a quick first step, maybe not much, but at least it's an action on the part of our Congress.

When I first introduced similar legislation affecting the Strategic Petroleum Reserve back in January, gas was $3.11 a gallon. Now it's $3.73 a gallon. It has gone up 11 cents in the last week. And if the President turns a blind eye to the needs of the American people, we may see gasoline go to $5, $6, or $7 a gallon.

Consider this: The Strategic Petroleum Reserve has been tapped and suspended four times by the last three Presidents.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. WELCH of Vermont. Mr. Speaker, I yield another 30 seconds to the gentleman from Texas.

Mr. LAMPSON. In 2000, as we have already heard, the prices fell by one-third, and they stayed low. Suspending the SPR will put an additional 70,000 barrels of oil on the market each day. It could help reduce prices at a critical time for us in our economy.

This action has widespread bipartisan support. It was supported by a near unanimous support by the Senate this morning. I got a letter a few minutes ago from the American Trucking Association saying that the additional $391 million that truckers are having to pay for diesel cannot be handled by them for long.

So I'm pleased that we are taking at least the first step. And I am looking forward to introducing other legislation later this week that's going to provide additional relief to consumers to provide and invest in our energy independence through research and development.

□ 1445

Mr. BARTON of Texas. Mr. Speaker, I am going to yield myself 1 minute.

I want to just comment on what I think is the goal of the legislation, and that would be to lower prices for the American consumer. At least I think that is what I think the goal is.

Having said that, 62,000 barrels a day in an 85-million-barrel-a-day oil market is about one twelve hundredth of 1 percent. So if you assume that oil markets are linear, the additional 62,000 barrels on an 85-million-barrel-per-day oil market is going to lower the price perhaps two cents. Maybe.

Again, if we just go outside and clap our hands, we would probably have a 2 percent chance of lowering the price of oil by two cents a barrel. Just by clapping our hands. So I don't think this bill does anything except show the American people that we want to do something, but we still don't know exactly what it is we can do that makes any sense.

And I reserve the balance of my time.

Mr. WELCH. I yield 1 minute to the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. I thank the gentleman.

Mr. Speaker, we get criticized a lot in this Congress for not taking a proactive approach to issues that we see facing the country. And here is an example of something where we are working together in a bipartisan way. The comments from my friend from Texas notwithstanding, this is an issue that has bipartisan support. And we can argue about how much is this going to save the American people. How much is this going to take off of a

gallon of gas? And Goldman Sachs, a group that knows something about the market certainly and the impact that the Strategic Petroleum Reserve will have on the market, says it can be upwards of 25 cents a gallon that this saves.

Now that is not a long-term solution. We understand that. And we can have the argument about whether we should drill off the coast or drill in ANWR and increase supplies in other ways or build more refineries. That is a long-term argument. What we are doing today is taking a short-term approach that is going to help families today.

We cannot continue to do nothing. This Congress has to act. And we are going to act today. And we are going to save the American people a quarter on the gallon.

Mr. BARTON of Texas. I yield myself 1 additional minute.

I would like to ask the speaker who just spoke if he can show me the economic study by Goldman Sachs that says that suspending shipments is going to lower prices 25 cents a gallon. It won't even lower prices a penny a barrel. Is there a study?

I believe that there is no study. And I guarantee you, this just won't lower prices 25 cents.

Mr. LAMPSON. Would the gentleman yield?

Mr. BARTON of Texas. I would be happy to yield to my good friend from Texas.

Mr. LAMPSON. I don't know if we have a specific study that can show it, but I can tell you the people that we have been working with over the last several months from places like MIT who have come and asked us to consider this legislation, they are saying that historically we have seen prices drop when actions like this have been taken. If we can try, at least we are doing something that may put it in the right direction. We have additional legislation that is going to be proposed.

Mr. BARTON of Texas. I sure hope so.

Mr. LAMPSON. And I hope you will join me as a cosponsor of that legislation.

Mr. BARTON of Texas. I yield myself 30 additional seconds just to respond to my good friend, Mr. LAMPSON.

I do not oppose suspension of oil shipments into the Strategic Petroleum Reserve. But to say that that, by itself, is going to lower prices 25 cents a gallon in an 85-million-barrel-a-day oil market is ludicrous.

I sure hope that there is additional legislation besides this feel-good legislation. I hope it is bipartisan. I hope it is substantive. And I hope it has a supply component to it.

Mr. WELCH of Vermont. I recognize the gentleman from Colorado (Mr. PERLMUTTER) for 1 minute.

Mr. PERLMUTTER. Thank you, Mr. WELCH.

To the gentleman from Texas, I don't think there could be anything simpler than deciding during this busy driving season to stop buying oil or placing oil in the Strategic Petroleum Reserve. And I quote your Senator from Texas, Senator KAY BAILEY HUTCHISON, a month ago said, ''I support an immediate halt in deposits of domestic crude into the SPR as we enter the busiest driving season of the year.''

So I agree with Mr. SHIMKUS. This is just one of many things that has to be done. And we have done a number of those already. We have added mileage so we have better fuel economy. We passed a law against price gouging. We are pushing other sources of energy through biomass and a whole variety of things. This is going to take a lot of work across the board. But this is a very simple and very direct action we are taking. We need to take it today. This is simple. H.R. 6022 should be passed.

And I ask for an ''aye'' vote.

Mr. BARTON of Texas. I want to yield 2 minutes to the distinguished Congressman from the great State of Connecticut (Mr. SHAYS).

Mr. SHAYS. I thank the gentleman very much. When I hear how partisan some of my colleagues have gotten on the other side of the aisle, it really astonishes me that somehow it is the President's fault. The clear fact is that we had better find a way to work together, because in my judgment, we have a challenge because we are not working together, Republicans or Democrats. We all have our fingers on this. And we need to deal with it.

It seems to me we need to conserve and not use so much energy to reduce demand. We also need to increase production. It is going to include alternative fuels, renewable fuel. It is going to include mining the outer slope of the continental shelf. It may include nuclear power. It is going to require increasing production and reducing demand.

I think this legislation, while it is a drop in the bucket, it is a step that we need to take. But it will have minimal impact. But in the end, we can fight as much as we want to about this issue, and we are going to fool no one.

There are basic laws of supply and demand that are coming into play here. And we don't seem to want to address it. When I vote not to mine ANWR, I know I am not adding to production. I am not voting to do that for a variety of reasons because I want us to conserve more. But when we conserve more, then we are going to have to look at other ways to increase the supply. T. Boone Pickens is saying we basically consume about 86 million barrels, and we are producing just about that level. We are going to have to produce more and consume less.

So I would just make this concluding point. My Democratic colleagues won this Congress. And you are in charge. And I have seen prices continue to climb. It is not necessarily your fault. But you have your fingers on this as much as anyone else.

Mr. WELCH of Vermont. Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL) for 2 minutes.

Mr. EMANUEL. Mr. Speaker, picking up on what my colleague from Connecticut said, which is nobody says this is a panacea, but all experience shows, both the Harvard study and the Department of Energy study, shows that about 20 percent, which would be about $25 a barrel drop in price, would occur because of this.

There is plenty of blame to go around. Nobody is suggesting this is going to resolve the energy crisis. It is a short-term alleviation of high prices that would, in fact, allow us to take the steps that we have not taken for 20 years.

And also in the last 5 or 6 years, when the Vice President derided conservation, you acknowledged on the floor the importance of conservation. It was dismissed as part of our arsenal in our energy policy. When those of us who talked about investing in new alternative energy, wind, solar, thermal, it was also dismissed, and continues to not only be dismissed, but vetoed. That, too, is unilateral disarmament by the United States.

So you are right. There is plenty of blame to go around. But there are plenty of solutions to also be picked up. Conservation was denied as a national policy. And we have paid the price as a country. Alternative energy was denied and denied for years and issued veto threats by the President of the United States. And we pay the price because of that policy.

This is a short-term solution, $25, which means a lot to Americans, a barrel, but it gives us the breathing space to do what we need to do and take care of America's energy independence.

Now no one is going to claim that in 2005 when you all did pass your energy bill, let me quote your minority leader, ''the Energy Policy Act of 2005 is a balanced, bipartisan bill that will lower energy prices to consumers and spur our economy.'' Nobody is claiming that. This gives a short-term alleviation to allow us to tackle a problem that has been festering for 25 years and denying what all of us should have done in Washington, invest in long-term, alternative energy and technologies that will give America its leg of independence, as well as adopt an energy policy of conservation, it would also save.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. WELCH of Vermont. I yield the gentleman 30 additional seconds.

Mr. EMANUEL. That is the strategy we are talking about. This is the right thing to do. It has been proven that when we have instrumented this tool, that is to stop purchasing from the Strategic Petroleum Reserve, that in fact there will be immediate reduction in the prices at the pump and also a barrel of energy. That is the right thing to do.

But let there be no mistake. In every step of the way for the last 6 years, the President of the United States has either issued veto threats or leaned on

only one side of the policy, and that policy was dig, dig, dig. In fact, there are 9,300 licenses to drill here in the United States that the energy companies are not using.

Mr. BARTON of Texas. Mr. Speaker, could I inquire how much time is remaining in the debate?

The SPEAKER pro tempore. The gentleman from Texas has 2 minutes remaining. The gentleman from Vermont has 3-¾ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

To the extent we have an historical record on what this would do, on April 25, 2006, President Bush announced suspension of 67,000-barrels-a-day acquisition for the SPR for the summer driving season. The day before he made that announcement, the price of oil was $70.19. The day he made the announcement, it fell to $67.43 per barrel. And the day after he made the announcement, it went back up to $71.71 per barrel, which was a net increase of 62 cents a barrel. So to say that this is going to lower the price based on the historical record would be inaccurate.

Mr. WELCH of Vermont. I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman.

So here is where we are. There is something that President Bush can do right now to give relief to consumers at the pump after being shaken upside down and have money shaken out of their pockets as they refill their tank. President Bush said in 2006 that every little bit helps. We know it is not a panacea, but every little bit helps. Today he is saying, I am sorry. I am just going to go over and meet with sheiks in Saudi Arabia and ask them to please give us more oil that we can buy from them.

We should be more aggressive. One, stop filling at 70,000 barrels a day; two, stop drilling 70,000 barrels a day and you will see a huge change on the open market.

OBAMA says ''yes.'' CLINTON says ''yes.'' MCCAIN says ''yes.'' President Bush still says ''no.'' Vote ''yes'' on the Welch resolution to ensure that the American consumer is protected at the pump.

Mr. BARTON of Texas. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Texas has 1-½ minutes remaining.

Mr. BARTON of Texas. I am going to yield myself 1 minute.

I want my friends on the majority side to listen, because at the end of this, I am going to ask for a unanimous consent request. And this is language that we have shared with the majority staff.

I am going to offer a unanimous consent request that at the end of the bill, insert the following new section:

Section 3. Use of Funds.

The Secretary of the Interior shall transfer to the Secretary of Energy an amount equal to the value of the petroleum that would have been deposited in the Strategic Petroleum Reserve from royalty-in-kind payments but for the suspension required under section 2(a)(1). Such amount shall be available for obligation by the Secretary of Energy without further appropriation as follows:

(1) 50 percent shall be retained for future acquisition of petroleum products for the Strategic Petroleum Reserve during any period when the price of oil is less than $75 per barrel.

(2) 25 percent shall be transferred to the Secretary of Health and Human Services as an additional amount for use in carrying out the Low-Income Home Energy Assistance Act of 1981.

(3) 25 percent shall be available for use by the Secretary of Energy to carry out alternative energy projects the Secretary is authorized by law to carry out.

Mr. Speaker, I would ask unanimous consent that this be added to the bill. And if it is, I will vote for the bill.

The SPEAKER pro tempore. The Chair will entertain that request from the manager of the motion.

□ 1500

Mr. WELCH of Vermont. Mr. Speaker, my understanding is that we can't amend the bill at this stage, and that this is a question for the Speaker.

Mr. BARTON of Texas. Mr. Speaker, it's a unanimous consent request, and the body can work its will by unanimous consent at any time.

The SPEAKER pro tempore. The proper manner in which to amend a motion to suspend the rules would be to withdraw the motion and resubmit it in amended form.

Mr. BARTON of Texas. Mr. Speaker, I am not asking that we withdraw the bill. I am just asking unanimous consent to add this to the bill, and we shared the language with the majority staff.

The SPEAKER pro tempore. The Chair will entertain such a request only from the manager.

Mr. WELCH of Vermont. Mr. Speaker, not having had an opportunity to review this, only hearing the recitation of it from my friend from Texas, not having any awareness as to whether this has been scored by the CBO, as has the underlying bill, I am not prepared to give unanimous consent to the gentleman's offer and would object at this time.

The SPEAKER pro tempore. The manager does not enter such a request.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. WELCH of Vermont. A point of inquiry. The ruling of the Chair is that that proposed amendment was not in order?

The SPEAKER pro tempore. The Chair would entertain a request for unanimous consent request to amend only from a manager of the motion.

Mr. WELCH of Vermont. I am not making a request for unanimous consent.

The SPEAKER pro tempore. That disposes of the matter.

Mr. WELCH of Vermont. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Texas has 30 seconds.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to reiterate once more, I am not opposed to the generic policy of suspending shipments in the Strategic Petroleum Reserve. I am opposed to doing it with no input from the minority and absolutely no process and no alternatives made in order to amend the specific language, which we just tried to do, which wasn't allowed.

I do hope that this is the start of a serious effort to look at our strategic energy policy for this country. But for this bill, I would ask for a ''no'' vote.

Mr. WELCH of Vermont. Mr. Speaker, how much time do I have?

The SPEAKER pro tempore. The gentleman from Vermont has 2¾ minutes remaining.

Mr. WELCH of Vermont. Mr. Speaker, I want to answer a few questions that were raised by my friend from Texas. First of all, the question is how, when it's such a small amount of oil, 70,000 barrels a day, can suspending purchases have an impact on the price?

There are two things, number one, history has shown that when the Federal Government, on behalf of the consumers of this country and the small businesses, have used this Strategic Petroleum Reserve to help alleviate market pressures. It's worked, and the previous speakers have recited how it happened with this President Bush, the prior President Bush and President Clinton. We have history as a guide that says taking this action does work.

Second, the reason it works is that one of the problems we have in the oil market is speculation. There was legislation passed in 2002 by Congress that included a loophole that allowed the deregulation of the energy futures trading market, and there is enormous evidence, that that has allowed hedge funds and arbitrageurs and speculators to impose a premium in the cost of each barrel of oil and in the cost of a gallon of gas.

The fact is, if the Federal Government is showing, particularly on a bipartisan basis, that we are going to use the levers that we have, even in a short-term way, to protect the consumer against the speculator, then that has a chastening impact on speculation and helps bring the price down.

Third, the process. My friend from Texas is the distinguished ranking member of that committee, but this issue about the Strategic Petroleum Reserve is well worn. In fact, it's been used before, as I mentioned, so it's not all that complicated. We are doing it only for the period of 2008 in respect to the wishes of the chairman.

The Senate has passed the Reid-Dorgan amendment by 97–1, essentially the

very same proposal that we are considering today. The bottom line is this, will we take the short-term actions that it's within our reach to take that have a proven capacity to help the consumer?

I urge a ''yes'' vote on the bill.

Mrs. CAPPS. Mr. Speaker, I rise in strong support of H.R. 6022, the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008, which will temporarily suspend filling the Nation's Strategic Petroleum Reserve, SPR.

Paying top dollar to fill the SPR is a poor use of precious taxpayer dollars, particularly when there's no pressing need to add additional petroleum to the reserve at this time.

What's more, experts say that temporarily suspending the fill of the SPR is something that can be done right now to immediately lower gas prices for American families.

As oil and gas prices continue to climb to new record highs and with the summer driving season approaching, consumers are in dire need of immediate relief from skyrocketing prices at the pump.

Over the last 6 years, the price of oil has risen by nearly $100 and gas prices have more than tripled.

According to recent projections by the Energy Department, consumers are likely to face even higher prices at the pump this summer. They project that gas prices could rise to above $4.00 per gallon during the summer driving season.

Despite these record energy prices, the U.S. is currently taking 70,000 barrels of oil a day off the market to continue filling the SPR. Moreover, the Energy Department recently announced plans to increase this SPR fill rate to 76,000 barrels per day before the end of the summer.

Mr. Speaker, this just doesn't make any sense.

Even President Bush has suspended SPR purchases in order to lower fuel prices. In April 2006, President Bush said:

> I've directed the Department of Energy to defer filling the reserve this summer. Our strategic reserve is sufficiently large enough to guard against any major supply disruption over the next few months. So by deferring deposits until the fall, we'll leave a little more oil on the market. Every little bit helps.

Well, the President was right about something: every little bit does help. It's time to halt filling the SPR.

What's surprising is that now President Bush is rejecting bipartisan calls from Congress to once again suspend filling the SPR. It's curious that the President would now reject a sound proposal that he once embraced even though gas prices are now at record highs. In the absence of the President's leadership, the Democratic Congress is stepping in to force the administration to do the right thing and suspend filling the SPR.

Allowing more oil to reach the market will send a signal to oil speculators and will provide the type of immediate, targeted relief that we need right now.

I urge all of my colleagues to support H.R. 6022, to help American families with skyrocketing gas prices.

Mr. RAHALL. Mr. Speaker, I rise in support of H.R. 6022, the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008.

At a time when crude oil is over $120 a barrel, it makes absolutely no sense for the Federal Government to continue purchasing massive quantities of oil in order to stick it in a hole in the ground for safe-keeping.

Under the current situation, the Federal Government is buying oil at record-high prices to fill the Strategic Petroleum Reserve at the rate of 70,000 barrels a day. These daily purchases create additional pressure on demand and further inflate prices at the pump. The Strategic Petroleum Reserve is roughly 97 percent full right now. We do not need to pay a premium to the oil companies just to top it off.

In addition to the obvious economic reasons to suspend filling the Reserve now, the Federal Government should not use oil taken as a ''Royalty-In-Kind'', RIK, from oil and gas production in the Federal waters of the Gulf of Mexico to fill the Reserve. By way of background, RIK is one of two methods used by the Government to collect the taxpayer's share of production from the Nation's substantial oil and gas mineral assets. The other method is good old-fashioned cash.

I have been arguing for years that the Royalty-in-Kind program is a bad idea. Under the pretense of ''enhanced transparency'' and ''reduced litigation,'' the oil industry, with a little help from its Republican friends in Congress and the Administration, snookered folks into believing that taxpayers would get a better deal if Federal oil and gas royalty payments were made ''in-kind'' instead of paying in cash. Despite report after report, investigations and potentially even criminal indictments, the Minerals Management Service, MMS, has forged ahead with this misbegotten program. Today, the RIK Program is selling over 800 million cubic feet of natural gas per day and over 150,000 barrels of crude oil per day on the open market.

The MMS reports that revenues from sales of RIK oil and gas in fiscal year 2006 were approximately $4.1 billion. However, we have no way of knowing if it got the best price or even broke even. Even the MMS itself estimates that the Royalty-in-Kind program only increased royalty revenues by a meager 0.3 percent—which according to the Government Accountability Office, GAO, during a recent Natural Resources Committee hearing, could not be confirmed.

As further evidence of the problems with RIK, earlier this year, the Inspector General for the Department of Energy found chronic mismanagement in the transfer of oil between the Department of the Interior and the Department of Energy. During a brief 4-month period of oil transfers between the two agencies, approximately 32,000 barrels of oil were lost or could not be accounted for—that is almost $4 million worth of oil that is simply gone. The GAO also concluded that the current method for filling the Reserve is not cost-effective.

The bottom line—the Royalty-in-Kind program should not be used to fill the Strategic Petroleum Reserve. Not now, not ever.

Mr. Speaker, this bill is an important first step in reducing the pain Americans are feeling at the pump. It cuts off the flow of Royalty-in-Kind oil to the Strategic Petroleum Reserve at a time when that flow is neither necessary nor prudent. I believe we need to pass this bill and then take a closer look at the Royalty-in-Kind program overall to see if that, too, is costing the American taxpayer more that it is worth.

Mr. GENE GREEN of Texas. Mr. Speaker, I stand in strong support of H.R. 6022, Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act, introduced by my good friend from Texas, Representative NICK LAMPSON, and Representative PETER WELCH.

Today's rising petroleum and gasoline prices are set by a complex mix of factors, including global crude prices, increased world and U.S. demand, refinery capacity and maintenance schedules, gasoline imports, prescriptive fuel mandates, and geopolitical events. Most of these factors are out of our effective control. For those that aren't, like the proper management of fuel supplies in the Strategic Petroleum Reserve, SPR, I believe Congress should do all we can to help reduce the cost of energy to American consumers.

H.R. 6022 requires the Interior and Energy Departments to discontinue the acquisition of oil and shipments to the SPR until the end of this year, and permits fill to resume if the average price of oil does not exceed $75 a barrel. The bill also allows petroleum shipments ordered under existing Interior Department contracts to be shipped to the reserve.

This legislation is strongly needed because the current administration has also not been properly managing the SPR for American consumers. The SPR exists to protect us during an energy crisis, and is almost full to its 727 million barrels of oil capacity. But while the cost per barrel of oil continues to skyrocket, the administration continues to purchase high-priced oil off the market to put into the SPR, limiting the amount of oil available.

When oil prices are very high, we should release SPR oil into the market to increase supply, as the Department of Energy did in response to Hurricane Katrina. While not expected to significantly reduce prices, some studies suggest suspending the purchase of oil for the reserve could reduce gas prices anywhere between 5 to 24 cents a gallon. Every cent helps.

While there is no quick fix for gasoline prices, I hope Congress will also address America's need to produce additional domestic energy, both conventional and renewable, to ensure the reliability and affordability of our Nation's critical energy supplies.

Mr. UDALL of Colorado. Mr. Speaker, I am a cosponsor of this legislation and I urge its approval.

The bill would direct the President to temporarily suspend putting oil into the Strategic Petroleum Reserve through the end of the year, unless before that time the price of oil should drop below $75 per barrel.

This is the quickest step we can take to increase the supply of oil on the open market, and so to bring some relief to consumers suffering from the high price of gasoline and other petroleum products.

Currently, the Federal Government is putting some 70,000 barrels of oil into the strategic reserve each day, even though the reserve is 97 percent full. While there are no guarantees, economists estimate that suspending that action could reduce gas prices by 5 to 24 cents a gallon.

It should not have been necessary for Congress to be considering this legislation. Current law gives the president authority to suspend diversion of oil into the strategic reserve.

That authority has been used in the past, by the first President Bush, by President Clinton, and by the current President Bush, who did so

in 2006. And history shows using that authority can help consumers—in 2000, after such action, the price of oil dropped by one-third, from $30 to $20 per barrel.

That's why last November, with other Members of Congress from both sides of the aisle, I sent a letter asking President Bush to again suspend putting oil into the strategic reserve.

Regrettably, the president did not agree to that request, or to a second similar request that many of us made last month. So now Congress must act to require what the president has declined to do on his own.

That is what this bill does and why I support its passage. But I think we should not stop there. There are at least five other steps to reduce the extent to which American consumers are paying the price for our flawed energy policies.

Specifically, we should—

(1) Crack Down on price gouging—Speculators have contributed to oil prices increasing 82 percent in the last year. While these have been regulated markets in the past, more and more new investment tools are outside of regulation by the Commodity Futures Trading Commission (CFTC) or any other Federal Government oversight. That's why I am backing a bill (H.R. 594) to give the CFTC oversight over additional energy commodities trading and to establish civil and civil and criminal penalties for price gouging.

(2) Consider Suspension of the tariff on ethanol imports—Suspending the 54–cent-per-gallon ethanol import tariff would mean more ethanol coming into the country, which would increase fuel supplies and lessen the pressure on prices.

(3) Stop subsidizing the oil and gas industry—The Republican Congress passed an energy bill in 2005 that included about $2.6 billion in tax cuts for the oil and gas industry—an industry that has seen record profits in the last few years. I strongly support removing some of the unneeded tax credits for this industry, specifically the tax credit for taxes paid to foreign governments and the deduction for domestic manufacturing activities for major oil and gas producers.

(4) Increase oil and gas drilling in certain areas—I support expanding exploration and development in appropriate areas both onshore and offshore, as long as it is done in a sustainable and environmentally sound manner. I also have proposed legislation (H.R. 3182), with the support of Representative JEFF FLAKE and other Members from both sides of the aisle, to relax the current embargo that prevents U.S. oil companies from competing to develop oil offshore from Cuba, where companies from other countries are currently drilling.

(5) Push renewable energy alternatives—promote cellulosic ethanol and the Production Tax Credit—Increasing America's use of renewable energy sources will also help address supply in future years by providing a more diverse energy portfolio. Cellulosic ethanol has great potential to not only lower our gas prices, but also our food prices as we move away from corn-based ethanol.

Mr. COURTNEY. Mr. Speaker, I rise in support of the Strategic Petroleum Fill Suspension and Consumer Protection Act and I am pleased to be a cosponsor of H.R. 6022.

As I travel around eastern Connecticut, I am confronted with families, business owners, truckers, farmers and fishermen who are struggling to maintain their lives and livelihoods.

Rising oil and gasoline prices are choking our economy. Food and consumer goods are rising as fuel prices rise, bringing additional pain to many people across our country.

In my hometown of Vernon, CT, the price of a gallon of gasoline hit $3.99. I am now hearing that some older gasoline pumps throughout the country are not even programmed to go above $3.99.

The bill before us today is simple, straightforward and effective. Instead of continuing to add 70,000 barrels of oil per day to fill an already stocked Strategic Petroleum Reserve, SPR, H.R. 6022 would instead, put that oil on the market to ease supply and price. And we should absolutely not increase the fill rate to 76,000 barrels per day like what the Administration has planned for later this summer.

Petroleum economists expect that gasoline prices could decline by as much as 24 cents if we stopped filling the SPR now. The SPR is 97 percent full with over 700 million barrels of oil; in March 2003, when we went to war in Iraq, the SPR stood at 599 million barrels.

Diverting oil from the SPR is something that the President has done in the past. When he directed the Secretary to stop filling the SPR during the summer of 2006, he did so by saying, ''every little bit helps.'' At that time he further stipulated that the SPR was at a level that could weather any supply disruption during that summer. In 2006, the SPR stood at approximately 688 million barrels, less that what is there today.

I have written to President Bush several times asking him to divert oil from the SPR, but as yet, he has refused to heed my and my colleague's requests.

Our constituents need relief from rising oil prices and diverting oil from the SPR will achieve that goal. I urge my colleagues to support H.R. 6022.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 6200, To suspend the acquisition of petroleum for the Strategic Petroleum Reserve, and for other purposes, introduced by my distinguished colleague from Vermont, Representative WELCH. This legislation suspends the filling of the Strategic Petroleum Reserve for the rest of the year, as long as the price of crude oil remains above $75 per barrel, and is an important first step in addressing America's current energy crisis.

Mr. Speaker, we are all painfully aware of the devastation high energy prices have had on American families. This New Direction Congress, of which I am proud to be a part, is fighting to reduce our dependence on foreign oil and bring down record gas prices, and launch a cleaner, smarter energy future for America that lowers costs and creates hundreds of thousands of green jobs. In addition to being a representative from Houston, Texas, the energy capital of the world, for the past 12 years, I have been the Chair of the Energy Braintrust of the Congressional Black Caucus. As such, I recognize that energy is the lifeblood of every economy, especially ours. Producing more of it leads to more good jobs, cheaper goods, lower fuel prices, and greater economic and national security.

Today, as the national average of gas has reached a record high of $3.72 a gallon, this legislation is an imperative step in addressing a burgeoning crisis. Each day, it takes 70,000 barrels of oil off the market to fill the Strategic Petroleum Reserve, which at 97 percent full is at it highest level ever. While the President last week stated that he did not believe suspending filling the reserve would affect prices, in 2006 when he was about to apply the same strategy we seek today, he stated, ''One way to ease price is to increase supply . . . . I've directed the Department of Energy to defer filling the reserve this summer. . . . So by deferring deposits until the fall, we'll leave a little more oil on the market.'' Despite calls from both sides of the aisle and both bodies of this Congress, President Bush has failed to listen to the will of the American people. As such, today the Senate passed a similar provision by a vote of 97–1, and this House intends to do the same.

Not only will suspending the fill of the SPR work this time, it has in the past when it was utilized by President George W. Bush, President Clinton, and President George H.W. Bush. By temporarily diverting the 70,000 barrels of oil that go into the SPR a day, this legislation could reduce gas prices from 5 to 24 cents a gallon, helping American families, businesses, and the economy as a whole.

In 2006, when President George W. Bush deferred deliveries from the SPR, he stated, ''Our Strategic Reserve is sufficiently large enough to guard against any major supply disruption over the next few months.'' Today, we have 702 million barrels of oil in the SPR, which is 14 million more barrels of oil than the 688 million in the SPR when President Bush suspended deliveries two years ago. I also believe we should put a moratorium on gas taxes through payment by energy company profits.

The President has the legal authority to suspend the fill of the SPR and help already suffering American families during this period of economic downturn. Because the President has ignored our requests to address this crisis, it is our duty to support this legislation and help the families, businesses, and economy of the United States. As such, I strongly support this legislation and urge my colleagues to join me and do the same.

Mr. ETHERIDGE. Mr. Speaker, this week gas prices have hit yet another new high. Today, gas prices are higher than they have ever been in the history of our country, and rural Americans are getting hit particularly hard.

Yet while most Americans are struggling to make ends meet, oil companies are making record profits. H.R. 6022, the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act, will suspend the acquisition of petroleum for the Strategic Petroleum Reserve to provide relief to the American consumer.

Mr. Speaker, everyone from farmers, commuters, employers, and senior citizens have been hit hard by the rise in gas prices. This is affecting the rural economy of the people of the Second District of North Carolina, and indeed rural areas across the country where people must travel long distances to make sure they have the basic necessities of life, from school and jobs, to church and the grocery store.

This legislation will suspend the purchase of as much as 70,000 barrels of oil per day, and could have the effect of lowering our gas prices. While I believe that it is our duty to find alternatives to our reliance on foreign oil, right now we need to take this step to suspend deposits into the Strategic Petroleum Reserve.

I urge my colleagues to vote for passage of H.R. 6022.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill, H.R. 6022.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. WELCH of Vermont. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## MENTAL HEALTH MONTH

Mrs. NAPOLITANO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1134) supporting the goals and ideals of Mental Health Month.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1134

Whereas the mental health and well-being of Americans is a critical issue that affects not only the quality of life, but also the health of our communities and our economic stability;

Whereas the stigma associated with mental health persists;

Whereas more than 57,000,000 Americans suffer from a mental illness;

Whereas approximately 1 in 5 children has a diagnosable mental disorder;

Whereas more than 1 in 5 of our troops suffer from major depression or post traumatic stress disorder;

Whereas more than half of all prison and jail inmates suffer from mental illness;

Whereas mental illness is the most common disability in our Nation;

Whereas untreated mental illness costs businesses and the American economy over $150,000,000,000 annually;

Whereas untreated mental illness is a leading cause of absenteeism and lost productivity in the workplace;

Whereas in 2004, over 32,000 individuals committed suicide in the United States, at twice the rate of homicides;

Whereas suicide is the third leading cause of death among people between the ages of 10 and 24;

Whereas in 2004, individuals aged 65 and older made up only 12.4 percent of the population, but accounted for 16 percent of all suicides, and the rate of suicide among older Americans is higher than for any other age group;

Whereas 1 in 4 Latina adolescents report seriously contemplating suicide, a rate higher than any other demographic;

Whereas studies report that persons with serious mental illness die, on average, 25 years earlier than the general population; and

Whereas it would be appropriate to designate May 2008 as Mental Health Month: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of Mental Health Month in order to emphasize scientific facts and findings regarding mental health and to remove the stigma associated therewith;

(2) recognizes that mental well-being is equally as important as physical well-being for our citizens, our communities, our businesses, our economy, and our Nation;

(3) applauds the coalescing of national and community organizations in working to promote public awareness of mental health, and providing critical information and support to the people and families affected by mental illness;

(4) supports the findings of the President's Commission on Mental Health that the Nation's failure to prioritize mental health is a national tragedy; and

(5) encourages all organizations and health practitioners to use Mental Health Month as an opportunity to promote mental well-being and awareness, ensure access to appropriate services, and support overall quality of life for those with mental illness.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. NAPOLITANO) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Mrs. NAPOLITANO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on this resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. NAPOLITANO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for far too long the topic of mental health has been pushed aside and swept under the rug. You don't see it, you don't talk about it, and you don't hear about it. It connotes people are crazy.

However, we cannot continue to ignore that mental illness does not discriminate. It touches all regardless of race, of gender, of class or of religion. It is time we address this issue at the forefront honestly and openly. Too many of our family members of our friends, our coworkers and especially our veterans and soldiers have had to suffer with mental illnesses in silence.

According to the U.S. Surgeon General, 57 million Americans suffer from some form of mental illness. Despite findings that most mental illnesses are highly treatable, only one in three individuals suffering from these illnesses seek and or receive any treatment.

This low treatment can be attributed to the strong stigma associated with mental health issue that is still pervade and persist. Twenty percent of our United States population suffers from a diagnosable, treatable mental disorder, making the mental illness the leading cause of disability in our Nation, affecting our businesses and our economy.

The mental health and well-being of Americans are critical issues that affect not only the health of our communities, the quality of life, and, as importantly, our economic stability. A new report by the National Institute of Mental Health found that serious mental illnesses cost Americans at least $193 billion a year in lost earnings alone.

Our action is far overdue. We have had tests, screening for breast cancer, for heart attacks, for strokes and a myriad of other diseases and conditions. We have not yet woken up to the fact that the brain functions are vital to our body's health and survival.

It is critical that we will destigmatize mental illness so that our children, our families, our veterans receive the necessary help they need to lead productive lives with support from their families and their communities.

I respectfully encourage all of my colleagues to support this resolution to recognize May as Mental Health Month. We must all come together on this critical issue. It is vital that we recognize the scientific facts and real findings regarding mental health and work to remove the stigma associated therewith.

By increasing awareness of mental health issues we can insure that individuals have access to services including early detection and early prevention, and, most of all, to assure parity in our medical delivery systems.

This will allow us to improve the lives of those suffering from mental illness and their loved ones while reversing the negative impact that mental illness has had on our economy, on our families, and on our Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 1134, acknowledging the month of May as National Mental Health Month. Mental Health Month has been recognized by Congress for over 50 years and has continued to raise awareness in our communities and to lower the stigma associated with mental disorders.

I would like to express my gratitude to the national and community organizations working to promote public awareness of mental health, providing the proper information for families affected by mental illness. Your work is critical to increasing the quality of life for those with mental illnesses.

I would also like to thank the author of the resolution, Congresswoman Grace Napolitano of California, for her leadership in helping Americans' well-being and addressing mental disorders.

I would encourage all of my colleagues to vote in favor of this resolution.

With that, I would ask if Congressman Mike Castle of the great State of Delaware could be the minority floor manager for the balance of this bill.

I reserve the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mrs. NAPOLITANO. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. I want to thank the gentlewoman from California for yielding time, but I also want to commend her for the tremendous leadership that she continues to provide on this critical issue of mental health, mental illness. I am pleased to join with her in support of H. Res. 1134, recognizing and acknowledging Mental Health Awareness Month during the month of May.

I agree with Representative NAPOLITANO that mental health is one of the major health issues facing our society, and yet it does not get the kind of attention that it needs and deserves.

When we think of all of the individuals who will suffer from substance abuse, all of the individuals who find themselves perplexed and not quite knowing how to navigate the society in which we live, and when we consider the fact that we have not reached the point of providing parity consideration nor parity treatment for mental illness, it's appropriate that we recognize May as Mental Health Awareness Month.

Again, I congratulate the gentlewoman from California for her leadership.

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Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I also rise in strong support of the legislation. I think mental health is something that needs awareness in this country. What this resolution does in dedicating the month to it is very significant, and I would encourage support of all Members here.

I reserve the balance of my time.

Mrs. NAPOLITANO. Mr. Speaker, I really am grateful to my colleagues on the other side for their support. This has been a bipartisan effort, both with Representative MURPHY, myself, and members of the Mental Health Caucus.

It has been quite important to us to continue working in airing the issue for this Nation's ability to be able to understand that we need to have more focus on how mental health affects our daily lives, our children in school, our seniors, mental health depression, our veterans, our soldiers in war after several deployments, all of those are parts of the whole that we need to understand in how it affects our lives.

The Army recently issued a memorandum to train the chain of command on mental health issues. They are encouraging their servicemembers to talk to their commanders on these issues openly and without fear of retribution in certain areas where they have already been deployed.

Parity was passed in February in the House, and it is a good first step and must be signed into law and it will help not only families but business as well.

Mr. Speaker, I can't tell you how much I appreciate the time my colleagues have put into this. It is an issue that is very pervasive and we need to encourage more effort into it, not only in funding for research, but also in assistance to be able to render services so that individuals who suffer from these illnesses can continue good, productive lives.

I reserve the balance of my time, and I have no other speakers, Mr. Speaker.

Mr. CASTLE. Mr. Speaker, I don't believe we have any other speakers at this time, so I yield back the balance of my time.

Mrs. NAPOLITANO. Mr. Speaker, I have just one more word of thanks to my colleagues on both sides and I ask for continued support of this bill by a ''yes'' vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 1134, supporting the goals and ideals of Mental Health Month. I would first like to thank my distinguished colleague, Representative GRACE NAPOLITANO of California, for introducing this important legislation. This legislation designates the month of May to raise awareness about mental health conditions and the importance of mental wellness for all. The mental health and well-being of Americans is a critical issue that affects not only the quality of life, but also the health of our communities and our economic stability.

Since the turn of this century, thanks in large measure to research-based public health innovations, the lifespan of the average American has nearly doubled. Today, our Nation's physical health has never been better. Moreover, illnesses of the body once shrouded in fear—such as cancer, epilepsy, and HIV/AIDS to name a few—increasingly are seen as treatable, survivable, even curable ailments. Yet, despite unprecedented knowledge gained in just the past three decades about the brain and human behavior, mental health is often an afterthought and illnesses of the mind remain shrouded in fear and misunderstanding.

Much remains to be learned about the causes, treatment, and prevention of mental and behavioral disorders. Obstacles that may limit the availability or accessibility of mental health services for some Americans are being dismantled, but disparities persist. Still, thanks to research and the experiences of millions of individuals who have a mental disorder, their family members, and other advocates, the Nation has the power today to tear down the most formidable obstacle to future progress in the arena of mental illness and health. That obstacle is stigma. Stigmatization of mental illness is an excuse for inaction and discrimination that is inexcusably outmoded in 1999.

The burden of mental illness on health and productivity in the United States and throughout the world has long been profoundly underestimated. Data developed by the massive Global Burden of Disease study, conducted by the World Health Organization, the World Bank, and Harvard University, reveal that mental illness, including suicide, ranks second in the burden of disease in established market economies, such as the United States. Mental illness emerged from the Global Burden of Disease study as a surprisingly significant contributor to the burden of disease.

Mental illness is the term that refers collectively to all diagnosable mental disorders. Mental disorders are health conditions that are characterized by alterations in thinking, mood, or behavior—or some combination thereof—associated with distress and/or impaired functioning. Alzheimer's disease exemplifies a mental disorder largely marked by alterations in thinking, especially forgetting. Depression exemplifies a mental disorder largely marked by alterations in mood. Attention-deficit/hyperactivity disorder exemplifies a mental disorder largely marked by alterations in behavior, over activity, and/or thinking, inability to concentrate. Alterations in thinking, mood, or behavior contribute to a host of problems—patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.

Suicide is a major, preventable public health problem. In 2004, it was the eleventh leading cause of death in the U.S., accounting for 32,439 deaths. The overall rate was 10.9 suicide deaths per 100,000 people. An estimated eight to 25 attempted suicides occur per every suicide death. Suicidal behavior is complex. Some risk factors vary with age, gender, or ethnic group and may occur in combination or change over time. Older Americans are disproportionately likely to die by suicide. Of every 100,000 people ages 65 and older, 14.3 died by suicide in 2004. This figure is higher than the national average of 10.9 suicides per 100,000 people in the general population. Non-Hispanic white men age 85 or older had an even higher rate, with 17.8 suicide deaths per 100,000.

Depression and post-traumatic stress disorder are very high among veterans from wars in Iraq and Afghanistan, leading to suicide rates even higher than combat deaths. Since October 2001 in Iraq and Afghanistan wars fought about 1.6 million U.S. soldiers, about 4500 of them died, according to Defense Department. The Rand study has found that 20 percent of returning U.S. soldiers suffer from post-traumatic stress disorder or depression, but only half of them get treatment. Comparing these figures it becomes clear that troops suffer from post-traumatic stress disorder complications more than from actual war. Soldiers with combat traumas are more likely to suffer from post-traumatic stress disorder. Of these troops 53 percent have received mental care during the last few years, but Rand report says that half of them did not receive adequate care. This is one of leading causes leading to depression development in veterans. There are currently 300,000 soldiers suffering from mental illnesses and they need new innovative treatment for depression or PTSD treatment.

Mr. Speaker, I support the goals and ideals of Mental Health Month in order to emphasize scientific facts and findings regarding mental health and to remove the stigma associated. I recognize that mental well-being is equally as important as physical well-being for our citizens, our communities, our businesses, our economy, and our Nation. I encourage all organizations and health practitioners to use Mental Health Month as an opportunity to promote mental well-being and awareness, ensure access to appropriate services, and support overall quality of life for those with mental illness.

Mrs. NAPOLITANO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs.

NAPOLITANO) that the House suspend the rules and agree to the resolution, H. Res. 1134.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## NATIONAL TRAIN DAY

Ms. CORRINE BROWN of Florida. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1176) supporting the goals and ideals of National Train Day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1176

Whereas, on May 10, 1869, the ''golden spike'' was driven into the final tie at Promontory Summit, Utah, to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas, in highly populated regions, Amtrak trains and infrastructure carry commuters to and from work in congested metropolitan areas providing a reliable rail option, reducing congestion on roads and in the skies;

Whereas, for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas passenger rail provides a more fuel-efficient transportation system thereby providing cleaner transportation alternatives and energy security;

Whereas passenger railroads emit only 0.2 percent of the travel industry's total greenhouse gases;

Whereas Amtrak annually provides intercity passenger rail travel to over 25,000,000 Americans residing in 46 States;

Whereas an increasing number of people are using trains for travel purposes beyond commuting to and from work;

Whereas our railroad stations are a source of civic pride, a gateway to our communities, and a tool for economic growth; and

Whereas Amtrak has designated May 10, 2008, as National Train Day to celebrate the way trains connect people and places: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the contribution trains make to the national transportation system;

(2) urges the people of the United States to recognize such a day as an opportunity to learn more about trains; and

(3) supports the goals and ideals of National Train Day as designated by Amtrak.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. CORRINE BROWN) and the gentleman from Arkansas (Mr. BOOZMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. CORRINE BROWN of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H. Res. 1176.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise in support of this resolution, and I yield myself such time as I may consume.

National Train Day celebrates the 139th anniversary of the ''golden spike,'' which was driven into the final tie in Utah and marked the completion of our Nation's first transcontinental railroad in 1869.

This weekend I celebrated National Train Day by holding events throughout my district, including press conferences and events in Jacksonville, Winter Park, and Sanford Auto Train station. We had a great turnout at every event, and I heard firsthand from people who use Amtrak every day to go to work and visit friends and family all over the country.

As Chair of the Subcommittee on Railroads, Pipelines, and Hazardous Materials, I have had the privilege to see firsthand passenger rail systems in other countries. I have taken high-speed trains from Brussels to Paris, 200 miles, 1¼ hours; and from Barcelona to Madrid, 300 miles, 2½ hours; and the advantage for travelers and for business are tremendous. We need to catch up with the world, and with gas prices edging toward $4 a gallon, some places $5 and $6, now is the perfect time for us to begin to make serious investment in passenger rail.

Indeed, Amtrak ridership and revenue has never been stronger. In 2007, Amtrak set a new record for ridership, exceeding 25.8 million passengers. In the same year, ticket revenues increased by 11 percent, to more than $1.5 billion. For my State of Florida, Amtrak expenditures for goods and services in the State soared to nearly $40 million last year, and Amtrak currently employs over 700 Florida residents.

I have traveled all over the country and have conducted many transportation roundtable events that feature rail and its importance, and the people I have talked to love Amtrak. It is a great way to commute to work, takes cars off our congested highways, and improves the environment. In many areas of the country, it is the only means of public transportation available.

Now what I can't understand is why the Bush administration, again, in the midst of sharp increases in gas prices, continues in its efforts to destroy passenger rail in this country. Every industrialized country in the world is investing heavily in rail infrastructure because they realize that this is the future of transportation. But sadly, as their systems get bigger and better, our system gets less and less money.

While the administration has spent nearly a trillion dollars on the war in Iraq, it continues to decrease their requests for Amtrak. This year they only requested $800 million for Amtrak's 25.8 million passengers. Well, that is an improvement from zero. For Amtrak, just one week's investment in Iraq would significantly improve passenger rail across the country for an entire year. This is another perfect example of how out of touch this administration is because I can assure the President that there is a whole lot more support for Amtrak in this country than there is for the war in Iraq.

Unfortunately, there is a lot of misinformation about Amtrak, and it is important for people to know the facts. Ridership numbers and ticket revenue are at a record level. Outstanding debt has been reduced by $600 million over the past 6 years, and many major infrastructure projects have been completed. And this has been achieved with a workforce that has been reduced by over 4,000 employees. We still have a lot of work ahead of us when it comes to Amtrak, and it took a major step forward last week when we introduced legislation reauthorizing Amtrak at a level that would allow it to grow and prosper. The legislation developed by the chairman of the Transportation and Infrastructure Committee, Mr. JAMES OBERSTAR and myself, and introduced with Congressmen MICA and SHUSTER, provides over $2 billion a year for capital and operating grants, $500 million per year for developing State passenger corridors, $345 million per year to pay down debt, $345 million per year for high-speed rail programs, $600 million to start working on constructing a new tunnel through Baltimore, and requires a plan for restoring service to the Sunset Limited, one of my top priorities.

Major infrastructure improvements are also necessary to improve the safety and security of the system and its passengers and workers. Amtrak has and will continue to play a critical role in evacuating and transporting citizens during national emergencies. Unfortunately, it is also a prime target for those who wish to harm us and we must provide resources to make the system less vulnerable.

Fifty years ago, President Eisenhower created the national highway system that changed the way we travel in this country. Today we need to do the same thing with our rail system, and with Amtrak reauthorization we are doing just that.

The United States used to have a first class passenger rail system. However, after years of neglect, we are now the caboose, and they don't even use cabooses anymore. The American people deserve better, and I believe our Amtrak reauthorization bill will go a long way to restoring the American passenger system.

I encourage my colleagues to show their support for our Nation's rail system and its employees by holding events at our local commuter train stations any time during the year, and I would also encourage Members to cosponsor H.R. 6003, the Amtrak reauthorization bill.

I reserve the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

I enthusiastically support this resolution recognizing National Train Day. The ceremonial golden spike hammered on May 10, 1869, marked the completion of one of this Nation's greatest engineering masterpieces, and marked the birth of what would become the greatest rail network in the world.

The United States now has 140,000 miles of railroads, making up the transportation backbone of this Nation. These railroads are environmentally friendly, producing significantly less pollution than competing modes of transit. In fact, a train can haul one ton of freight 436 miles on one gallon of diesel fuel, and is three times cleaner than a truck. Furthermore, trains help alleviate congestion on our crowded highways. One train can take 280 trucks off the road.

The recently introduced Amtrak reauthorization, H.R. 6003, will make significant enhancements to Amtrak's growing business. The legislation will give Amtrak the funding it needs to continue improving its service while also creating innovative programs to enhance passenger rail service.

The State grants provision in the bill will give a greater say in how Federal funding is utilized for capital projects, and a private operator pilot program will increase innovation and competition in passenger rail service.

Additionally, H.R. 6003 includes a plan to create public-private partnerships to construct true high speed rail corridors all over the Nation. High-speed rail promises safe, fast and convenient service, all the while helping to alleviate aviation and highway congestion. I urge passage of H. Res. 1176.

I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentlewoman from Florida has 13½ minutes remaining.

Ms. CORRINE BROWN of Florida. I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. I thank the distinguished chairwoman of the House Railroads Subcommittee for yielding me this time.

We have heard many words of accolade for our railroads. I would like to second some of that. This marks the 139th anniversary of the completion of the transcontinental railroad, indeed a very strong engineering feat in our country's history.

Today, with gas prices soaring, which we have had a debate already on this floor, congestion building on our highways, and concern about greenhouse gases on the rise, we need to address this. The I–95 corridor is in difficult shape with respect to all of these issues.

□ 1530

Highway congestion has become a critical problem, costing Americans 4.2 billion hours and 2.9 billion gallons of fuel, sitting in traffic delays.

In contrast, passenger railroads are one of the cleanest forms of transportation. It emits only 0.2 percent of transportation industry's greenhouse gases.

Between Boston and Washington, D.C., ridership on Amtrak has surged by 20 percent, representing enough new passengers to fill 2000 757 jetliners.

As a co-chair of the House Passenger Rail Caucus, and as one who takes Amtrak on a regular basis, and I've seen the increase in the crowds on it and talked to many people on it, I realize that this truly the future, and something that Congress should be paying a lot of attention to in terms of supporting the need for future legislation in dealing with the issues of Amtrak and rail travel in our country.

I thank Chairwoman BROWN for her strong leadership, and encourage all the Members of the House to support this legislation.

I'd just like to point out, as I often have in speaking about Amtrak, Mr. Speaker, we really need to look at our highways and our airports as well. This is one way of relieving a good number of those burdens. And hopefully we can pass this legislation and pay a lot more attention to what we're dealing with on rail travel in this country in the future.

Mr. BOOZMAN. I will continue to reserve my time.

Ms. CORRINE BROWN of Florida. I yield 3 minutes to the Congresswoman from California, my friend, Mrs. GRACE NAPOLITANO.

Mrs. NAPOLITANO. Mr. Speaker, I rise in strong support of House Resolution 1176, supporting the goals and ideals of National Train Day. And I do congratulate the hard work that's gone into transportation on rail, because I sit on the subcommittee, I see the great need and the great movement that is happening.

The National Train Day recognizes the day when Central Pacific and Union Pacific railroads were joined in a golden spike Promontory Summit, Utah on May 10, 1869. Union Pacific Railroad and BNSF both run through my cities. One has 90 freight and passenger trains, and BNSF has 75 freight and passenger trains daily, carrying over $400 billion in annual trade for this Nation.

We must continue to work to relieve the public problems caused by railroads, the traffic delays at great crossings, the air quality concerns from pollution, the noise from the whistles and the rail cars and the safety concerns over derailments and other accidents.

I know that we have been able to understand a lot more of what the railroads need from us here in Congress, but, by the same token, I think they continue to try to be good citizens.

This House has passed H.R. 2095, the Federal Railroad Safety Improvement Act of 2007. That bill takes a major step forward in addressing safety concerns with our railroads. We urge the Senate to pass this bill quickly.

H.R. 6003, the Passenger Rail Investments and Improvement Act of 2008 was introduced by the Transportation Committee this week. This will be a much needed investment as was recognized in Amtrak in our passenger rail system.

Earlier we heard from speakers talking about the price of gas. Well, the more people get on trains and Amtrak, the better off that we're going to be able to meet those demands.

The Railroad Subcommittee will hold a hearing on this bill tomorrow.

I thank Chairwoman BROWN for authorizing this resolution and Chairman OBERSTAR for his leadership on this issue.

Mr. BOOZMAN. I will continue to reserve my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, let me reiterate that 50 years ago, Eisenhower created a national highway system that changed America. Today we need to do the same thing with our rail system; and with this Amtrak reauthorization, we're doing just that.

The United States of America used to be the first as far as passenger rail was concerned. And I say it over and over again, now we are the caboose. And we don't use cabooses anymore. The American people need and deserve better.

Let me also mention that joining us on celebrating Amtrak National Train Day were 150 ladies from the Hope Chapel Church who rode from Jacksonville to Winter Park. And also, we had over 60 activities throughout the country. Participating in those activities were the Harlem Globetrotters and many Members of Congress.

I, in closing, am very excited about moving this country forward as far as making sure that we are no longer the caboose.

I yield back the balance of my time.

Mr. BOOZMAN. Mr. Speaker, in closing, I also want to urge adoption of this resolution. I want to thank the gentlewoman from Florida and the ranking member, Mr. SHUSTER, for bringing it forward. I also want to compliment them and their staffs for the hard work that they are pursuing now on the Amtrak reauthorization.

Again, I urge adoption.

Mr. OBERSTAR. Mr. Speaker, I rise today in strong support of House Resolution 1176, which supports the goals and ideals of National Train Day.

National Train Day marks the 139th anniversary of the "golden spike" being driven into the ground at Promontory Summit, Utah, in 1869. The golden spike bound the last tie connecting the last rail that united the Central Pacific Railroad with the Union Pacific Railroad,

connecting the United States by rail from coast to coast.

The transcontinental railroad was born thanks to the support of President Abraham Lincoln. He, along with Civil War leaders, envisioned and planned the creation of the railroad. Not only did the completion of the railroad result in the ability to deliver goods and people across the country, it ultimately bound the East with the West, further unifying the country as the divide between the North and the South was beginning to mend.

The transcontinental railroad was the first of its kind. It was an engineering marvel completed with great precision and speed. The railroad was an engineering wonder and it set the example for how transcontinental railroads would be built across Canada and Russia some 20 to 25 years later.

Completion of the transcontinental railroad created a new sense of wonder and enthusiasm for discovery and entrepreneurship across the country. It set the stage for a great migration of businessmen, created a new frontier for those seeking a new way of life, enabled faster movement of people and goods, and provided the country with a great opportunity to expand the economy.

Today, we are witnessing a rebirth of passenger rail in America. In the same way that the transcontinental railroad was critical to our Nation in the late 19th century, a strong national passenger rail system is vital today. To strengthen intercity passenger rail in this country, I have introduced H.R. 6003, the "Passenger Rail Investment and Improvement Act of 2008." The bill authorizes $14.4 billion for Amtrak over the next 5 years. The Committee on Transportation and Infrastructure will mark up the bill next week.

The National Railroad Passenger Corporation, more commonly known as Amtrak, operates a nationwide rail network, serving more than 500 destinations in 46 states over 21,000 miles of routes, with nearly 19,000 employees. Amtrak recently marked the beginning of its 38th year of operation. Our passenger rail service has come a long way since its beginnings in 1971, and has faced many challenges since, but continues to grow stronger with each passing year. Despite uneven Federal investment over the years, Amtrak has persevered, achieving many successes in improved operating efficiency, increased ridership, and higher revenue.

In fact, in FY 2007, Amtrak set a new ridership record for the fifth year in a row, exceeding 25.8 million passengers. At the same time, Amtrak increased ticket revenues by 11 percent to more than $1.5 billion, a figure that increased for the third straight year. These successes are being enjoyed across Amtrak's entire network. In fiscal year 2007, Amtrak held 56 percent of the air/rail market between New York and Washington and 41 percent of the market share between New York and Boston. This shows that where Amtrak is provided the resources to succeed, it provides a trip-time competitive alternative to air and automobile.

America needs to look toward Amtrak as we address our growing transportation needs. The Department of Transportation describes the problem of congestion on our highways and in the air as "chronic." Amtrak removes almost 8 million cars from the road annually. Airports are experiencing significant delays too, with more than 400,000 flights departing or arriving late in 2006. Amtrak eases air congestion by eliminating the need for 50,000 fully loaded airplanes each year.

Amtrak is also a substantially more environmentally friendly mode of transportation than automobiles or airplanes. According to the World Resources Institute, rail transportation produces 57 percent less carbon emissions than airplanes, and 40 percent less carbon emissions than cars.

Mr. Speaker, I lend my strong support to the commemoration of National Train Day on May 10, 2008, and encourage all of my colleagues to use this excellent opportunity to reflect on the benefits that Amtrak and intercity passenger rail provide to our Nation.

Mr. BOOZMAN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. CORRINE BROWN) that the House suspend the rules and agree to the resolution, H. Res. 1176.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## CONGRATULATING WINONA STATE UNIVERSITY ON WINNING THE 2008 DIVISION II MEN'S BASKETBALL CHAMPIONSHIP

Mr. WALZ of Minnesota. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1133) congratulating Winona State University on winning the 2008 Division II men's basketball championships, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1133

Whereas on March 29, 2008, the Winona State University Warriors of Winona, Minnesota, won the 2008 National Collegiate Athletic Association (NCAA) Division II National Basketball Championship with a victory over Georgia's Augusta State University, with a score of 87–76 in Springfield, Massachusetts;

Whereas Jonte Flowers was named the 2008 NCAA Division II Elite Eight Tournament's Most Outstanding Player for his performance throughout the tournament;

Whereas Jonte Flowers also holds the NCAA Division II record for player career steals, with 414;

Whereas the Warriors finished the 2008 season with a record of 38–1, an NCAA Division II record for most victories in a season by an NCAA men's basketball team;

Whereas over the past 3 years, the team's overall record is an impressive 105–6;

Whereas the senior class, which includes John Smith, Jonte Flowers, Quincy Henderson, Shane Neiss, and Brent Riese, accrued a record of 129–17 in their 4 years of play together at Winona State University;

Whereas John Smith was named the NCAA Division II Player of the Year by four separate organizations, which include 2 consecutive years of recognition from Basketball Times and DII Bulletin, as well as the National Association of Basketball Coaches, for his outstanding performance throughout the year;

Whereas John Smith also holds the NCAA Division II record for consecutive starts, with 146;

Whereas the Winona State University Warriors men's basketball team boasts two national titles from 2006 and 2008, three straight North Central Region titles from 2006, 2007, and 2008, four straight regular season championships, and three straight conference tournament championships;

Whereas head coach Mike Leaf has been named the Northern Sun Intercollegiate Conference Coach of the Year four times and National Coach of the Year two times; and

Whereas in 2006 and 2007, the team broke the NCAA Division II consecutive win record by winning 57 straight games: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) congratulates the Winona State University Warriors for winning the 2008 National Collegiate Athletic Association Division II Basketball National Championship; and

(2) recognizes Bryce Welch, Brad Meyer, Travis Whipple, Quincy Henderson, Curtrel Robinson, Ben Fischer, Brent Riese, Jonte Flowers, David Johnson, Jon Walburg, Luke Doedens, Max Hintz, Josh Korth, Matt Smith, Shane Neiss, Ryan Gargaro, John Smith, Mike Muller, head coach Mike Leaf, and all other coaches and support staff who were instrumental in this achievement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. WALZ) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota.

GENERAL LEAVE

Mr. WALZ of Minnesota. I ask unanimous consent that Members have 5 legislative days to revise and extend their remarks and to include any extraneous material on House Resolution 1133.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. WALZ of Minnesota. Mr. Speaker, I yield myself as much time as I may consume.

Today we're here to congratulate a basketball team at Winona State University, but I think it's important to put it into the greater context of what our young people are doing here.

I'll talk a little bit in just a minute about the great accomplishments of what this team did, but I think it's equally important to understand the institution that they're coming from. Winona State University is in the town of Winona, Minnesota. That's on the western bank of the Mississippi River.

Winona State University was founded at the same time as the State of Minnesota was founded. We're celebrating our sesquicentennial in the North Star State this year. And Winona State University was the first teachers college

west of the Mississippi River. That institution, that public institution of higher learning has fulfilled its calling and its mission for the last 150 years, at the highest quality of achievement that we could ask for. I congratulate President Judith Ramaley for her work. I also congratulate Vice President Jim Schmidt. He's the Vice President of Advancement.

There are some things going on at Winona State University, like the National Child Protection Training Center, the work they're doing educating our teachers, nurses, law enforcement officials that I think are equally as important.

But I think it's important to understand that in a well-balanced education like our student athletes are getting at Winona State University, stressing the extra-curriculars and the teamwork that goes to that, and the striving for excellence is important, so I'd like to talk just a bit about this time.

A little over a month ago, during our own March Madness in Minnesota, Winona State defeated Augusta State 87–76. This was the second national championship in the last 3 years, and three straight trips to the national championship. We're really proud of this dynasty that's being developed amongst these student athletes.

In addition to their national championship, they've won nine conference titles in a row. They've also won three straight Northern Sun Intercollegiate Conference titles.

In 2006 and 2007 they broke the Division II record of 57 straight victories. In 2008 the Warriors finished with a record of 38–1, an NCAA Division II record. Over the past 3 years, their record is 105–6.

Five seniors have been together throughout this entire run, and they should be congratulated. They'll all be graduating this year, and I'd like to congratulate each one of them individually. John Smith, Jonte Flowers, Quincy Henderson, Shane Neiss and Brent Riese. Together, those five individuals compiled a 129–17 record in 4 years.

Of course all of this wouldn't be possible without the leadership of coach Mike Leaf, who's done an outstanding job of working with the character as well as the accomplishments of these fine young athletes. I'm extremely proud to have Winona State University in the district that I represent; extremely proud of the student athletes that represent Southern Minnesota so well.

I ask today for, hopefully, unanimous consent from my colleagues to recognize them on this great achievement.

I would also make, as a side note, Winona State boasts some famous alumnas. One of them is my colleague on the minority side, Mrs. BACHMANN, and we're very proud to have her here, and Winona State for producing our Congresswoman from up in the Sixth District.

I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I thank and congratulate the gentleman from Minnesota with respect to Winona State University's great year and great record over the last 3 years.

By sort of coincidence, I happened to watch part of this game on television, I think the last half of the game, and they had a remarkable comeback as they beat the Augusta State University team. They are really a superb basketball team.

I had the pleasure of playing a little bit of Division III basketball many years ago. And either basketball's improved tremendously in those intervening years, or Division II is a heck of a lot better than Division III. These guys could really play basketball, and they were extremely impressive in terms of what they did.

I also congratulate the young men for their academic prowess. This is a college of some distinction. For that, they and all administrators deserve congratulations as well. We congratulate the head coach, Mike Leaf, who was named the Northern Sun Intercollegiate Conference coach of the year four times, and national coach of the year two times.

This is a team which has won two national titles and three straight North Central Region titles from 2006, 2007 and 2008, and four straight regular season championships and three straight conference tournament championships. Not many teams at any level of sports can make claims such as that.

The college, as the sponsor has indicated, is a significant institution in Minnesota, and does a wonderful job in its programs preparing young people for the rest of their lives.

We congratulate the President, Judith Ramaley, and the Athletic Director, Larry Holstad, the head coach, as I've indicated, and all the friends and supporters of a fine university which had a tremendous year this year in basketball. But just recognizing the tremendous school which they are and for which they deserve great credit.

I urge everybody to support the resolution, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. WALZ) that the House suspend the rules and agree to the resolution, H. Res. 1133, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## AMERICORPS WEEK

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1173) recognizing AmeriCorps Week.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1173

Whereas the AmeriCorps national service program, since its inception in 1994, has proven to be a highly effective way to engage Americans in meeting a wide range of local needs, national response directives, and promote the ethic of service and volunteering;

Whereas over $5,000,000,000 in AmeriCorps funds invested in nonprofit, community, educational, and faith-based community groups since 1994 have leveraged hundreds of millions of dollars in additional funds and in-kind donations from other sources;

Whereas each year, AmeriCorps provides opportunities for 75,000 citizens across the Nation to give back in an intensive way to our districts, our States, and our Nation;

Whereas a total of 542,000 citizens since 1994 across the Nation haven taken the AmeriCorps pledge to ''get things done for America'' by becoming AmeriCorps members;

Whereas those same individuals have served a total of more than 705,000,000 hours nationwide, helping to improve the lives of our Nation's most vulnerable citizens, protect our environment, contribute to our public safety, respond to disasters, and strengthen our educational system;

Whereas AmeriCorps members last year recruited and supervised more than 1,700,000 community volunteers, demonstrating AmeriCorps value as a powerful volunteer catalyst and force multiplier;

Whereas AmeriCorps members nationwide, in return for their service, have earned nearly $1,430,000,000 to use to further their own educational advancement at our Nation's colleges and universities;

Whereas AmeriCorps members, after their terms of service end, remain engaged in our communities as volunteers, teachers, and nonprofit professional in disproportionately high levels;

Whereas AmeriCorps members served 4,100 nonprofit organizations, schools, and faith-based and community organizations last year; and

Whereas 2008's AmeriCorps Week, observed May 11 through May 18, is an opportune time for the people of the United States to salute current and former AmeriCorps members for their powerful impact, thank all of AmeriCorps' community partners in our Nation who make the program possible and bring more Americans into service: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) encourages all citizens to join in a national effort to salute AmeriCorps members and alumni, and raise awareness about the importance of national and community service;

(2) acknowledges the significant accomplishments of the AmeriCorps members, alumni, and community partners;

(3) recognizes the important contributions to the lives of our citizens by AmeriCorps members; and

(4) encourages citizens of all ages to consider serving in AmeriCorps.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that Members have 5 legislative days in which to revise and extend their remarks and insert relevant material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise today in full support of H. Res. 1173, which recognizes the contributions of the national service program known as AmeriCorps. Since 1994, AmeriCorps has engaged over 500,000 citizens of all ages in national service programs, giving 705 million hours of service to our Nation and their fellow citizens. AmeriCorps, which is composed of AmeriCorps State and national programs, the National Civilian Community Corps, or NCCC, and the Volunteers in Service to America, or VISTA programs, engages 75,000 people each year in intensive, results-driven service to help communities tackle the toughest problems of education, poverty, illiteracy and the relief and recovery efforts after disasters.

□ 1545

AmeriCorps participants improve the lives of millions of our most vulnerable citizens by implementing critical health services, building low-income housing, making neighborhoods safer, and protecting the environment.

AmeriCorps VISTA participants are America's poverty fighters, 6,000 strong, and fulfill their service term in low-income communities by creating businesses, expanding access to technology, recruiting literacy volunteers, strengthening anti-poverty groups, and creating sustainable programs that help people rise out of poverty.

AmeriCorps NCCC participants serve as first responder in times of national need and have responded to every nationally declared disaster since 1994: floods, fires, tornadoes, and storms, and helped communities prepare for the next emergency. In fact, 10,000-plus AmeriCorps members have served millions of Katrina survivors in the gulf and managed a quarter million other Katrina volunteers.

The impact of AmeriCorps goes beyond the community in which a participant serves; it impacts the AmeriCorps member who is doing the service. The alums of AmeriCorps programs are significantly more likely to go into public-service careers in government and the nonprofit sectors, especially minorities and people from low-income backgrounds.

So, Mr. Speaker, this week is AmeriCorps Week. This is a week in which we as a Nation should thank those who have given of themselves and who served our Nation through AmeriCorps to improve the lives of our Nation's vulnerable and disadvantaged citizens and improve communities across the country. We salute AmeriCorps members and alums for giving of themselves to benefit others and their powerful impact on our Nation's communities and the lives of our citizens and thank all involved in making AmeriCorps a successful program.

I ask that my colleagues join me in full support of H. Res. 1173 and salute those current and former AmeriCorps members through passage of H. Res. 1173.

I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I rise today in support of House Resolution 1173, recognizing AmeriCorps Week.

Throughout the history of the United States, Americans have valued an ethic of service. As Alexis de Tocqueville wrote over a century and a half ago, this ethic of service ''prompts Americans to assist one another and inclines them willingly to sacrifice a portion of their time and property to the welfare of the State.'' AmeriCorps gives Americans an opportunity to make a difference in their own lives and in the lives of others by meeting critical needs in the community.

In 1990, President George Herbert Walker Bush signed the National Service Act, a network of national service programs that engage Americans in intensive service to meet the Nation's vital needs in education, public safety, health, and the environment. In 1993, President Bill Clinton signed the National and Community Service Trust Act which established the Corporation for National and Community Service and brought the full range of domestic community service programs under the umbrella of one central organization.

In September of 1994, the first class of AmeriCorps members, 20,000 strong, began serving in more than 1,000 communities. Today, AmeriCorps offers 75,000 opportunities for adults of all ages and background to address a myriad of needs in communities all across America such as tutoring and mentoring disadvantaged youth, fighting illiteracy, improving health services, building affordable housing, and managing after-school programs, just to name a few.

This year's theme for AmeriCorps Week is ''Getting Things Done.'' This organization is doing just that. Since its inception, 542,000 citizens have taken the AmeriCorps pledge and have served a total of more than 705 million hours in 4,100 nonprofits throughout the country. Last year, AmeriCorps members recruited and supervised more than 1.7 million community volunteers demonstrating AmeriCorps value as a volunteer channel. In return for their service, members have earned $1.4 billion to further their educational advancement in our Nation's colleges and universities and our communities.

Volunteerism is a way for Americans to connect to their communities, learn more about the problems facing their communities, and to simply make a difference. This week, we salute current and former AmeriCorps members for their powerful impact, and we thank all community partners who make the AmeriCorps program possible and bring more Americans into service.

I want to take this opportunity to thank my colleagues, Ms. MATSUI, Mr. SHAYS, Mr. PLATTS, and Mr. PRICE for introducing this resolution and ask my colleagues to support the resolution.

I reserve the balance of our time.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to yield such time as she might consume to the distinguished lady from California and the sponsor of this resolution, Representative MATSUI.

Ms. MATSUI. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time.

I rise today to offer the ''Recognizing AmeriCorps Week'' resolution and give special thanks to AmeriCorps volunteers and organizations.

This week marks AmeriCorps Week, a nationwide acknowledgment and celebration of all that America volunteers have done for our country. The AmeriCorps program is vital to the growth and prosperity of our Nation. AmeriCorps members can be found in our small towns and in our big cities. They're motivated young men and women from every background imaginable.

For the past 15 years, more than 540,000 men and women have given over 705 million hours of service to our country and the citizens. Equally valuable, these men and women are experts in mobilizing local volunteers, allowing millions more to serve their communities in an organized and effectual way.

Like AmeriCorps volunteers, AmeriCorps Week is important because it inspires others to become involved. By recognizing the program and its accomplishments, we motivate individuals to become engaged and add one more person to the growing list of those offering optimism and aid.

Throughout this week, AmeriCorps organizations across this country are hosting hundreds of special events, making it even easier to become involved. In the gulf coast, for example, Habitat for Humanity and the Jimmy and Rosalynn Carter Work Project will build tens of homes in a single week. This single event will involve 700 AmeriCorps members and thousands of other volunteers.

Additionally, this year's AmeriCorps Week pays special attention to the lifelong contribution of AmeriCorps alumni. A recent study of AmeriCorps show that alumni of the program are much more likely to remain involved in the community long after their service has ended. Nearly 87 percent of former AmeriCorps members will go on to work in public service. They become our future leaders, public servants, government employees, and nonprofit organizers. Simply put, AmeriCorps

members learn to give for the rest of their lives.

AmeriCorps Week also provides a platform to highlight the valuable community organizations that deserve our support. Earlier this week, critical new AmeriCorps grants were announced. This funding provides necessary resources to some of America's most innovative and effective community organizations.

Those who support this resolution and AmeriCorps Week will be in good company. Dozens of State governors have issued AmeriCorps Week proclamations from local leaders to professional baseball teams. Thousands of diverse Americans are expressing their support for the AmeriCorps programs and its volunteers. These supporters recognize that AmeriCorps members do more than volunteer their time. They are ambassadors of hope, good will, and personal initiatives.

Mr. Speaker, I ask my colleagues to join with me, my fellow National Service Caucus cochairs, and the 40 bipartisan cosponsors of this resolution in support of AmeriCorps Week and these amazing volunteers.

Mr. CASTLE. Mr. Speaker, I yield to the gentleman from Connecticut (Mr. SHAYS) such time as he may consume.

Mr. SHAYS. I thank the gentleman for yielding.

Mr. Speaker, when there were the great debates on TV between Vice President Nixon and then-Senator John F. Kennedy, while my family were Republicans and, as a young person in 8th grade, John F. Kennedy spoke to me when he talked about serving our country and the world by being a Peace Corps volunteer. I thought, wouldn't it be amazing to go to college and afterwards join the Peace Corps; and that's what I did with my wife. And that experience changed my life. That experience had a tremendous impact on my life. In fact, Peace Corps volunteers will tell you it was the greatest time of their life, not that the rest of our lives hasn't been good.

And when President Clinton, building on what President Bush 41 had done on national service, said, We need to create AmeriCorps, his administration reached out to Republicans; and it was an amazing experience to work with President Clinton and his administration because they said they wanted this to be a bipartisan effort, and they listened to Republicans.

Instead of a one-size-fits-all national program, they did something Republicans really like, and that is they made it a local and State effort. And the problem with that is that you could not only have really great programs, you might have some that weren't so good. And it would give people an opportunity to criticize AmeriCorps, as some critics did, because there were literally hundreds and hundreds of various programs meeting local and State needs.

But to President Clinton's credit and to his people who were bringing this program forward, in spite of the fact a majority of Republicans did not support it, they still allowed us to have significant input.

I have nothing but respect for AmeriCorps, nothing but respect for the fact that we are talking, in some cases, young people who have never had a work experience, and we're giving them experience with individuals who can tutor them, in nongovernment organizations. What a wonderful way for these young people to begin to become adults and experience the incredible fulfillment that comes from being of service to others.

I have never understood why some Republicans have criticized AmeriCorps because they said you get paid. Well, Peace Corps volunteers had a living wage. We were able to feed ourselves and we were provided housing. It's something that you don't have under AmeriCorps. There it's a minimum wage, but no housing. They have a stipend for education. Republicans tend to think that you should earn what you get, and this is a program where you earn what you get. You can't pocket the money. You have to put it into bettering yourself with education, which is a very logical thing to do. Frankly, it's something that most Republicans would have argued for: not being given something; earning it.

So these AmeriCorps individuals, which we call volunteers, are getting the best of the best. They are growing up with a meaningful job, not a long-term job, they're earning educational credits, they're getting an education, and they're, for the rest of their lives, going to have that incredible memory of service that I think only strengthens individuals and our country.

So I'm really grateful that we can recognize AmeriCorps for what it is, an outstanding program initiated by President Clinton to his credit, and to his credit, still working with Republicans in spite of the fact they didn't deliver a majority of the votes.

Mr. DAVIS of Illinois. Mr. Speaker, I reserve the balance of our time.

Mr. CASTLE. Mr. Speaker, at this time I yield back the balance of our time and encourage everybody to support the resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I would urge passage of this resolution. I, too, agree that when we give of ourselves, we give the very best.

Mr. FARR. Mr. Speaker, in the Peace Corps we say, "Once a volunteer, always a volunteer." There was a time when I thought that those words were just a slogan. However, over the years I've watched the friends I made in the Peace Corps in Colombia continue to volunteer in their communities and around the world. And this continuity of volunteerism is not unique to the Peace Corps.

In fact, it has become clear to people who understand public service and volunteerism, that to "give back" is a habit. And you can get more of it, if you open up more opportunities to people involved in volunteer service. There is a virtuous cycle in volunteerism and it is a cycle that we do well to encourage.

AmeriCorps is one of the great innovations in public policy that has created opportunities for Americans all across the country to volunteer. From working in inner city schools to working in food back in small towns, AmeriCorps opens the doors for people to volunteer and in so doing provides a stepping stone to a life of service.

I commend AmeriCorps for all it does and for all the doors to service it has opened. So, today as the House of Representatives recognizes AmeriCorps, I encourage all those who can do so to find a way to volunteer in their community and to give back.

Mr. DAVIS of Illinois. I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 1173.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1600

## HONORING PUBLIC CHILD WELFARE AGENCIES

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 789) honoring public child welfare agencies, nonprofit organizations and private entities providing services for foster children, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 789

Whereas over 500,000 children in the United States are currently in foster care which is twice as many as 15 years ago;

Whereas the majority of these children and youth have been removed from their homes because of abuse or neglect;

Whereas foster children experience a number of unique challenges based on instability in their home and school environments;

Whereas just over half of all foster children complete high school, 30 percent continue to rely on public assistance into adulthood and 25 percent will experience homelessness at one point in their lives;

Whereas numerous public child welfare agencies, nonprofit organizations and private entities work tirelessly to recruit loving foster families and improve the lives of foster children;

Whereas these groups strive to consider the best interest of each child and focus on keeping families together when possible;

Whereas they provide invaluable resources to foster families as well as teachers, counselors, physicians, clergy, and others who

work closely with children in the foster care system;

Whereas these groups are dedicated to changing public policy and raising awareness related to the special needs of foster children; and

Whereas they continue to sponsor research, develop best practices, and offer assistance to youth transitioning out of the system to ensure they receive adequate support as they reach adulthood: Now, therefore, be it

*Resolved*, That the House of Representatives honors the contributions of public child welfare agencies, nonprofit organizations and private entities dedicated to finding homes for foster children and assisting foster families in securing the future success of their foster children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that Members have 5 legislative days to revise and extend their remarks and insert material relevant to H. Res. 789 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise today to honor the public welfare agencies, nonprofit organizations, private entities and compassionate individuals that work tirelessly to support foster children.

Since May is National Foster Care Month, it is appropriate that today we salute the many individuals and organizations that provide foster care services to over 500,000 children currently in foster care nationwide.

National Foster Care Month originated in 1988 and has served to heighten awareness for the issue since that time. By increasing visibility of this important issue, organizations are better able to reach out to the community and recruit individuals to support children throughout the year. By connecting foster youth with caring adults we can ensure that children do not face life's challenges alone.

Child welfare issues are present in families of all races, ethnicities and cultures. However, children of color make up a disproportionate number of children in foster care. Without a stable home, these young people confront many challenges. Although some of these young people are able to overcome the challenges of abuse and neglect, others continue to deal with their effects long into adulthood.

Research finds that just 54 percent of foster care youth complete high school and 25 percent will face homelessness at some point in their lives. Additionally, research has shown that children in foster care are more likely than their peers to deal with poverty, unemployment, incarceration, poor health and other hardships.

We must do what we can to support these young Americans and help them cultivate the necessary skills to live successfully and independently. More than 20,000 young people age out of foster care each year, and today we recognize the many individuals, families, neighborhoods, communities and organizations that work collectively together to ensure that all children can grow up with the support they need to be healthy and safe.

So, Mr. Speaker, once again I express my support for H. Res. 789 and recognize the hard work so many put in on a daily basis to help children in foster care reunite with their parents, be cared for by relatives or to be adopted by loving families. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, at this time, I yield to the distinguished Congresswoman from Minnesota (Mrs. BACHMANN) such time as she may consume. She is the sponsor of the resolution.

Mrs. BACHMANN. I thank the gentleman for yielding.

Mr. Speaker, as this resolution's author, I rise to support H. Res. 789. It is vital that the organizations that are committed to improving the lives of foster care children be commended for their hard work and for their sacrifices.

Today, there are over 500,000 children, that's over a half million children, in foster care across the United States of America, many of whom come from troubled homes and many of whom have been moved from family to family several times. My husband and I have been privileged to have 23 foster children live in our home, and we know from experience that these wonderful organizations that work with our foster children played a critical role in ensuring that they were matched with loving families and they grew up to achieve successful lives. These organizations are to be commended, Mr. Speaker.

Dedicated to changing public policy and also to raising awareness related to the very special and individual needs of foster children, these groups sponsor research, they develop best practices, and they offer assistance to youth who are transitioning out of the system to ensure that they receive adequate support as they reach adulthood. They provide invaluable resources to foster families as well as to teachers, to counselors, physicians, clergy and other people who work closely with children who are being helped by the foster care system.

These men and women and agencies are striving to consider the best interests of every child, and they work to keep families together whenever possible. Today, more Americans are beginning to understand the very real and very special needs of foster care children due to their dedicated public awareness efforts, and I am proud to honor these organizations that have touched the lives of so many of America's children and improved their lives and put them steadily on a path to success.

To complement this resolution, it is my hope that the House will soon have the opportunity to consider H.R. 4311, the School Choice for Foster Kids Act, because this Act will allow foster children of all ages to stay at the school that they've grown comfortable with, even when they change foster homes, which all too frequently seems to happen in the lives of foster children. It will provide them with some stability in their own tumultuous lives.

Mr. Speaker, I hope that you and our fellow colleagues will join us in honoring the contributions of all public child welfare agencies, nonprofit organizations and private entities who are sincerely dedicated to finding homes for foster children and to assisting foster families in securing the success of our future children.

Mr. DAVIS of Illinois. Mr. Speaker, I would reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I am also a strong believer in what we are doing here in honoring foster care with this month. This is an opportunity to give these children a sense of well-being, a home, a stability, nurturing adults.

We've seen it work time and again, as the gentlewoman from Minnesota has explained. There are currently over 500,000 children in foster care in the United States, and the majority of these children have been removed from their homes because of abuse or neglect. So those who welcome these children in, give them that opportunity, deserve our plaudits in terms of what they've done to help in our society.

Just over half of all foster children complete high school, 30 percent continue to rely on public assistance into adulthood, and 25 percent will experience homelessness at one point in their lives. So we're dealing with circumstances, in many instances, in which we have to try to intervene and to make a difference.

We should pay tribute to the public child welfare agencies, the nonprofits and the private entities that provide these services for these children because, indeed, they are reaching out and making a difference in the lives of many of these individuals.

The groups we honor today provide invaluable resources to foster families, teachers, counselors, physicians, clergy and others who work closely with the children in the foster care system. They sponsor research, develop best practices, and offer assistance to youth transitioning out of the system to ensure they receive adequate support as they reach adulthood. There are an estimated 12 million foster care alumni in the United States representing all walks of life.

We pay tribute to those individuals in this resolution, and I would hope

that all of our colleagues would be supportive of the resolution.

I thank the gentlewoman for her sponsorship and all those who brought it to the floor today.

Mr. Speaker, I rise today in support of House Resolution 789, honoring public child welfare agencies, nonprofit organizations and private entities providing services for foster children.

May is National Foster Care Month. We take this time to bring awareness to the many sides of foster care. Children are placed in foster care when their parents are no longer able to ensure their essential well being. These children need stable, loving care until they can either safely reunite with their families or cultivate other lasting relationships with nurturing adults.

Foster care is essential to protecting abused and neglected children. There are currently over 500,000 children in foster care in the United States. The majority of these children have been removed from their homes because of abuse or neglect.

During this month we recognize the unique challenges foster children experience based on the instability in their home and school environments. Just over half of all foster children complete high school, 30 percent continue to rely on public assistance into adulthood, and 25 percent will experience homelessness at one point in their lives.

Today, we pay tribute to the public child welfare agencies, nonprofit organizations and private entities that provide services for foster children. These organizations work tirelessly to improve the lives of foster children by considering the best interest of each child, focusing on keeping families together when possible, and recruiting loving foster families.

The groups we honor today provide invaluable resources to foster families, teachers, counselors, physicians, clergy, and others who work closely with children in the foster care system. They sponsor research, develop best practices, and offer assistance to youth transitioning out of the system to ensure they receive adequate support as they reach adulthood. There are an estimated 12 million foster care alumni in the United States representing all walks of life.

Today, we honor the contributions of public child welfare agencies, nonprofit organizations and private entities dedicated to finding homes for foster children and assisting foster families in securing the future success of their foster children. These groups are committed to raising awareness related to the special needs of foster children.

That is why I stand in support of this resolution and I ask for my colleagues' support.

I yield back the balance of our time.

Mr. DAVIS of Illinois. Mr. Speaker, in closing, I just want to be associated with the comments of Mr. CASTLE, and I also want to commend Mrs. BACHMANN and her family, her husband, for the outstanding role modeling which they display. I was taught that you can't lead where you don't go and you can't teach what you don't know, and they demonstrate the very best of what it means to be associated and involved with caring for children who are not necessarily your own. And so I certainly commend them for the outstanding service they provide.

I urge passage of this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 789, honoring public child welfare agencies, nonprofit organizations and private entities providing services for foster children. I first would like to thank my distinguished colleague, Representative MICHELE BACHMANN of Minnesota, for introducing this important legislation. This resolution acknowledges the importance of foster parents and other community partners who care for hurting children.

Children are placed in foster care because of society's concern for their well-being. Any time spent by a child in temporary care should be therapeutic but may be harmful to the child's growth, development, and well-being. Interruptions in the continuity of a child's caregiver are often detrimental. Repeated moves from home to home compound the adverse consequences that stress and inadequate parenting have on the child's development and ability to cope. Adults cope with impermanence by building on an accrued sense of self-reliance and by anticipating and planning for a time of greater constancy. Children, however, especially when young, have limited life experience on which to establish their sense of self. In addition, their sense of time focuses exclusively on the present and precludes meaningful understanding of ''temporary'' versus ''permanent'' or anticipation of the future. For young children, periods of weeks or months are not comprehensible. Disruption in either place or with a caregiver for even 1 day may be stressful. The younger the child and the more extended the period of uncertainty or separation, the more detrimental it will be to the child's well-being.

The observance brings sharply into focus the critical needs of foster children and the importance of our foster parents who respond so faithfully and selflessly to the children's needs. Some children are placed in foster care briefly while a family crisis is resolved. Others remain in care for longer periods of time, depending upon the circumstances that led to their removal from their family's home. Over 500,000 children in the United States are currently in foster care which is twice as many as 20 years ago. The majority of these children and youth have been removed from their homes because of abuse or neglect. Our foster parents deserve special praise because they open their homes and their hearts to foster children and love them unconditionally. They understand that a safe, secure home is very important to the healthy development of a child.

An increasing number of young children are being placed in foster care because of parental neglect. Neglect has very profound and long-lasting consequences on all aspects of child development—poor attachment formation, understimulation, development delay, poor physical development, and antisocial behavior. Being in an environment in which child-directed support and communication is limited makes it more difficult for a child to develop the brain connections that facilitate language and vocabulary development, and therefore may impair communication skills. Recent findings in infant mental health show how development can be facilitated, how treatment can enhance brain development and psychological health, and how prevention strategies can lessen the ill effects of neglect.

Adoption by foster families has the potential to benefit not only the child being adopted, but also the foster family and the child welfare agency. There are a number of reasons that a child's foster parents may be the best adoptive parents for that child. Foster parents have a greater knowledge of a child's experiences prior to placement and know what behaviors to expect from the child. If they have sufficient background information about what happened to a child before this placement, some knowledge of how children generally respond to such experiences, and extensive information about this child's specific behavior patterns, the foster family is better able to understand and respond to the child's needs in a positive and appropriate way. Foster parents usually have fewer fantasies and fears about the child's birth family, because they often have met and know them as real people with real problems. Foster parents have a better understanding of their role and relationship with the agency—and perhaps a relationship with their worker.

Foster children experience a number of unique challenges based on instability in their home and school environments. Just over half of all foster children complete high school, 40 percent continue to rely on public assistance into adulthood and 25 percent will experience homelessness at one point in their lives. Numerous public child welfare agencies, nonprofit organizations and private entities work tirelessly to recruit loving foster families and improve the lives of foster children. These groups strive to consider the best interest of each child and focus on keeping families together when possible. They provide invaluable resources to foster families as well as teachers, counselors, physicians, clergy, and others who work closely with children in the foster care system.

Mr. Speaker, I recognize and honor the contributions of all public child welfare agencies, nonprofit organizations and private entities dedicated to finding homes for foster children and assisting foster families in securing their future success.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 789, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## ORIGINAL SAINT-GAUDENS DOUBLE EAGLE ULTRA-HIGH RELIEF PALLADIUM BULLION COIN ACT

Mr. GUTIERREZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5614) to authorize the production of Saint-Gaudens Double Eagle

ultra-high relief bullion coins in palladium to provide affordable opportunities for investments in precious metals, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act shall be known as the ''Original Saint-Gaudens Double Eagle Ultra-High Relief Palladium Bullion Coin Act''.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the Augustus Saint-Gaudens $20 gold pieces of 1907 with ultra-high relief are considered by many in the numismatic community to be the most beautiful coins ever produced;

(2) two separate ''pattern'' versions of the ultra-high relief Double Eagle were produced in 1907;

(3) a 34-millimeter version was hand-struck on a standard Double Eagle planchet using a medal press and, because manufacturing and technical limitations prevented mass production of these pieces, this production resulted in low mintage, with fewer than two dozen specimens of the 34-millimeter version known to be in existence today;

(4) a second, 27-millimeter, version was struck using two stacked $10 Eagle planchets;

(5) these experimental ''pattern'' 27-millimeter pieces were deemed to be illegal to produce and all specimens were destroyed except for 2 that reside in the Smithsonian's National Numismatic Collection;

(6) the 27-millimeter pattern pieces are ranked by numismatists as among the most beautiful coins ever produced, but none are in private hands and none have ever come up for sale;

(7) the ultra-high relief Double Eagles are representative of the greatest period of American coinage, the so-called ''Golden Age of Coinage'' in the United States, initiated by President Theodore Roosevelt, with the assistance of noted sculptors and medallic artists James Earle Fraser and Augustus Saint-Gaudens;

(8) the introduction of this famous piece as a numismatic proof coin would not only give collectors an opportunity to own a version of a legendary coin that has never before been available for private ownership, but also inaugurate a neo-renaissance in United States coin design and demonstrate the technological advances that the United States has achieved over the last century;

(9) the modern coin version of the $20 gold piece would be updated with the addition of the inscription ''In God We Trust'' and would include the date of minting or issuance, to distinguish it from the originals and prevent counterfeiting;

(10) palladium is a rare silver-white metal, and is considered a precious metal because of its scarcity;

(11) palladium is one of 6 platinum group metals that include ruthenium, rhodium, osmium, iridium, and platinum; it is the least dense and has the lowest melting point of the platinum group metals;

(12) the major nations mining palladium are in order of volume: Russia, South Africa, United States of America, and Canada;

(13) the major mine producing palladium in the United States is located in Montana;

(14) palladium is fabricated into a wide range of applications that includes its extensive use as an industrial catalyst and a key component in the manufacturing of automotive catalytic converters;

(15) palladium is also used in dentistry, jewelry, and in the production of surgical instruments and electrical contacts;

(16) the demand for precious metals is driven not only by their practical use, but also by their role as a store of value;

(17) a variety of investment options are available to palladium investors that includes coins, bars, and exchange-traded funds;

(18) palladium coins have been issued by several countries, mainly as commemorative coins, but also as bullion investment coins (bullion is the form of palladium traded for investment purposes and is a reference to its purity);

(19) Tonga commenced issuing palladium coins in 1967 and other issuing countries have included Canada, the Soviet Union, France, Russia, China, Australia, and Slovakia;

(20) today, only Canada mints palladium bullion coins;

(21) during the period 2003 through 2007, the price of palladium ranged between $148 and $404 per troy ounce, and the average price in 2007 was $355 per troy ounce;

(22) by contrast, during the same period, the price of platinum ranged between a low of $603 and a high $1,544, and the average price in 2007 was $1,303 per troy ounce;

(23) thus, platinum bullion coins have become too expensive for the average investor;

(24) The Royal Canadian Mint minted platinum bullion coins for 14 years (between 1988 and 2001), but ceased production in the face of high metal prices and declining sales;

(25) when the United States Mint's American Eagle Platinum Bullion Coin was launched in 1997, the average price for the metal that year was $395 per troy ounce; and

(26) over the past decade, the price has more than tripled, which has caused a dramatic decline in demand for these coins, from 80,050 ounces sold in 1997 to 9,050 in 2007.

**SEC. 3. ORIGINAL SAINT-GAUDENS DOUBLE EAGLE ULTRA-HIGH RELIEF BULLION COIN.**

Section 5112 of title 31, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

''(12) A $20 coin that—

''(A) is 27 millimeters in diameter;

''(B) weighs 1 ounce;

''(C) is of an appropriate thickness, as determined by the Secretary; and

''(D) bears, on the obverse and reverse, the designs of the famous 27-millimeter version of the 1907 Augustus Saint-Gaudens Double Eagle gold piece, as described in subsection (t).''; and

(2) by adding at the end, the following new subsection:

''(t) ORIGINAL SAINT-GAUDENS DOUBLE EAGLE ULTRA-HIGH RELIEF NUMISMATIC COINS AND BULLION INVESTMENT COINS.—

''(1) IN GENERAL.—Beginning January 1, 2009, the Secretary shall commence minting and issuing for sale—

''(A) such number of $20 bullion investment coins as the Secretary may determine to be appropriate, that bear the design described in paragraph (2); and

''(B) not more than 15,000 of the numismatic $20 coins that bear the design and meet the requirements of paragraph (3).

''(2) DESIGN AND REQUIREMENTS FOR BULLION INVESTMENT COINS.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), the obverse and reverse of the coins minted and issued pursuant to paragraph (1)(A) shall bear a close approximation of the original obverse and reverse designs by Augustus Saint-Gaudens which appear on the famous 27-millimeter version of the 1907 Double Eagle ultra-high relief gold piece.

''(B) VARIATIONS.—The coins referred to in subparagraph (A) shall—

''(i) have inscriptions of the weight of the coin and the purity of the alloy in the coin raised on the edge of the coin;

''(ii) bear the nominal denomination of the coin;

''(iii) bear the date of issue of the coin on the obverse, expressed as a Roman numeral as in the original design; and

''(iv) bear such other inscriptions, including 'In God We Trust', as the Secretary determines to be appropriate and in keeping with the original design.

''(C) MINT FACILITY.—Any facility of the United States Mint may be used to strike coins minted pursuant to paragraph (1)(A) other than the United States mint at West Point, New York.

''(3) DESIGN AND REQUIREMENTS FOR ULTRA-HIGH RELIEF NUMISMATIC COINS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the obverse and reverse of the coins minted and issued pursuant to paragraph (1)(B) shall bear exact replicas of the original obverse and reverse designs by Augustus Saint-Gaudens which appear on the famous 27-millimeter version of the 1907 Double Eagle ultra-high relief gold piece and the edge of the coin shall have all appropriate raised lettering in the same manner as the original coin.

''(B) VARIATIONS.—The coins referred to in subparagraph (A) shall—

''(i) bear a single finish that most closely approximate the finish of the original gold 1907 ultra-high relief gold piece as is practicable;

''(ii) bear the nominal denomination of the coin;

''(iii) bear the date of issue of the coin on the obverse, expressed as a Roman numeral as in the original design; and

''(iv) bear such other inscriptions, including 'In God We Trust', as the Secretary determines to be appropriate and in keeping with the original design.

''(C) MINT FACILITY.—Coins minted pursuant to paragraph (1)(B) may only be struck at the United States mint at West Point, New York.

''(D) FRACTIONAL COINS PROHIBITED.—No coins issued pursuant to paragraph (1)(B), shall be made available as so-called 'fractional' coins.

''(4) DISTRIBUTION IN SETS AND OTHER COORDINATION REQUIREMENTS.—If the Secretary chooses, in accordance with subsection (i), to mint and issue a gold bullion coin that bears the same design as the ultra-high relief numismatic coins described in paragraph (1)(B)—

''(A) each palladium coin issued under paragraph (1)(B) may only be issued in a set containing 1 of each such coins;

''(B) each set of coins described in subparagraph (A) shall be provided in a presentation case of appropriate design;

''(C) the set described in subparagraph (A) may only be issued and sold in 2009;

''(D) gold coins issued in any set described in subparagraph (A) may only be struck at the United States mint at West Point, New York and no other gold coin issued by the Secretary that bears the same design as the ultra-high relief numismatic coins described in paragraph (1)(B) may be struck at such mint at West Point; and

''(E) no gold coin that bears the same design as the ultra-high relief numismatic coins described in paragraph (1)(B) shall be made available as so-called 'fractional' coins.

''(5) COMPOSITION.—

''(A) IN GENERAL.—The coins minted under this subsection shall contain .995 pure palladium.

''(B) SOURCE OF BULLION.—

''(i) IN GENERAL.—The Secretary shall acquire bullion for the palladium coins issued under this subsection by purchase of palladium mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined.

''(ii) PRICE OF BULLION.—The Secretary shall pay not more than the average world price for the palladium under subparagraph (A).

''(6) SALE OF COINS.—Each coin issued under this subsection shall be sold for an amount the Secretary determines to be appropriate, but not less than the sum of—

''(A) the nominal denomination of the coin;

''(B) the market value of the bullion at the time of sale; and

''(C) the cost of designing and issuing the coins, including labor, materials, dies, use of machinery, overhead expenses, marketing, distribution, and shipping.

''(7) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

''(8) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

''(9) QUALITY.—The Secretary may issue the coins described in paragraph (1)(A) in both proof and uncirculated versions.

''(10) PROTECTIVE AND ANTI-COUNTERFEITING COVER.—

''(A) IN GENERAL.—The Secretary shall give strong consideration to making the coins described in this subsection available only in protective covers that preserve the coins in the condition in which they are issued, allow clear and easy viewing of the obverse, reverse, and sides of the coin and protect it from movement within the holder, and also protect against counterfeiting of such coins or of the container.

''(B) ACQUISITION.—The Secretary may elect to comply with subparagraph (A) by producing and assembling such protective covers within the United States Mint or by contracting for the installation of such covers.

''(11) FURTHER ANTI-COUNTERFEITING MEASURES.—

''(A) REPORT REQUIRED.—In an attempt to forestall the counterfeiting or marketing of the coins described in this section, including this subsection, and of collectible, numismatic and rare coins in general, the Comptroller General shall, after consulting with the Director of the United States Secret Service and the Federal Trade Commission, and in consultation with hobbyists, numismatists, law enforcement agencies, and the Citizens Coinage Advisory Committee, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, before the end of the 9-month period beginning on the date of the enactment of the Original Saint-Gaudens Double Eagle Ultra-High Relief Bullion Coin Act, a report detailing the extent of counterfeiting of rare, collectible or numismatic coins made available for sale in the United States, regardless of the country where the original of such coin was produced or of the country in which the counterfeiting takes place, or sales overseas if such counterfeit coins are unauthorized copies of coins originally produced by the United States Mint.

''(B) CONTENTS OF REPORT.—The report submitted under subparagraph (A) shall describe the following:

''(i) The extent of such counterfeiting of coins and numismatic items.

''(ii) The source of such counterfeiting, if known, including which countries may be the origin of such counterfeits if they are produced outside the United States.

''(iii) The distribution and marketing channels for such counterfeits within and without the United States.

''(iv) The effect of any such counterfeiting on hobbyists, numismatists and on the investment opportunities for bullion or numismatic coins produced by the United States Mint.

''(v) Whether such counterfeiting extends to the counterfeiting of coin-grading or protective materials in such a way that might imply that the counterfeit inside had been examined and authenticated by a reputable coin-grading firm.

''(vi) Such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate to curtail or forestall any such counterfeiting.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. GUTIERREZ) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GUTIERREZ. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, today I rise in strong support of H.R. 5614, the Original Saint-Gaudens Double Eagle Ultra-High Relief Palladium Bullion Coin Act, of which I am an original cosponsor.

H.R. 5614 instructs the Secretary of the Treasury to mint and issue $20 coins in memory of Augustus Saint-Gauden Double Eagle gold pieces of 1907. The issuing of this coin will begin on January 1, 2009.

The introduction of this famous piece as a collectors' proof coin would not only give collectors an opportunity to own a version of a legendary coin that has never before been available for private ownership but also inaugurate a neo-renaissance in United States coin design. The coin will also demonstrate the technological advances in engraving and minting the U.S. has achieved over the last century.

I congratulate my friend from the Financial Services Committee, Mr. CASTLE, for introducing this bill and urge all Members to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is simple legislation, as Mr. GUTIERREZ has said, that directs the creation of an investment-grade coin of palladium made available to those who seek to invest in precious metals as a hedge against inflation.

I'm happy to be a sponsor of this bill, along with Mr. GUTIERREZ, the chairman of the Domestic and International Monetary Policy, Trade, and Technology Subcommittee that I once chaired.

With the spike in value of precious metals, investors who recently may have bought gold to put in IRAs have nothing in the standard 1-ounce size investor coin between $18 or so and about $1,000, with gold having jumped in the last couple of years from maybe $400 an ounce to more than $900.

Palladium, known as the fourth precious metal and approved as an investment vehicle by Congress a decade ago, along with gold, silver and platinum, would fill that gap.

□ 1615

Yesterday it was trading at about $422 an ounce. Palladium is also mined in quantity in the United States. I'm told that more than 400 people work in the Palladium mine in Montana.

Mr. Speaker, investors do want a choice in their precious metals. And while gold may always be king, if the Mint is going to have a bullion program, it needs to present alternatives. Unfortunately, for many investors, platinum, once valued at nearly the same as palladium, has leapt to nearly $2,000 an ounce, and once-healthy sales of platinum bullion coins shrank to a mere 9,000 ounces last year.

Creating a palladium bullion coin will offer investors another option. Additionally, Mr. Speaker, this legislation calls for a limited number of the palladium coins to be made with the exact design as the famous gold 1907 Saint-Gaudens Double Eagle Ultra-High Relief coin, of which only about a dozen were made because of technical limitations at the time. I understand Mint Director Moy plans to make gold replicas of that coin, and if so, this bill provides that a limited number be sold in a special presentation case with numismatic versions of the palladium coin.

Mr. Speaker, I want to call Members' attention to a report required at the end of the bill. For some time now we've been hearing of the import and sale into the United States of high-quality fakes of both collectible and investor coins, and more recently of counterfeiting of the special containers that certify a coin's quality as set by an independent grading firm. Mr. Speaker, counterfeiting must be stopped, whether it's of U.S. $100 bills, ancient Greek coins, or high-quality fashion ware.

The report required in this bill will, I hope, focus the various parts of the government with jurisdiction over this crime so we can determine the scope and source of the problem and begin taking appropriate action to stop it.

I urge quick passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GUTIERREZ. Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I ask support of the legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. GUTIERREZ) that the House suspend the rules and pass the bill, H.R. 5614, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## STAR-SPANGLED BANNER AND WAR OF 1812 BICENTENNIAL COMMEMORATIVE COIN ACT

Mr. GUTIERREZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2894) to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the ''Star Spangled Banner'' and the War of 1812, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2894

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act''.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) During the War of 1812, on September 13, 1814, Francis Scott Key visited the British fleet in Chesapeake Bay to secure the release of Dr. William Beanes, who had been captured after the burning of Washington, DC.

(2) The release was completed, but Key was held by the British overnight during the shelling of Fort McHenry, one of the forts defending Baltimore.

(3) In the morning, Key peered through clearing smoke to see an enormous American flag flying proudly after a 25-hour British bombardment of Fort McHenry.

(4) He was so delighted to see the flag still flying over the fort that he began a poem to commemorate the occasion, with a note that it should be sung to the popular British melody ''To Anacreon in Heaven''.

(5) In 1916, President Woodrow Wilson ordered that it be played at military and naval occasions.

(6) In 1931, the ''Star-Spangled Banner'' became our National Anthem.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 350,000 $1 coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner and the War of 1812, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the War of 1812 and particularly the Battle for Fort McHenry that formed the basis for the ''Star-Spangled Banner''.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2012''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Star-Spangled Banner and War of 1812 Bicentennial Commission and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2012.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the Maryland War of 1812 Bicentennial Commission for the purpose of supporting bicentennial activities in collaboration with and aiding the Star-Spangled Banner and War of 1812 Bicentennial Commission as it provides coordination, advice, and assistance to Federal agencies, States, localities, and other organizations for such bicentennial activities, educational outreach activities (including supporting scholarly research and the development of exhibits), and preservation and improvement activities relating to the sites and structures relating to the War of 1812.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Maryland War of 1812 Bicentennial Commission as may be related to the expenditures of amounts paid under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. GUTIERREZ) and the gentlewoman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GUTIERREZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2894, the Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act, and applaud my colleague, Mr. RUPPERSBERGER, for bringing this bill to the floor.

The Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act instructs the Secretary of the Treasury to mint and issue $1 silver coins in commemoration of the bicentennial of the writing of ''The Star-Spangled Banner'' and the War of 1812. The issuing of this coin will begin during the 2012 calendar year.

''The Star-Spangled Banner'' was taken from the poem titled ''In Defense of Fort McHenry'' written in 1814 by Francis Scott Key, a 35-year-old amateur poet and distant cousin of F. Scott Fitzgerald. Key wrote the poem after seeing the bombardment of Fort McHenry at Baltimore, Maryland by the Royal ships in the Chesapeake Bay during the War of 1812.

The American victory and the sight of the large American flag graciously above the fort came to be known as the Star-Spangled Banner Flag. The Star-Spangled Banner, throughout the course of American history, has played a significant role in the democracy and freedom of this country. It symbolizes our strength and respect for those who

have fallen to preserve the future of our nation. That is why, Mr. Speaker, commemorating the bicentennial of the Star-Spangled Banner and the War of 1812 is important. I urge all Members to support its passage.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, April 4, 2008.*

Hon. BARNEY FRANK,
*Chairman, Financial Services Committee, Washington, DC.*

DEAR CHAIRMAN FRANK: I am writing regarding H.R. 2894, the Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act.

As you know, the Committee on Ways and Means maintains jurisdiction over bills that raise revenue. H.R. 2894 contains a provision that establishes a surcharge for the sale of commemorative coins that are minted under the bill, and thus falls within the jurisdiction of the Committee on Ways and Means.

However, as part of our ongoing understanding regarding commemorative coin bills and in order to expedite this bill for Floor consideration, the Committee will forgo action. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this bill or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 2894, and would ask that a copy of our exchange of letters on this matter be included in the record.

Sincerely,

CHARLES B. RANGEL,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, DC, April 4, 2008.*

Hon. CHARLES B. RANGEL,
*Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR CHAIRMAN RANGEL: I am writing in response to your letter regarding H.R. 2894, the ''Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act,'' which was introduced in the House and referred to the Committee on Financial Services on June 28, 2007. It is my understanding that this bill will be scheduled for floor consideration shortly.

I wish to confirm our mutual understanding on this bill. As you know, section 7 of the bill establishes a surcharge for the sale of commemorative coins that are minted under the bill. I acknowledge your committee's jurisdictional interest in such surcharges as revenue matters. However, I appreciate your willingness to forego committee action on H.R. 2894 in order to allow the bill to come to the floor expeditiously. I agree that your decision to forego further action on this bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I would support your request for conferees on those provisions within your jurisdiction should this bill be the subject of a House-Senate conference.

I will include this exchange of letters in the Congressional Record when this bill is considered by the House. Thank you again for your assistance.

BARNEY FRANK,
*Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 2894, the Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act. It is a great honor to be speaking on this bill brought to the floor by the efforts of my friend and colleague from Maryland, Congressman RUPPERSBERGER. I commend the gentleman for his work on this act.

Mr. Speaker, over 200 years ago, a fateful night gave birth to what is now our national anthem, ''The Star-Spangled Banner.'' As it is widely known today, Francis Scott Key penned the piece during the War of 1812 after he witnessed the American flag flying resiliently over Fort McHenry after it sustained 25 hours of British bombardment.

However, Mr. Speaker, what is often overlooked is the original title of the poem that Key wrote. The piece was entitled, ''In Defense of Fort McHenry.'' I bring this up because I believe it reveals a larger lesson about our Nation. We are, above all things, Americans, bound to serve and protect one another. What affects one citizen, community, or State affects the entire Nation.

When Fort McHenry came under attack, the brave patriots there fought for its survival, knowing that a nation depends on their efforts. Significantly, the failure of the British navy to take Fort McHenry proved to be the end of the British naval portion of the war. The attack launched from the great navy base on Bermuda had failed, and at nearly the same time a British land attack towards Baltimore faltered as well.

I cannot imagine a more inspiring sight than what Mr. Key saw that morning as the smoke from the British rockets cleared. After witnessing the fearsome and seemingly endless barrage, he must have imagined the worse. Yet, when he set his eyes upon the land, he saw the American flag, symbolizing the resolve of a nation and preserving the freedoms and ideals in the face of any threat.

Mr. Speaker, this Nation has endured many trials during its history. From its nascent moments of independence, through the sacking of the Capitol and the White House during the War of 1812, to Pearl Harbor and the attacks of 9/11, the United States has not only survived these tests, but has emerged a stronger union because of such adversity.

No matter how overwhelming the odds, men and women have put country above all and weathered each storm. And what has always been true is what was true that fateful morning when Francis Scott Key peered through the clearing smoke: This Nation's flag stands proud, a symbol of strength and spirit.

As far as the coin is concerned, surcharges on the sale of the $1 coins will be used to support bicentennial activities, including education and outreach activities, and preservation and improvements to the sites and structures relating to the War of 1812.

This event was a proud moment in the Nation's history, Mr. Speaker, and H.R. 2894 recognizes that fact. I urge immediate passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GUTIERREZ. Mr. Speaker, I yield the gentleman from Maryland as much time as he may consume.

Mr. RUPPERSBERGER. I want to thank Congressman GUTIERREZ and also the gentlewoman from Illinois, Congressman BIGGERT, for your support of this bill. I would also like to thank Chairman FRANK for his support, and Congressman SNYDER of Arkansas for his tremendous help in gathering support of other Members for this bill.

Mr. Speaker, I rise today to ask my colleagues to support this legislation to create the Star-Spangled Banner commemorative coin.

From VFW and American Legion halls across the country, to Little League baseball games, to presidential inaugurations, we play the national anthem to bring Americans together and honor our Nation.

My hometown of Baltimore is proud to be the home of America's national anthem. In September 1814, Francis Scott Key was held captive aboard a British ship in the Chesapeake Bay during the attack on Baltimore by British forces. The morning after the bombardment by the British navy, he looked out his window and saw a large American flag flying proudly over Fort McHenry. He knew the American forces had successfully defended the city of Baltimore. The next day he penned his famous poem in honor of that flag.

His brother-in-law, Judge Joseph H. Nicholson, set the poem to the tune of a popular British melody. A few days later it was printed in Baltimore and quickly spread to newspapers from New Hampshire to Georgia. The song gained popularity and was often played at public events and 4th of July celebrations. However, it was many years before ''The Star-Spangled Banner'' became our national anthem.

In 1916, President Woodrow Wilson ordered that the song be played at military events and other official occasions. By the late 1920s, a consensus formed across the country that America needed a national anthem. John Philip Sousa argued in favor of ''The Star-Spangled Banner,'' and in 1931, President Hoover signed legislation adopting it as the national anthem.

Even though it has been our anthem for more than 75 years, many Americans still don't know the lyrics to this wonderful song of our national anthem. A 2005 survey revealed that only 39 percent of Americans knew all of the words to our national anthem.

The National Anthem Project has worked to educate Americans about our national anthem. Last year, they brought more than 5,000 school children to Washington to sing the anthem at the Washington Monument with the United States Marine Band.

This legislation will create a commemorative coin to honor America's

national anthem. This $1 silver coin will be minted for the 200th anniversary of the War of 1812 and will help fund the War of 1812 Bicentennial Commission. It is my hope that this collectible coin will inspire more Americans to learn the lyrics of ''The Star-Spangled Banner'' and learn more about the War of 1812 and the history of our national anthem, as well as the role Baltimore played in the history of our national anthem.

The U.S. Mint only creates two commemorative silver coins each year. And I hope that my colleagues will join me in honoring Francis Scott Key and ''The Star-Spangled Banner'' with a vote for this bill today.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise to speak in support of H.R. 2894, the Star Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act.

Let me start off by thanking the gentleman from Maryland, Mr. RUPERSBERGER for introducing this bill.

As school children we all learn about the War of 1812 as a turning point in our Nation's history that confirmed that the United States would remain a free and sovereign nation.

We also learn in school that, while being held by the British during the attack on Fort McHenry, just a few short miles from this building, Francis Scott Key was inspired after getting a glimpse at that tattered, but triumphant flag of our young Nation to compose a poem, which later became known as ''The Star Spangled Banner,'' our national anthem.

The symbol of the flag served as an inspiration to Francis Scott Key that night and has continued to inspire all Americans ever since.

Our flag was still there and is there still.

It is important that this Congress take this opportunity to recognize the historic significance of our national anthem and the battle from which it was born.

The Star Spangled Banner has inspired millions of patriotic Americans to take up the causes of our Nation in times of war and peace.

I know that many of my colleagues share the same sentiment with me when I say that every time I hear the opening notes of the Star Spangled Banner, I am personally nearly moved to tears.

That is why it is so important for us to commemorate the War of 1812 and the Star Spangled Banner by issuing a coin that will stand the test of time, much the same as the national anthem has.

I am in full support of this bill and ask that every Member of this Congress support it as well.

We can never be too patriotic.

We can never love our country too much.

And we can never do enough to commemorate the sacrifice that so many have given to protect our freedom.

This coin is one small gesture that we can offer to show our commitment to the values that are spoken about in our Nation's anthem: strength, honor, justice, patriotism, and courage.

Again, I encourage all my colleagues to support this resolution.

Mrs. BIGGERT. Mr. Speaker, I yield back the balance of my time.

Mr. GUTIERREZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. GUTIERREZ) that the House suspend the rules and pass the bill, H.R. 2894, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## BOY SCOUTS OF AMERICA CENTENNIAL COMMEMORATIVE COIN ACT

Mr. GUTIERREZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5872) to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5872

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Boy Scouts of America Centennial Commemorative Coin Act''.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) The Boy Scouts of America will celebrate its centennial on February 8, 2010.

(2) The Boy Scouts of America is the largest youth organization in the United States, with 3,000,000 youth members and 1,000,000 adult leaders in the traditional programs of Cub Scouts, Boy Scouts, and Venturing.

(3) Since 1910, more than 111,000,000 youth have participated in Scouting's traditional programs.

(4) The Boy Scouts of America was granted a Federal charter in 1916 by an Act of the 64th Congress which was signed into law by President Woodrow Wilson.

(5) In the 110th Congress, 248 members of the House of Representative and the Senate have participated in Boy Scouts of America as Scouts or adult leaders.

(6) The mission of the Boy Scouts of America is ''to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout Oath and Law''.

(7) Every day across our Nation, Scouts and their leaders pledge to live up the promise in the Scout Oath—''On my honor I will do my best, To do my duty to God and my country and to obey the Scout Law; To help other people at all times; To keep myself physically strong, mentally awake, and morally straight''—and the Scout Law, according to which a Scout is ''Trustworthy, Loyal, Helpful, Friendly, Courteous, Kind, Obedient, Cheerful, Thrifty, Brave, Clean, and Reverent''.

(8) In the past 4 years alone, Scouting youth and their leaders have volunteered more than 6,500,000 hours of service to their communities through more than 75,000 service projects, benefiting food banks, local schools, and civic organizations.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 350,000 $1 coins in commemoration of the centennial of the founding of the Boy Scouts of America, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the 100 years of the largest youth organization in United States, the Boy Scouts of America.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2010''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Chief Scout Executive of the Boy Scouts of America and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only on or after February 8, 2010, and before January 1, 2011.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the

sale of coins issued under this Act shall be paid to the National Boy Scouts of America Foundation, which funds will be made available to local councils in the form of grants for the extension of Scouting in hard to serve areas.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Boy Scouts of America Foundation as may be related to the expenditures of amounts paid under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. GUTIERREZ) and the gentlewoman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GUTIERREZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5872, the Boy Scouts of America Centennial Commemorative Coin Act.

The Boy Scouts of America Centennial Commemorative Coin Act instructs the Secretary of the Treasury to mint and issue $1 silver coins in celebration of the 100 years of the largest youth organization in the United States. The issuing of this coin will begin on or after February 8, 2010, and before January 1, 2011.

Over the last 100 years, the Boy Scouts of America have accumulated over 5 million members, which include many influential Americans like Neil Armstrong and former President Gerald Ford.

□ 1630

The bill recognizes the achievements of its members and their overwhelming dedication to public service. I urge all Members to support its passage.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, May 5, 2008.*

Hon. BARNEY FRANK,
*Chairman, Financial Services Committee, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN FRANK: I am writing regarding H.R. 5872, the Boy Scouts of America Centennial Commemorative Coin Act.

As you know, the Committee on Ways and Means maintains jurisdiction over bills that raise revenue. H.R. 5872 contains a provision that establishes a surcharge for the sale of commemorative coins that are minted under the bill, and thus falls within the jurisdiction of the Committee on Ways and Means.

However, as part of our ongoing understanding regarding commemorative coin bills and in order to expedite this bill for Floor consideration, the Committee will forgo action. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of Conferees or its jurisdictional prerogatives on this bill or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 5872, and would ask that a copy of our exchange of letters on this matter be included in the record.

Sincerely,

CHARLES B. RANGEL,
*Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, DC, May 5, 2008.*

Hon. CHARLES B. RANGEL,
*Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing in response to your letter regarding H.R. 5872, the ''Boy Scouts of America Centennial Commemorative Coin Act,'' which was introduced in the House and referred to the Committee on Financial Services on April 22, 2008. It is my understanding that this bill will be scheduled for Floor consideration shortly.

I wish to confirm our mutual understanding on this bill. As you know, section 7 of the bill establishes a surcharge for the sale of commemorative coins that are minted under the bill. I acknowledge your Committee's jurisdictional interest in such surcharges as revenue matters. However, I appreciate your willingness to forego Committee action on H.R. 5872 in order to allow the bill to come to the Floor expeditiously. I agree that your decision to forego further action on this bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I would support your request for conferees on those provisions within your jurisdiction should this bill be the subject of a House-Senate conference.

I will include this exchange of letters in the Congressional Record when this bill is considered by the House. Thank you again for your assistance.

BARNEY FRANK,
*Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I rise in strong support of H.R. 5872, the Boy Scouts of America Centennial Commemorative Coin Act, introduced by the gentleman from Texas (Mr. SESSIONS), which would authorize the minting and sale of silver dollars commemorating the founding of the Boy Scouts of America.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Texas (Mr. SESSIONS).

(Mr. SESSIONS asked and was given permission to revise and extend his remarks.)

Mr. SESSIONS. I would like to thank the gentlewoman, one of the original cosponsors of this important bill, H.R. 5872, the Boy Scouts of America Centennial Commemorative Coin Act. The gentlewoman from Illinois (Mrs. BIGGERT) is 1 of some 297 cosponsors of this very important bill.

Mr. Speaker, back in 1909, Chicago publisher W.D. Boyce was visiting London and got lost on a foggy street in London when a Scout came to his aid and guided him back to his destination. The Scout refused Boyce's tip, saying that he was simply doing his duty as a Boy Scout. So, inspired by this young man, Boyce met with Lord Baden-Powell, the founder of Scouting in England, who was the head of the Boy Scouts Association at that time. Shortly after his return, Boyce founded the Boy Scouts of America.

Mr. Speaker, we are now headed to the 100th anniversary of the Boy Scouts of America, and this simple act of kindness that was shown in London, England became the forerunner of the Boy Scouts of America today. Founded on February 8, 1910, the Boy Scouts have become an integral part of the American society and culture. The Boy Scouts of America is the largest youth organization in the United States with over 3 million youth members and 1 million adult leaders in traditional programs that include Cub Scouting, Boy Scouting, and Venturing. Since 1910 more than 111 million youth have participated in Scouting's traditional programs.

The Boy Scouts of America was granted a Federal charter in 1916 by an act of the 64th Congress signed into law by President Woodrow Wilson. Here in the 110th Congress, there are 248 Members of the House of Representatives and Senate that have participated in Boy Scouts of America as Scouts or adult leaders.

The mission of the Boy Scouts of America is to prepare young people to make ethical and moral choices over their lifetime by instilling in them the values of the Scout Oath and the Scout Law. Every day, including for myself last night at Troop 890, Circle 10 Council, Boy Scouts of America, Dallas, Texas, I joined my troop in reciting what would be the Scout Oath:

''On my honor I will do my best,
to do my duty to God and my country
and to obey the Scout Law;
to help other people at all times;
to keep myself physically strong,
mentally awake, and morally straight.''

I joined in then with the Scout Law: A scout is ''trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.'' The Scout motto, ''Be prepared''; and the Scout slogan, ''Do a good turn daily.''

In the past 4 years alone, Scouting youth and their leaders have volunteered for more than 6.5 million hours of service to their communities through more than 75,000 service projects, benefiting food banks, local

schools, charities, and many organizations that support disabled Americans.

H.R. 5872, the Boy Scouts of America Centennial Commemorative Coin Act, has vast bipartisan support with over 297 original cosponsors. We will celebrate and make this coincide with the celebration of the 100th birthday of Boy Scouting on February 8, 2010. This bill will create 350,000 $1 silver coins. At no cost to the American taxpayer, this coin raises also $3.5 million for the Boy Scouts of America Foundation for the purpose of serving Scouts in hard-to-serve areas. Boy Scouts of America will match this $3.5 million for the cause, totaling $7 million of nontaxpayer contributions to the Boy Scouts of America to help serve underserved areas.

I am confident that a commemorative coin would once again be a meaningful and well-liked gesture among Scouts young and old and would raise awareness of the importance of participating in the Scouting program for future generations. I am asking Members of this body to please join me in the recognition of the 100th anniversary of the Boy Scouts of America with this 2010 commemorative coin.

I would like to thank the following people for their support of this bill in addition to the 297 cosponsors: Bob Mazzuca, the Chief Executive Scout; James Terry, the Assistant Chief Scout Executive and Chief Financial Officer; my good friend John Green, the National Director of Programs for the Boy Scouts of America; Chris Frech, the White House Legislative Affairs Office; Marty McGuinness, the White House Legislative Affairs Office; Eagle Scout and Congressman GREG WALDEN, who serves in this body from Oregon; and Eagle Scout Jim Silliman, who works within my office.

Mr. Speaker, this opportunity for us to pass this bill today will lend not only support to the Boy Scouts of America but will help many underserved areas as they try to provide the same level of support that was provided to Mr. Boyce on that cold and foggy night in London, England.

We appreciate the time that the Speaker of the House has given for us to hear this bill, and I want to thank the gentlewoman for extending the time to me.

Mr. GUTIERREZ. Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

As Mr. SESSIONS said, after coming back to London, the Chicago publisher William Boyce founded the Boy Scouts of America, and the Scouting movement became so successfully transplanted in the United States that within a few short years, in 1916, the House of Representatives recognized that Boy Scouts of America ''tends to conserve the moral, intellectual, and physical life of the coming generation.''

Those words have remained true generation after generation. And today Boy Scouts of America strives through its Scout outreach program to provide an opportunity for young people to join Scouting regardless of their circumstances, neighborhood, or ethnic background. Boy Scouts of America partners with other charitable organizations such as the Habitat For Humanity, the American Red Cross, and the Salvation Army to help countless citizens across our country as part of the ''Good Turn for America.'' And Boy Scouts reaches beyond its traditional programs to help schools and community organizations build character and enhance self-confidence of all of our youth through Learning for Life.

Mr. Speaker, I urge all Members to join in recognizing the Boy Scouts of America's 100-year anniversary with a commemorative coin in 2010.

Mr. ETHERIDGE. Mr. Speaker, I rise today in strong support of H.R. 5872, the Boy Scouts of America Centennial Commemorative Coin Act. This bill directs the Secretary of the Treasury to mint and issue up to 350,000 $1 silver coins in 2010 to commemorate the centennial of the founding of the Boy Scouts of America. The $10 surcharge required for each coin will be paid to the National Boy Scouts of America Foundation.

Mr. Speaker, I have long been honored to be associated with the Boy Scouts of America. I am the proud father of an Eagle Scout and I have been proud to support the Occoneechee Council of the Boy Scouts in North Carolina through volunteer work and vital fundraising. I have been honored to receive the Silver Beaver, the Scouts' highest award for volunteering, and I received a new award for my congressional support for Scouting.

Scouting has contributed to the fabric of American life for nearly 100 years. The Boy Scouts of America was incorporated on February 8, 1910, and chartered by Congress in 1916. The Boy Scouts of America's original mission was to provide an educational program for boys and young men to build character, to train in the responsibilities of participating in citizenship, and to develop personal fitness.

You know, North Carolina and America and indeed the entire world have changed a great deal since 1910. Yet the Boy Scouts endure. The Boy Scouts remain a mainstay of American life because the message of this organization is timeless: developing American citizens who are physically, mentally and emotionally fit.

The leadership and service skills learned as a Boy Scout have enabled men to become leaders in all walks of life: government, business, sports, science and the arts. These include such distinguished individuals as: President Gerald R. Ford, our first Eagle Scout to become President; Secretary of Defense Robert M. Gates; and my friend, Richard Gephardt, the former majority leader of the U.S. House of Representatives, and Supreme Court Justice Stephen Breyer. Closer to my home, former North Carolina Governor Terry Sanford was an Eagle Scout.

The Boy Scouts of America is an institution that contributes so much to the strength of our social fabric. The activities of the Boy Scouts reinforce our moral core and help sustain our American values, generation after generation.

I support the issuance of this commemorative Centennial Coin, and I urge my colleagues to join me in support of this bill.

Mrs. BIGGERT. Mr. Speaker, I yield back the balance of my time.

Mr. GUTIERREZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. GUTIERREZ) that the House suspend the rules and pass the bill, H.R. 5872, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## ALICE PAUL WOMEN'S SUFFRAGE CONGRESSIONAL GOLD MEDAL ACT

Mr. BACA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 406) to posthumously award a Congressional Gold Medal to Alice Paul in recognition of her role in the women's suffrage movement and in advancing equal rights for women, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 406

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Alice Paul Women's Suffrage Congressional Gold Medal Act''.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Alice Paul was born on January, 11, 1885, in Moorestown New Jersey, and died on July 9, 1977.

(2) Alice Paul dedicated her life to securing suffrage and equal rights for all women and, as founder of the National Woman's Party, she was instrumental in the passage of the 19th Amendment to the United States Constitution.

(3) Alice Paul and the National Woman's Party were the first group ever to picket the White House.

(4) While President Woodrow Wilson trumpeted America's values of democracy abroad during World War I, Alice Paul was dedicated to reminding the President that not all Americans enjoyed democracy at home.

(5) Alice Paul used nonviolent civil disobedience to bring national attention to the women's suffrage movement, such as the 3-week hunger strike she undertook when she was sentenced to jail in October, 1917, for her demonstrations.

(6) Alice Paul's courage inspired thousands of women to join the women's suffrage movement.

(7) Instead of patiently waiting for States to grant women suffrage, Alice Paul mobilized an entire generation of women to pressure the United States Congress and the President to give all women in America the right to vote.

(8) Alice Paul did not stop her fight after the 19th Amendment was ratified; she drafted the Equal Rights Amendment to the United States Constitution in 1923 and fought tirelessly for its passage until her death 54 years later.

(9) Alice Paul lobbied Congress to include gender in civil rights bills and was successful in including sex discrimination in Title VII of the Civil Rights Act of 1964.

(10) Alice Paul sought equal rights for women all over the world, not just Americans and, as a means of pursuing this goal, founded the World Party for Equal Rights for Women in the 1930's.

(11) Alice Paul was instrumental in the placement of a passage on gender equality in the preamble of the United Nations Charter.

(12) Few people have played a greater role in shaping the history of the United States than Alice Paul.

(13) Alice Paul is an example to all Americans of what one person can do to make a difference for millions of people.

**SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design in commemoration of Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

(b) PRESENTATION AND DISPLAY.—The medal referred to in subsection (a) shall be presented jointly to representatives of the Alice Paul Institute and the Sewall-Belmont House, to be shared equally and displayed as appropriate.

(c) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

**SEC. 4. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 5. STATUS OF MEDALS.**

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

**SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BACA) and the gentlewoman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BACA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation and to insert extraneous materials thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BACA. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to thank Chairman FRANK; Ranking Member SPENCER BACHUS, the minority member; and I'd also like to thank Representative JUDY BIGGERT, who is also a cosponsor of the legislation and who is managing this on the floor this morning. I also want to take time to thank all of my colleagues in the House of Representatives for their support.

This is bipartisan legislation that has 406 cosponsors out of the 435 Members. The title of the bill is H.R. 406, and there are 406 cosponsors.

I also want to thank my staff for their hard work and dedication to the passage of this legislation.

I rise today in strong support of H.R. 406, the Alice Paul Women's Suffrage Congressional Gold Medal Act, a bill to honor Alice Paul, a woman who dedicated her life to equality. This legislation is supported by the National Council of Women's Organizations, the Alice Paul Institute, the Sewall-Belmont House and Museum, the League of Women Voters, MANA, the 4–E-R-A, and the National Organization of Women.

This legislation awards Alice Paul and the movement she spearheaded the Congressional Gold Medal, to recognize her role in the women's suffrage movement and in advancing equal rights, and I state equal rights, for women.

Many people do not know about Alice Paul, but today they will. It is my hope that this legislation will ratify that fact.

Because of Alice Paul and the work of other suffragists, we have the 19th amendment to the United States Constitution that guarantees that women have the right to vote. Women have the right to be Members of Congress, State officials, and to participate in local policies and the ability to run for public office. That's why here in Congress, we currently have 87 women in Congress. Because of Alice Paul, Speaker PELOSI can be the Democratic leader right here in the 110th Congress. Because of Alice Paul, Senator CLINTON can run for the highest office in the Nation and maybe be the President of the United States of America.

Alice Paul was a remarkable person who made America more democratic by fighting for equal rights and creating opportunities for women. She advocated for women in our country as well as in the Americas, within the confines of the United Nations. Alice Paul helped draft the equal rights amendment in 1923. In 1923. Alice Paul lobbied to ensure that sex discrimination was included in title VII of the Civil Rights Act of 1964.

I want to stress the blood, sweat, and tears that went hand in hand with the women's suffrage movement. Alice Paul truly gave of herself. She motivated, she empowered women to fight, to have courage, and to challenge the status quo.

Alice Paul's leadership was unyielding, tenacious, and never self-serving. She suffered imprisonment, solitary confinement, and force feeding when officials tried sabotage her hunger strike. She dedicated her life for women's rights. A true American. A true champion. An American worthy of our gratitude and never-ending respect.

Her work must be honored and preserved by congressional acknowledgment. The Congressional Gold Medal is only a small token in comparison to the legacy that Alice Paul gave us all. Alice Paul's contribution to America cannot be understated. For this reason I urge all Members to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Today I rise in support of H.R. 406, the Alice Paul Women's Suffrage Congressional Gold Medal Act. This legislation will recognize Alice Paul's role in the women's suffrage movement with the award of the Congressional Gold Medal, Congress's highest civilian honor.

It's a great honor to be speaking on this bill authored by my friend and colleague from California, Congressman BACA. I commend the gentleman for his work on this act.

Mr. Speaker, this bill celebrates the 72-year struggle towards women's suffrage and the woman who devoted her life to that movement, Alice Paul.

□ 1645

To many, Alice Paul symbolizes the very spirit of determination and resilience of the suffrage movement.

She was born in 1885 to Quaker parents. Alice Paul's childhood was somewhat of an anomaly for the time, because she was raised with the belief of gender equality. In this way, her childhood reflected the vision of the larger society she would work to forge until her death.

A graduate of Swarthmore College, a recipient of a Ph.D. from the University of Pennsylvania, and a believer in working towards the betterment of society, Alice Paul became an ardent proponent of women's suffrage in 1907 while in London.

Upon her return to the United States in 1910, Ms. Paul brought the determination of the English movement to bear on the American campaign. She

joined the National American Women's Suffrage Association and was quickly charged with heading the drive for a Federal suffrage amendment.

Recognizing that boldness was needed to accomplish her task, Alice Paul organized a parade comprised of woman to coincide with the inauguration of President Woodrow Wilson. The participating women were attacked with both insults and physical violence. However, the news made headlines and suffrage became a popular topic throughout the Nation.

Because of differences on tactics, Alice Paul left Women Suffrage Association and formed the National Woman's Party. Paul and her newly formed party were more aggressively than ever, picketing a war-time President and staging hunger strikes. Such methods were met with vehement opposition from authorities who arrested Paul and members of her group, subjecting them to horrific prison conditions and even attempted to have Paul declared insane. Yet nothing deterred her. Paul continued the march towards enfranchisement.

The suffragist's imprisonment and abuse caused a public outcry so strong that President Wilson reversed his position on a suffrage amendment, supporting it as a necessary ''war-time'' measure. It passed the House and Senate in 1919, and was ratified by the necessary three-fourths of States in 1920. In August of 1920 American women gained the right to vote.

However, Alice Paul's advocacy did not end with that triumph. In 1923, Alice Paul began her work on the Equal Rights Amendment, the ERA. The amendment was introduced in every session of Congress from 1923 until its passage in 1972. To date, the amendment has never been become part of the U.S. Constitution. It has been ratified by 35 of the necessary 38 States needed to ratify the Constitution. Alice Paul fought for its passage each time. And we continue to fight for it to become an amendment to the U.S. Constitution in honor of Alice Paul.

Today, two prominent institutions work to memorialize Paul's life and the progress of the women's movement: The Alice Paul Institute and the Sewall-Belmont House and Museum in Washington. This Congressional Gold Medal will be displayed in an alternating fashion at these two establishments, further honoring Ms. Paul and her legacy.

This historic movement and this historic woman gave this Nation so much. H.R. 406 acknowledges this fact, commemorating Alice Paul. I urge its immediate passage.

I reserve the balance of my time.

Mr. BACA. Mr. Speaker, I would like to yield such time as she might consume to the gentlewoman from California, my good friend, GRACE NAPOLITANO.

Mrs. NAPOLITANO. I thank my good friend and colleague, JOE BACA, from California for authoring this important legislation and thank JUDY BIGGERT for supporting H.R. 406, the Alice Paul Congressional Gold Medal Act that would honor a true pioneer, one of the original suffragettes, as the progress of women's rights and equality continues to be such a strong need in our country.

In the early 20th century, she followed Susan B. Anthony and Elizabeth Cady Stanton. She recognized the disenfranchisement of women from political and public sectors and made it her passion to reconcile these injustices.

Alice Stokes Paul was a Quaker from Mount Laurel, New Jersey. She went to Swarthmore College and got her B.A. in 1905, which was unheard of in that time period. As was said before, she went to the New York School of Philanthropy, the University of Pennsylvania where she got her M.A. in Sociology, the University of Birmingham, the London School of Economics in 1907, and then the University of Pennsylvania where she got a Ph.D. in political science. Her dissertation at the time was the legal position of women in Pennsylvania.

Then in 1927, she received an LL.M. followed by a doctor of civil law degree in 1928 from the American University's Washington College of Law. As was mentioned, she joined the National American Women Suffrage Association in 1912, had done remarkable work with Lucy Burns, formed the Congressional Union, as was also mentioned. She actually laid the groundwork for the continuing of women to be able to have parity and equal rights.

She employed nonviolent civil disobedience campaigns, the hunger strike for which she was put into a prison psychiatric ward and force fed. She made it her passion to be able to continue fighting for the rights of women.

She energized a movement that produced a formal voice for women in politics through the voting rights. My female colleagues here in Washington and in Congress would not be standing before you today had it not been for those sacrifices made by Alice Paul and the suffragists. Her tireless efforts help provide women with the legal right to vote. That movement also fueled the social and cultural progress that has allowed me and others like me to participate at an elevated level of political progress.

She deserves a Congressional Medal of Honor, Mr. Speaker, because her actions have not only given women a voice in our country but provided inspiration for all disenfranchised women's groups to break that proverbial glass ceiling.

I want to thank my House colleagues, JOE BACA and JUDY BIGGERT, that moved this bill forward. I urge the Senate to follow the House lead and support this legislation.

Mrs. BIGGERT. Mr. Speaker, at this time, I would like to yield such time as she may consume to the gentlewoman from Minnesota who is also a member of the Financial Services Committee, Mrs. BACHMANN.

Mrs. BACHMANN. Mr. Speaker, I thank Mr. BACA of California for sponsoring this legislation that is very important. Thank you for being so persistent in seeking 406 cosponsors of your legislation. And I also thank Mrs. BIGGERT, as well, for her timely remarks.

Mr. Speaker, I rise with regard to H.R. 406 honoring the early suffragist Alice Paul who worked hard to provide better treatment for American women in our legal and in our political system.

As the congressional chairman of the National American Woman Suffrage Association in Washington, D.C., Alice Paul performed a critical role in persuading Congress to pass the 19th amendment which guaranteed American women the right to vote. She later stated that her work in passing this amendment was ''the greatest thing I have I ever did.''

Alice Paul is rightly venerated by American feminists. But few recall her work to also expose the effects of legalized abortion as ''the ultimate exploitation of women.''

In fact, toward the end of her great career, Alice Paul grew frustrated with America's women's rights movement as it drifted away from its original mission of advocating for a better life for American women and in favor of legislation for abortion. Alice Paul was highly critical of this shift, and she harbored grave reservations about abortion on demand.

Mr. Speaker, I encourage you and my colleagues to join me in honoring this courageous women's career in its entirety. May this deliberative body take to heart her views on women's rights and its incompatibility with legalized abortion.

I thank both Mr. BACA and Mrs. BIGGERT for sponsoring this legislation.

Mr. BACA. Does the gentlewoman from Illinois have additional speakers?

Mrs. BIGGERT. I have no additional speakers and would yield back the balance of my time.

Mr. BACA. First of all, I would like to thank the gentlewoman Mrs. BACHMANN and, of course, Congresswoman GRACE NAPOLITANO for their compassionate speech about H.R. 406. A true hero, a woman who will leave a legacy not only for our country, for our Nation, but for our children and others, and especially I say for my daughters, I have two daughters, to know that they now have the right to vote.

And I was inspired by a movie that I saw entitled Iron Jawed Angels. That is how I happened to find out about Alice Paul and her history and contributions. I think too much time has passed and she should have been recognized some time ago. Were it not for she had done, many of us would not be in office right now because it also impacted many of us minorities. Not only did women gain the right to vote, but many minorities now have the ability

to vote under the 19th amendment because of women's suffrage. So I congratulate her.

I ask my colleagues on both sides of the aisle to vote ''aye'' for H.R. 406.

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong to support of H.R. 406, which awards a Congressional Gold Medal to Alice Paul.

Every American woman is indebted to Alice Paul for her lifelong dedication to women's suffrage. I am living proof of the advancements she has made for women. I am personally gratified that Congress is recognizing Alice Paul's contribution to American history. Alice Paul was the first cousin to my husband's grandmother. In fact, I named my oldest daughter after her.

Alice Paul passionately devoted her entire life to the advancement of women's rights. She was an extraordinary leader, ingenious fundraiser, and a brilliant politician. Wholeheartedly focused on suffrage, she lived in a cold room so she would not be tempted to sit up late and read novels.

Alice Paul truly revolutionized the suffragist movement. In 1913, Alice Paul and fellow suffragist Lucy Burns organized an impressive suffrage parade on the day before Woodrow Wilson's inauguration. In 1916, Paul founded the National Women's Party with the guiding philosophy of ''holding the party in power responsible.'' Paul adamantly believed that women should never expect to be given the vote, but that they must take it through their own accord.

Under Paul's leadership, the National Women's Party was the first political organization in the United States to peacefully picket the White House. This political strategy is still widely used today. Originally the White House protests were tolerated by President Wilson. But as the women persistently picketed during the war, suffragist protestors were attacked by angry mobs and frequently arrested.

The suffragist prisoners demanded to be treated as political prisoners and staged hunger strikes. Their demands were met with brutality as suffragists, including older women, were beaten, pushed and thrown into cold, unsanitary, rat-infested cells. Women were even force-fed against their will. Thanks to the countless sacrifices made by suffrage activists, American women were finally granted the right to vote in 1920.

Yet, Alice Paul firmly believed that true fulfillment of women's rights was only advanced, not completely satisfied, by the achievement of suffrage. Paul drafted the Equal Rights Amendment for the United States Constitution in 1923. She devoted the rest of her life to this goal of constitutional protection for women's equality and today, feminists continue this pursuit. I have proudly continued her legacy by introducing the ERA every Congress since 1997.

Alice Paul's lifelong efforts achieved great strides not only for American women, but for all women of the world. She founded the World Woman's Party in 1938. Paul and the World Woman's Party successfully fought for the inclusion of gender equality into the United Nations Charter. Their efforts also led to the establishment of the United Nations Commission on the Status of Women. This Commission continues to be a principal global policymaking body for women's advancement.

Let us finally grant Alice Paul her rightful place in history. She is most deserving of the Congressional Medal of Honor. Her legacy opened the door for women's full participation in society and for that, we are forever grateful.

Mr. BACA. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BACA) that the House suspend the rules and pass the bill, H.R. 406, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## CREDIT AND DEBIT CARD RECEIPT CLARIFICATION ACT OF 2007

Mr. MAHONEY of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4008) to amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4008

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Credit and Debit Card Receipt Clarification Act of 2007''.

**SEC. 2. FINDINGS; PURPOSE.**

(a) FINDINGS.—The Congress finds as follows:

(1) The Fair and Accurate Credit Transactions Act (commonly referred to as ''FACTA'' ) was enacted into law in 2003 and 1 of the purposes of such Act is to prevent criminals from obtaining access to consumers' private financial and credit information in order to reduce identity theft and credit card fraud.

(2) As part of that law, the Congress enacted a requirement, through an amendment to the Fair Credit Reporting Act, that no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the card holder at the point of the sale or transaction.

(3) Many merchants understood that this requirement would be satisfied by truncating the account number down to the last 5 digits based in part on the language of the provision as well as the publicity in the aftermath of the passage of the law.

(4) Almost immediately after the deadline for compliance passed, hundreds of lawsuits were filed alleging that the failure to remove the expiration date was a willful violation of the Fair Credit Reporting Act even where the account number was properly truncated.

(5) None of these lawsuits contained an allegation of harm to any consumer's identity.

(6) Experts in the field agree that proper truncation of the card number, by itself as required by the amendment made by the Fair and Accurate Credit Transactions Act, regardless of the inclusion of the expiration date, prevents a potential fraudster from perpetrating identity theft or credit card fraud.

(7) Despite repeatedly being denied class certification, the continued appealing and filing of these lawsuits represents a significant burden on the hundreds of companies that have been sued and could well raise prices to consumers without corresponding consumer protection benefit.

(b) PURPOSE.—The purpose of this Act is to ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers.

**SEC. 3. CLARIFICATION OF WILLFUL NONCOMPLIANCE FOR ACTIONS BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.**

(a) IN GENERAL.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following new subsection:

''(d) CLARIFICATION OF WILLFUL NONCOMPLIANCE.—For the purposes of this section, any person who printed an expiration date on any receipt provided to a consumer cardholder at a point of sale or transaction between December 4, 2004, and the date of the enactment of this subsection but otherwise complied with the requirements of section 605(g) for such receipt shall not be in willful noncompliance with section 605(g) by reason of printing such expiration date on the receipt.''.

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply to any action, other than an action which has become final, that is brought for a violation of 605(g) of the Fair Credit Reporting Act to which such amendment applies without regard to whether such action is brought before or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule the gentleman from Florida (Mr. MAHONEY) and the gentlewoman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

GENERAL LEAVE

Mr. MAHONEY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MAHONEY of Florida. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4008, the Credit and Debit Card Receipt Clarification Act.

I would like to begin by thanking Members of both sides of the aisle for helping bring this commonsense legislation to the floor, including Ranking Member BACHUS, Representative MELISSA BEAN, MICHELE BACHMANN and

many others. I would also like to thank my chairman, Representative BARNEY FRANK, and his staff for their efforts in bringing this important piece of legislation to the floor.

Mr. Speaker, in 2003 Congress passed the Fair and Accurate Credit Transactions Act, the FACT Act, to ensure that Americans could continue to rely on the efficiencies of the 21st century financial and credit system while being protected from identity theft, credit card fraud and other financial crimes.

This important law has given consumers new and important rights. For example, the FACT Act provides consumers with the right to obtain one free copy of their credit record from each of the three major credit bureaus every 12 months. In addition, this legislation created the Financial Literacy and Education Commission to better help Americans understand and manage their finances.

One provision in the FACT Act was intended to enhance consumer protection from credit card fraud by limiting the amount of information printed on receipts from a credit card or debit card transaction. Today, when consumers go into a convenience store, restaurant or retailer, they will notice that their credit card receipt does not contain the full credit card number. This small but important change to their credit card receipts helps prevent criminals from obtaining the receipt and using it to make fraudulent purchases.

□ 1700

Unfortunately, this provision, as drafted, has caused a great deal of confusion and is now at the center of hundreds of lawsuits all over the country. Specifically, it required that ''no person that accepts credit cards or debit cards for the transaction of business shall print more than the last five digits of the card number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.'' The overwhelming majority of businesses believed that they were in compliance with this provision of the law by truncating the card number and printing the expiration date of the credit card.

Furthermore, the publicity surrounding the passage of the act, whether it was press accounts of the President's statement at the signing of the subsequent Federal Trade Commission press release describing the new requirements of the bill, pointed entirely to the truncation of the credit card number.

I would like point out that experts agree that the truncation of the card number, by itself, regardless of whether or not the expiration date was redacted from the receipt, removes the single most crucial piece of information that a criminal would need to perpetrate account fraud.

I can understand the shock that many of these businesses must have felt when, thinking that they had taken all the steps necessary to protect their customers and comply with the law, they were later served notice of a pending class action lawsuit against them accusing them of violating the FACT Act because they had failed to redact the expiration date in addition to truncating the credit card number.

When you consider that the law levies between a $100 and $1,000 fine for each credit card receipt, the amount of liability threatens to bankrupt healthy, successful businesses.

While most, if not all these companies, have quickly resolved the issue by instructing their point-of-sale vendors to also redact the expiration date, they continue to face these lawsuits. Not only have these lawsuits been filed against large corporations, they have been filed against small businesses.

Last month I was contacted by Arthur Cullen. Mr. Cullen and his wife, Nieves, are the owners of Havana Harry's Restaurant in south Florida. Mr. Cullen states in his letter that he and his wife began his business with a dream and some savings.

Today, Havana Harry's employs 75 people and serves more than 4,000 people on a weekly basis. Like so many others, Mr. Cullen believed he was complying with the FACT Act by truncating the credit card number. Unfortunately, a lawsuit was filed against his business because he also failed to delete the expiration date. As a result of the lawsuit, Mr. Cullen is concerned about the future of Havana Harry's.

My legislation is designed to provide relief to people like Mr. Cullen, proud entrepreneurs and small business owners, who did everything they thought was necessary to comply with the FACT Act.

H.R. 4008 makes a technical correction to the FACT Act to free hundreds of businesses from potential exposure to statutory damages that could total hundreds of millions or even billions of dollars solely because of their past harmless failure to redact the expiration date from an otherwise FACT Act complaint receipt.

Let me be clear, not one of these suits has alleged any harm to the consumer. In the event that a consumer does experience identity theft, account fraud, or some other harm, my legislation preserves a consumer's right to sue.

Finally, H.R. 4008 does not eliminate a business' obligation to properly truncate the account number or to redact the expiration date from its receipts, and it does not protect merchants who printed more than the account number permitted by the FACT Act.

With a struggling economy in Florida and across America, the last thing businesses and consumers need are lawsuits that needlessly drive up costs. These abusive lawsuits will likely result in higher prices to the public and could even result in bankruptcies and more job losses.

I urge all of my colleagues to join me in voting ''yes'' for this commonsense fix to a problem that has the potential to put out of business thousands of successful businesses which will ultimately hurt, rather than protect, consumers.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Florida (Mr. MAHONEY) for his work on this bill. I am pleased to be a cosponsor of the bill and urge my colleagues to support it.

In short, the bill makes a technical correction to a law Congress passed in 2003, The Fair and Accurate Credit Transactions Act, or FACTA. FACTA currently requires businesses to truncate a customer's credit or debit card number to five numbers. Many businesses complying with this requirement truncated the credit card number, but kept the expiration date of a customer's credit card on the receipt.

Very shortly after the FACTA was enacted, hundreds of lawsuits were filed against businesses because the plaintiffs claimed that expiration date should count as part of a customer's credit card number.

One such business is Home Run Inn, a family-owned business that makes ''Chicago's Finest Pizza,'' located in Woodridge, Illinois. It was not the intention of Congress to include the expiration date as part of the credit card number and caused this confusion. To my knowledge, no consumer has been harmed or been a victim of identity theft or fraud as a result of his or her credit card expiration date being printed on a receipt.

Therefore, this bill clears up the matter. If this bill becomes law, attorneys will no longer be tempted to file lawsuits against businesses, but consumers harmed by a business who was violating FACTA can still file a lawsuit.

Again, I urge my colleagues to support the bill and reserve the balance of my time.

Mr. MAHONEY of Florida. Mr. Speaker, I yield to my distinguished colleague and friend from Illinois (Ms. BEAN) as much time as she may consume.

Ms. BEAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 4008, The Credit and Debit Card Receipt Clarification Act, which makes a technical correction to The Fair and Accurate Transactions Act, FACTA.

As a strong advocate for increased security of individuals' personal financial data, I support the provisions to fight ID theft included in FACTA, which was signed into law in 2003. The bill sought to protect the privacy of the information and the consumers' credit report, assist victims of identity theft and prevent fraudulent credit transactions.

In particular, section 133 of FACTA, which went into effect in December of 2006, prohibits merchants from printing more than the last five digits of a consumer's credit and debit card numbers

or the expiration date on printed receipts. Some interpreted this to mean don't print either/or, others said print neither.

While I support the general intent of this section, it is noted by many identity theft experts that individuals who commit fraud by stealing consumers' credit and debit card numbers cannot do so without having the entire correct account number.

Section 113 eliminates one avenue for these criminals to steal account numbers by prohibiting the printing of full account numbers on paper receipts. Due to the vagueness of section 113 and lack of guidance from the FTC, the agency responsible for enacting the section, many businesses only truncated a consumer's credit or debit card number, and now hundreds of businesses across the country are facing lawsuits for failing to redact the expiration date from an otherwise FACTA compliant receipt.

In my home State of Illinois, over 20 businesses, large and small, are facing millions of dollars of unnecessary lawsuits that could put them out of business.

Since the lawsuits have been filed, most businesses have updated their cash registers to ensure they are in full compliance with either interpretation of FACTA. Unfortunately, they still face pending lawsuits that will exacerbate the economic pressures these businesses are already facing in today's market.

I met a local restaurateur who was so adamant about fighting these predatory class action lawsuits that he is also paying the legal fees for a small coffee shop owner who could not possibly afford the legal bills.

To ensure that our small businesses are not unjustly targeted, I was proud to cosponsor this bill and join my colleague from Florida, TIM MAHONEY, in introducing H.R. 4008. This bill provides a technical correction to make businesses compliant with section 113 of FACTA if they had properly truncated a consumer's credit or debit card number but failed to redact the expiration date up to the point of enactment of this bill.

It does not protect businesses who failed to truncate a customer's account number. While H.R. 4008 preserves a consumer's right to sue in the event of actual harm or account fraud, it is important to note that of the over 500 lawsuits already filed, none have made any allegation of consumer harm.

This bill is a commonsense solution to a significant problem many of our local businesses are facing, particularly in these challenging economic conditions. I urge my colleagues to support H.R. 4008.

Mrs. BIGGERT. Mr. Speaker, I yield such time as she may consume to another member of the Financial Services Committee, Mrs. BACHMANN from Minnesota.

Mrs. BACHMANN. Mr. Speaker, I rise as the chief cosponsor of H.R. 4008 to support this important bill, and I want to associate myself strongly with the remarks from the gentleman from Florida (Mr. MAHONEY) and thank him for the important work that he brought to bear on this bill, also Ms. BEAN for her work on the bill and also for Mrs. BIGGERT, as well, for working with me to help protect American business and consumers from frivolous lawsuits.

Millions of consumers across America will experience a little extra pain in the pocketbook unless Congress passes The Credit and Debit Card Receipt Clarification Act and businesses across America, both large and small, from Main Street to Wall Street will be hurt as well.

They are watching Congress this week to see if we care; and, second, to see if we are paying attention to them. They are watching us to see if we can work across the aisle, which I am happy to say we are working across the aisle, to pass a simple but critical update to The Fair and Accurate Credit Transaction Act, otherwise known as FACTA. In an effort to prevent theft and fraud, Congress required through FACTA that businesses print, as was stated earlier in our testimony, only the last five digits or less of a person's credit card or just the expiration date on transaction receipts.

Many companies made sure that they printed no more than five digits of the receipt, but they also printed the expiration date. Many simply just weren't clear on the new requirement.

Unfortunately, trial lawyers in America saw opportunity knocking, and they found a way to take advantage of this situation. Lawyers' eyes lit up with dollar signs, and they began filing suits against companies across the United States. Any company that kept printing the expiration date, along with a few of the cards' digits, instead of just one or the other, became a potential litigation target.

However, identity theft prevention experts say that five digits of a credit card, plus an expiration date printed out on a receipt, are not enough to steal someone's account. All of these people, however, are being sued on a technicality that poses no threat to people's credit or their debit accounts.

Take, for example, in my district, the Rockler Companies, Inc., one of the many family-owned businesses in my district. Rockler sells and distributes products to the woodworking community, and, unfortunately, they became a fallen victim to just such a frivolous lawsuit. Unfortunately, they have already had to pay out over $30,000 in legal expenses for this wonderful small business in Minnesota, not because they did anything wrong, but because Congress, because this body, accidently left open a legal loophole. That's $30,000, something that can mean life or death for one of America's small businesses.

This bill on the floor today is very important. It may not seem like much, but H.R. 4008, The Credit and Debit Card Receipt Clarification Act, closes that loophole. It liberates American businesses, usually small businesses, from frivolous lawsuits.

They still have to update their receipts. They still have to comply with FACTA, but they can't be dragged through years of lawsuits because they printed a credit card expiration date.

If they print enough information to give thieves a toe-hold, they still can be sued. If they print over five digits of the card number, they still can be sued. If they do anything that puts customers' accounts in real jeopardy, they can be sued. They cannot be sued for this remote congressional technicality. That's only right.

With H.R. 4008, consumers will be protected on both ends of the transaction. After all, who will pay the real price for this? Businesses across America will have to offset the cost of these lawsuits by raising their prices, if they can, and American consumers will be left holding the short end of the stick, or the business will suffer.

At a time when Americans are already squeezed by the rising cost of living, by outrageous prices of gasoline at the pump, this is the last thing we need right now in our American economy. I am so happy that we are working together hand-in-hand across the aisle to show the American people that Congress is actually listening to them today, listening to their concerns and acting wisely on their behalf.

The Credit and Debit Card Receipt Clarification Act is pretty simple, it's no nonsense, it's fair, it's necessary, and it's bipartisan. That is good for businesses, it's good for consumers, and I thank and urge all of my colleagues in the House and ask them to join both Congressman MAHONEY and myself in supporting this wonderful bill.

Mr. MAHONEY of Florida. Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield back the balance of my time.

Mr. MAHONEY of Florida. Mr. Speaker, I would like to thank Chairman FRANK, Ranking Member BACHUS and my cosponsors, Congresswomen BACHMANN, BIGGERT and BEAN, who helped me with this legislation, and 48 others who stood up for small businesses who are, right now, concerned about their viability as they are faced with the specter of a frivolous lawsuit.

□ 1715

I would just say that time is running out. I also would like to thank Senator SCHUMER for dropping the corresponding legislation in the Senate and I ask my Senate colleagues to act quickly because small businesses need relief immediately.

Mr. BACHUS. Mr. Speaker, I support H.R. 4008 and commend the primary sponsors of the legislation, the gentleman from Florida, Mr. MAHONEY, and the gentlewoman from Minnesota, Mrs. BACHMANN, for bringing it forward.

In 2003, Congress passed the Fair and Accurate Credit Transactions Act, FACT Act, to

improve our nationwide credit reporting system and provide consumers with important new protections against identity theft, including the right to a free annual credit report. As the principal House author of the FACT Act, I can personally attest that when Congress passed that landmark legislation, it was never our intent to create opportunities for frivolous litigation. Because H.R. 4008 helps to clarify and underscore that intent, I am proud to cosponsor it.

One of the many consumer protections we included in the FACT Act was a provision that prohibited merchants from printing "more than the last 5 digits of the card number or the expiration date upon any receipt provided to the card holder at the point of the sale or transaction." Unfortunately, enterprising trial lawyers have sought to exploit this provision by bringing hundreds of lawsuits against businesses, large and small, for failing to redact the expiration date from credit and debit card receipts. The suits allege that this failure constitutes a willful violation of the FACT Act, even though many retailers believed they complied with the law by truncating account numbers on receipts. And a "willful violation" can put a company out of business: penalties for such violations under the Fair Credit Reporting Act are statutory damages of not less than $100 and not more than $1000 dollars per consumer, as well as punitive damages and attorney's fees.

Thankfully, we can fix this problem, and it is fair and reasonable for us to do so. Truncating the account number is sufficient in almost every instance to protect consumers against identity theft and credit card fraud, and there are no reported cases of consumers suffering harm from the appearance of account expiration dates on their receipts. Common sense alone should tell us that there are no grounds for these punitive suits, but common sense is sometimes not enough. Representatives BACHMANN and MAHONEY have offered a simple, technical fix that will address this problem where common sense has failed. Mr. Speaker, I strongly support their legislative solution and urge its adoption.

Mr. MAHONEY of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SERRANO). The question is on the motion offered by the gentleman from Florida (Mr. MAHONEY) that the House suspend the rules and pass the bill, H.R. 4008.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MAHONEY of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## EXPRESSING CONDOLENCES AND SYMPATHY TO PEOPLE OF BURMA FOR LOSS OF LIFE AND DESTRUCTION CAUSED BY CYCLONE NARGIS

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1181) expressing condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1181

Whereas on the night of May 2, 2008, through the morning of May 3, 2008, Cyclone Nargis, the first tropical cyclone to make landfall on Burma since Cyclone Mala in 2006, struck the coast of Burma;

Whereas Cyclone Nargis caused more destruction in Burma than the Indian Ocean tsunami of December 2004;

Whereas Cyclone Nargis has caused the death of tens of thousands of people, displaced hundreds of thousands, and is anticipated to affect over a million people;

Whereas Cyclone Nargis has caused significant damage to Burma's rice crop, likely worsening the global food crisis and affecting the supply of rice in Burma and worldwide;

Whereas on May 7, 2008, news media reported that the death toll, as accounted by a United States envoy, could reach over 100,000;

Whereas tens of thousands of people remain missing in the storm's wake;

Whereas Cyclone Nargis has devastated major parts of Burma, including extensive damage to Burma's largest city of Rangoon and throughout the Irrawaddy Delta region, Bago (Pegu) division, Karen State, and Mon State;

Whereas initially 5 regions in Burma were declared disaster zones;

Whereas 2 Irrawaddy Division townships, Kyait Lat and Latputda, were almost completely destroyed, leaving several hundred thousand people without homes or shelters;

Whereas fallen trees, demolished homes, downed power and telephone lines, and debris have blocked roads and blanketed the affected area;

Whereas hundreds of thousands of people are in dire need of emergency shelter and clean drinking water;

Whereas Burma's military regime did little to warn the people and is not providing adequate humanitarian assistance to address basic needs and prevent further loss of life;

Whereas despite the devastation, the military regime has announced plans to go ahead with its May 10, 2008, referendum on a sham constitution, delaying voting only in portions of the affected Irrawaddy region and Rangoon;

Whereas the military regime has failed to provide life-protecting and life-sustaining services to its people;

Whereas more than 30 disaster assessment teams from 18 different Nations and the United Nations have been denied permission to enter Burma by the junta;

Whereas the United States, through its Government, the Burma-American community, and its people as a whole, has already extended significant support to the people of Burma during this difficult time, including a $250,000 emergency contribution authorized by the United States Embassy in Burma to be released immediately, and $3,000,000 in additional aid relief announced on May 6, 2008, by the White House; and

Whereas a United States Agency for International Development disaster response team is positioned in neighboring Thailand: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) extends its condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis;

(2) vows its full support of and solidarity with the people of Burma;

(3) calls on Americans to provide immediate emergency assistance to cyclone victims in Burma through humanitarian agencies;

(4) expresses confidence that the people of Burma will succeed in overcoming the hardships incurred because of this tragedy;

(5) calls for the Burmese military junta to consider the well-being of its people and accept broad international assistance; and

(6) demands that the referendum to entrench military rule be called off, allowing all resources to be focused on disaster relief to ease the pain and suffering of the Burmese people.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa (Mr. FALEOMAVAEGA) and gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from American Samoa.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in strong support of this resolution, and I yield myself such time as I may consume.

First of all, Mr. Speaker, I would like to thank the distinguished gentlemen of this committee of the House, the Foreign Affairs Committee, Mr. BERMAN, and our senior ranking member, Ms. ROS-LEHTINEN, for their leadership and support of this legislation. I would also like to thank our distinguished colleague, a member of the House Foreign Affairs Committee, the gentleman from New York (Mr. CROWLEY) for being the lead sponsor of this proposed resolution.

Mr. Speaker, the long-suffering people of Myanmar are once again gripped by tragedy. On May 2, Cyclone Nargis slammed into Myanmar, ripping through the southern part of the country and leaving a path of enormous devastation.

The United Nations reports that so far the cyclone has killed between 60,000 to 100,000 people and affected well over one million. Hundreds of thousands of people are without food, fuel, clean water and shelter. As high as the death toll is now, the greater fear, Mr. Speaker, is that disease, like cholera, will spread in the affected areas, taking many more lives. Aid agencies

claim that one million people could die if measures are not taken to stem the effect of diseases.

Such a large-scale tragedy demands a large-scale relief effort, and the international community is ready to assist the people of Myanmar. But sadly, it is Myanmar's own government that is slowing the delivery of aid.

As we stand here today, Myanmar's military rulers are refusing to allow the necessary number of foreign assistance teams and programs and aid groups to enter the country. Only yesterday was the first U.S. airplane allowed to deliver aid. This relatively small shipment is a fraction of the overall effort that the United States is ready to provide. We have airplanes, we have helicopters, ships, ready to deliver goods and relief teams, but Myanmar's military rulers have refused even as their people continue to suffer.

Mr. Speaker, the United States is not being singled out. Dozens of governments and nongovernmental aid groups from other countries are likewise prohibited from traveling to Myanmar. As a result, only a small fraction of the affected areas are receiving any assistance at all. And with each hour of delay, the people of Myanmar continue to suffer.

In the midst of this tragedy, the Myanmar military rulers decided to make an even greater display of their total disregard for the health and safety of the people of Myanmar. Last week, sadly, the Myanmar Government went ahead and conducted a scheduled referendum on a proposed constitution in the nonaffected areas. Then they plan to hold another referendum in the affected areas some time later this month. Mr. Speaker, I submit the constitution and the referendum are a sham, and the process is another effort on the part of the military rulers to continue their control over the people and their government.

But even if the constitution was legitimate, the decision to go forward with the referendum as millions of the people of Myanmar are fighting for survival totally defies any sense of logic and is a denial of human dignity.

Mr. Speaker, the spectacle of the referendum was chilling, even by the low standards the military leaders have set. State-run television showed clips of generals at the ballot box as corpses continued to pile high along the banks and the river beds in the south region of the country.

With this resolution, the House of Representatives calls upon Myanmar to put the needs of its people first and call off the constitutional referendum and accept international assistance.

H. Res. 1181 also expresses our deepest condolences and sympathy to the people of Myanmar for the great loss of life and their continued suffering, and offers our full support and solidarity.

Mr. Speaker, this resolution also expresses confidence in the people of Myanmar that they will overcome this terrible tragedy. May I say, Mr. Speaker, I would like to make this special appeal, a special appeal to the president of the People's Republic of China to bear the strongest possible influence upon the military leaders of Myanmar to stop this insanity and let these governments and aid agencies come forth and to give assistance to the people of Myanmar.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand also in support of House Resolution 1181 authored by my good friend from New York (Mr. CROWLEY), and which I am proud to cosponsor, that addresses the tragic loss of life in Burma due to the devastation of the recent cyclone.

The suffering caused there is heart wrenching, with the number of estimated dead nearing 100,000, and with at least 1 million people left homeless.

The secretive and corrupt military junta in Burma has made a determination of exact figures on the loss of life and of those in desperate need of assistance nearly impossible to estimate. Millions are reportedly at immediate risk of disease or hunger.

Many have publicly criticized the Burmese regime in the cyclone's aftermath, pointing out that Burma's state-run radio failed to issue a timely warning to its citizens in the storm's path, despite information it received from neighboring countries.

United Nations agencies temporarily suspended relief flights last week after reports that the junta had impounded two plane loads of supplies and that the Burmese troops were pilfering the assistance already on the ground. What kind of regime steals the food literally out of the mouths of starving babies? The answer is the one in Burma today.

The first U.S. relief aircraft, loaded with 28,000 pounds of supplies, including water, mosquito netting and blankets, was allowed to land in Burma on Monday. This is in keeping with the wide-hearted generosity of the American people to those who are in need anywhere in the globe. It is in keeping with Ronald Reagan's famous dictum that ''a hungry child knows no politics.''

Disaster relief experts from the United States and other countries are ready to head to Burma to prevent what could become an even greater calamity affecting millions of people. The Burmese regime, however, is still refusing to issue them visas.

The insistence by the junta that it will distribute all supplies itself raises grave concerns, given the regime's past track record of thievery and indifference to the welfare of its own people. It is time for Burma to let the relief workers and journalists inside. The generals must put aside, for once, their own selfish ambitions and must start thinking of the good of their own people. The prospects for this, however, remain grim. This is, after all, the same regime that callously shot monks and other peaceful demonstrators on the streets of Burma's cities last fall during the Saffron Revolution. The generals, unfortunately, are likely to turn a deaf ear to the cries of their own people.

This Congress, however, should not and must not be deaf to the cries of the suffering men, women and children in Burma. It is essential that the House speak today in a strong and unified voice and pass Mr. CROWLEY's important resolution. The American people would expect no less, and the Burmese people will be forever grateful.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I ask unanimous consent that the gentleman from Illinois (Mr. MANZULLO) be allowed to manage the remainder of our time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, it is with pleasure that I yield 6 minutes to the distinguished gentleman from New York (Mr. CROWLEY), the chief sponsor of this proposed legislation.

Mr. CROWLEY. Mr. Speaker, I want to thank my good friend, Representative FALEOMAVAEGA, for not only yielding me the time but for working with us on this important resolution. I also want to thank his staff who has worked with my staff in an expeditious way to get this resolution to the floor as soon as possible. I want to thank the chairman of the House Foreign Affairs Committee as well, Congressman BERMAN, and Ranking Member ROS-LEHTINEN, and the other members of the committee for their quick movement on this resolution.

Mr. Speaker, I rise today to express my deepest condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis.

Burma was hit by the cyclone more than 10 days ago, and its impact has been nothing but devastating. To date, it has claimed an estimated 100,000 lives. It has robbed more than a million people of their homes, and tens of thousands of people are still missing and unaccounted for, while millions are struggling to survive without access to clean water, food, or shelter.

Shamefully, the military junta of Burma, showing no regard for the lives of their fellow Burmese, did little to warn the people in the cyclone's path that the cyclone was coming, and they have done little to help their own people in the aftermath of this natural disaster.

Instead of providing much-needed emergency humanitarian aid to its people, the junta pushed forward with an election to pass their sham constitutional referendum. At a time when all resources should have been focused on saving the lives of survivors struggling

to find food and clean water to stave off starvation, disease and death, the regime deployed personnel to campaign in favor of the referendum, man polling stations, and fill state television with images of dancing girls urging people to vote in favor of their referendum.

Aside from failing to use their own resources to help the people, the junta would not even accept outside resources to aid the devastated communities in the aftermath of the cyclone.

Immediately after the cyclone hit, the United States embassy in Burma authorized $250,000 in emergency assistance, as it does whenever such an emergency takes place around the world.

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President Bush also swiftly followed by pledging an additional $3 million, the assistance of the U.S. Navy assets in the region, a disaster assessment team and any additional aid that would be needed. And the United States Agency For International Development Administrator Henrietta H. Fore announced an additional $13 million in aid to Burma, bringing the total value of U.S. Government assistance to more than $16.3 million.

Yet most of those funds and offers have gone unaccepted. To date the junta has allowed only one plane load of U.S. emergency aid to enter the country, and it is unclear if that reached the survivors at all.

While estimates from the international humanitarian organization in Burma reveal that more than 1.5 million people are on the brink of death unless aid reaches them immediately, the Burmese military regime continues to deny international aid workers entry in the country.

Yesterday, at a meeting in Rangoon, a Burmese cabinet minister told relief agencies that foreign aid workers are prohibited from entering the disaster zone, and must present all of their supplies to the military for distribution.

The regime does not have the capacity or skills to handle this major humanitarian crisis, yet it continues to deny visas to disaster assessment teams that can help. It has allowed only the smallest trickle of international aid into the country. At this point, in the post-tsunami relief operation, the hard hit region of Aceh was receiving one aid flight every single hour. In Burma, the regime is only allowing three or four flights a day, after not allowing any in the first five days after the cyclone hit.

Efforts to ensure aid reaches the survivors of the cyclone are continually hampered by military officials who will not allow aid workers, foreigners, diplomats or journalists, or even ordinary Burmese who want to help their fellow citizens access to the hardest hit areas. Many of the affected communities have received no aid from the regime or any aid agency.

To make matters worse, it is being reported that the junta is also selling aid supplies to local markets. Mr. Speaker, that is simply unacceptable.

Just yesterday, China experienced its own natural disaster, a massive earthquake measuring 7.8 on the Richter scale, and our hearts go out to the victims of that disaster. But China, unlike the junta in Burma, immediately acted to help the victims and the citizens of its country.

Countries that have the capacity to react to a natural disaster and provide aid to its citizens have a moral obligation to do so. China's actions in the United Nations Security Council to prevent efforts to invoke the responsibility to protect in Burma is appalling.

It is truly saddening, but not surprising, to see the Burmese junta turn a blind eye to its own people. The United States, along with the international community, understands the gravity of the situation, even if the military regime in Burma does not. Even in the wake of one of the most deadly natural disasters they refused to provide the proper humanitarian assistance needed to ensure the health and survival of their own citizens.

Mr. Speaker, the bill before us is about making clear to the people of Burma that we stand with them, and that we will continue push the junta to accept our assistance to help those in need.

Mr. MANZULLO. I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding and I rise in very strong support of H. Res. 1181 regarding the heartbreaking situation in Burma. I thank my friend from New York for sponsoring it following the devastating cyclone that hit that country earlier this month.

The United Nations, Mr. Speaker, has suggested that the death toll from the cyclone is likely to number more than 100,000. Many people already living in poverty saw their homes swept away, and some two million survivors are now struggling to stay alive, threatened by disease and starvation. The water is contaminated, medicine is hard to come by, and much of the land in the affected regions is still under water. Bodies of victims are floating in the waters with those of drowned animals. Our thoughts and prayers go out to the victims of this terrible tragedy and to their families.

This body has addressed the plight of the Burmese people many times in the past as they have struggled for the most basic freedoms under the repressive military junta that rules them. It is tragic that a people that has already suffered so much now faces this devastation.

The resolution we are considering expresses support for the Burmese people and confidence that they will overcome the hardships they now face. It calls on Americans to give generously to humanitarian agencies that are addressing the crisis. I am pleased that the U.S. government has pledged more than $16 million in relief for Burmese cyclone victims. And if our relief is allowed to get there, I'm sure that number will skyrocket.

But the military regime has thwarted the efforts of relief agencies and personnel to enter the country and distribute aid. There have been reports that the government has also appropriated supplies, withholding them from the victims.

Our aim here, Mr. Speaker, is not to score points on the Burmese question. My feelings and those of my colleagues are well known. At this point, we all just want to see humanitarian aid get to the people as soon as possible to save lives and mitigate suffering.

Right now paranoia reigns among about Burma's military strongmen, and innocent people, as a result, are dying. But I plead with Burma's leaders to facilitate relief efforts, allow the international community to help. I ask them to heed H. Res. 1181's call to put the welfare of the Burmese people first.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from California (Mr. BERMAN), chairman of our House Foreign Affairs Committee.

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, I rise in support of this resolution.

One cannot help but be deeply saddened by the harrowing reports and images coming from Burma in the wake of Cyclone Nargis.

Television clips show bloated, dead bodies floating among scared and starving Burmese, desperate for assistance. Entire villages are destroyed, some with survivors in the single digits, others with no survivors at all. Because of the escalating cost of fuel, it is too expensive to burn the corpses of the dead.

As horrific as the current destruction is in Burma, there is the eerie fear that we are on the precipice of the situation becoming much worse. The threat from disease could raise the number of dead from the tens of thousands to over one million.

It seems unthinkable that in this modern age, 1 million people can be left to die as the result of a single natural disaster. Yet, that is what we face if we are not able to provide aid and assistance to the people of Burma.

And, if it is horrific to hear reports of the humanitarian crisis in Burma, it is nauseating to hear reports of the lack of humanity on the part of the Burmese regime.

The Burmese junta seems committed to preventing the full-scale relief operations necessary to respond to the current crisis. Instead of welcoming the outpouring of assistance from around the world, Burma's generals are letting aid groups and governments languish as they wait for visas.

The United States stands ready with so many other countries, international organizations and NGOs, to do what it can to prevent further loss of life and to help Burma begin to recover from this devastating storm. But the military leaders continue to rebuff our help and our pleading on behalf of the Burmese people.

Most governments would be strained by the demands of responding to such devastation,

and Burma lacks a fraction of the capacity necessary to deal with this crisis. To make matters worse, there are reports of corruption inside Burma eroding the efforts that are allowed to take place. We hear that supplies that were provided by donors are being confiscated by the government and resold back to aid groups. This is sinister profiteering at its most extreme.

That the junta went ahead with its scheduled constitutional referendum on Saturday in the unaffected areas is sickening and surreal.

The constitution under question is intended to legitimize the current ruling government. But despite its many, many crimes, this government has done few things that have so de-legitimized its claim to govern over the Burmese people.

It is time for the Burmese government to do what Secretary General Ban Ki Moon said it should do, and "put its people's lives first."

We hope and pray that, for the sake of the people of Burma, the junta does so as soon as possible.

Mr. FALEOMAVAEGA. I reserve the balance of my time.

Mr. MANZULLO. Mr. Speaker, it's not without irony that just this past week Congressman Joe Crowley and I, representing the House, and Senators Feinstein and McConnell, representing the Senate, the other body, were at the White House for the signing of the bill that awarded the Congressional gold medal to Aung San Suu Kyi, and it was a very interesting moment there. The First Lady joined the President at the bill signing, which was quite unusual. And the First Lady, the day before, had actually conducted a press conference, which is quite unusual for her, talking about the untold suffering that is occurring in this country.

And while we discussed the issue, it was apparent the intensity with which the President and the First Lady, and indeed the entire Nation is viewing the impact of the fact that the junta in Burma simply would not allow humanitarian aid to flow into that country. And so at the time, when we honor somebody with the Congressional Gold Medal, somebody who represents a bulwark of freedom and democracy, the country gets hit with this horrible tragedy.

Our purpose here today is simply to encourage the junta to follow the humanitarian strain which is written in the soul of every individual, and that is to set aside the politics, to allow the American aid that is available and, indeed, world aid that is available, in order to alleviate the suffering.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 1181, expressing condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis. I would like to thank my colleague Representative CROWLEY of New York for introducing this important legislation that reaffirms the commitment of the United States to the people of Burma who have been victims of the natural disaster caused by Cyclone Nargis.

Mr. Speaker, Burma has been a region of serious political unrest and economic changes. As my colleagues may know, in the evening of May 2, 2008, Cyclone Nargis struck the coast of Burma leaving in its wake catastrophic destruction. It was reported that an estimated 1.5 million people were severely affected by the cyclone. With winds reaching 190 kilometers per hour and an 11.5 foot storm surge that swept across affected areas, the world could only fathom the damage that was inflicted in horror. It has been projected that the damage caused by the cyclone significantly exceeds the government's ability to provide full relief for the victims and it has indicated its acceptance of assistance from the international community.

It is my sincere hope that the military-backed caretaker government currently in power in Burma will promptly lift the state of emergency in the remaining regions and move expeditiously to allow foreigners to administer vital care and aid to the people. At this dire state, our deepest concerns in supplying aid to all the people affected should be directed to Burma's willingness to openly allow international efforts.

In this key period of political change, one that will hopefully allow for a more free and fair democratic Burma, the nation has been hit by an unthinkable natural disaster that has affected the country. The country's infrastructure is in shambles and it is estimated that there are 22,000 dead with 41,000 missing. In the midst of the rice shortages that South Asia is experiencing, the most productive agricultural lands and crops of Burma have also been destroyed. It will take an estimated two years for Burma to be able to produce food for its people and will need continued assistance and support throughout that time.

As a member of the international community, it is in the best interest to provide humanitarian services and aid to those in need in Burma. The United States must offer its full support and continued aid in restoring the country's self-sufficient agricultural sector to reduce the strain on food shortages in the entire region. It is imperative to cultivate harmonious relations between the United States government and that of Burma to help facilitate the mission of international peace.

I believe that it is crucial that the United States government express its heartfelt sympathy and support to the people of Burma in the wake of this terrible disaster. I urge my colleagues to join me in supporting this legislation and to further their efforts to ensuring the complete restoration of the well-being of Burma.

Mr. MANZULLO. I have no further speakers. I yield back the balance of my time.

Mr. FALEOMAVAEGA. I also yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and agree to the resolution, H. Res. 1181.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## SECURITY ASSISTANCE AND ARMS EXPORT CONTROL REFORM ACT OF 2008

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5916) to reform the administration of the Arms Export Control Act, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5916

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Security Assistance and Arms Export Control Reform Act of 2008".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF ARMS EXPORT CONTROL PROCEDURES

Subtitle A—Defense Trade Controls Performance Improvement Act of 2008

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Strategic review and assessment of the United States export controls system.
Sec. 104. Performance goals for processing of applications for licenses to export items on USML.
Sec. 105. Requirement to ensure adequate staff and resources for DDTC of the Department of State.
Sec. 106. Audit by Inspector General of the Department of State.
Sec. 107. Increased flexibility for use of defense trade controls registration fees.
Sec. 108. Review of ITAR and USML.
Sec. 109. Special licensing authorization for certain exports to NATO member states, Australia, Japan, New Zealand, Israel, and South Korea.
Sec. 110. Availability of information on the status of license applications under chapter 3 of the Arms Export Control Act.
Sec. 111. Sense of Congress.
Sec. 112. Definitions.
Sec. 113. Authorization of appropriations.

Subtitle B—Miscellaneous Provisions

Sec. 121. Report on self-financing options for export licensing functions of DDTC of the Department of State.
Sec. 122. Expediting congressional defense export review period for South Korea and Israel.
Sec. 123. Availability to Congress of Presidential directives regarding United States arms export policies, practices, and regulations.
Sec. 124. Increase in congressional notification thresholds and expediting congressional review for South Korea and Israel.
Sec. 125. Diplomatic efforts to strengthen national and international arms export controls.
Sec. 126. Reporting requirement for unlicensed exports.

Sec. 127. Report on value of major defense equipment and defense articles exported under section 38 of the Arms Export Control Act.
Sec. 128. Report on satellite export controls.
Sec. 129. Definition.

TITLE II—SECURITY ASSISTANCE AND RELATED SUPPORT FOR ISRAEL

Sec. 201. Assessment of Israel's qualitative military edge over military threats.
Sec. 202. Report on United States' commitments to the security of Israel.
Sec. 203. War Reserves Stockpile.
Sec. 204. Implementation of Memorandum of Understanding with Israel.
Sec. 205. Definitions.

TITLE III—WAIVER OF CERTAIN SANCTIONS TO FACILITATE DENUCLEARIZATION ACTIVITIES IN NORTH KOREA

Sec. 301. Waiver authority and exceptions.
Sec. 302. Certification regarding waiver of certain sanctions.
Sec. 303. Congressional notification and report.
Sec. 304. Termination of waiver authority.
Sec. 305. Expiration of waiver authority.
Sec. 306. Continuation of restrictions against the Government of North Korea.
Sec. 307. Report on verification measures relating to North Korea's nuclear programs.
Sec. 308. Definitions.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Authority to build the capacity of foreign military forces.
Sec. 402. Maintenance of European Union arms embargo against China.
Sec. 403. Reimbursement of salaries of members of the reserve components in support of security cooperation missions.
Sec. 404. Foreign Military Sales Stockpile Fund.
Sec. 405. Sense of Congress.

TITLE V—AUTHORITY TO TRANSFER NAVAL VESSELS

Sec. 501. Authority to transfer naval vessels to certain foreign recipients.

## TITLE I—REFORM OF ARMS EXPORT CONTROL PROCEDURES

### Subtitle A—Defense Trade Controls Performance Improvement Act of 2008

**SEC. 101. SHORT TITLE.**

This subtitle may be cited as the ''Defense Trade Controls Performance Improvement Act of 2008''.

**SEC. 102. FINDINGS.**

Congress finds the following:

(1) In a time of international terrorist threats and a dynamic global economic and security environment, United States policy with regard to export controls is in urgent need of a comprehensive review in order to ensure such controls are protecting the national security and foreign policy interests of the United States.

(2) In January 2007, the Government Accountability Office designated the effective identification and protection of critical technologies as a government-wide, high-risk area, warranting a strategic reexamination of existing programs, including programs relating to arms export controls.

(3) Federal Government agencies must review licenses for export of munitions in a thorough and timely manner to ensure that the United States is able to assist United States allies and to prevent nuclear and conventional weapons from getting into the hands of enemies of the United States.

(4) Both staffing and funding that relate to the Department of State's arms export control responsibilities have not kept pace with the increased workload relating to such responsibilities, especially over the last five years.

(5) Outsourcing and off-shoring of defense production and the policy of many United States trading partners to require offsets for major sales of defense and aerospace articles present a potential threat to United States national security and economic well-being and serve to weaken the defense industrial base.

(6) Export control policies can have a negative impact on United States employment, nonproliferation goals, and the health of the defense industrial base, particularly when facilitating the overseas transfer of technology or production and other forms of outsourcing, such as offsets (direct and indirect), co-production, subcontracts, overseas investment and joint ventures in defense and commercial industries. Federal Government agencies must develop new and effective procedures for ensuring that export control systems address these problems and the threat they pose to national security.

(7) In the report to Congress required by the Conference Report (Report 109–272) accompanying the bill, H.R. 2862 (the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006; Public Law 109–108), the Department of State concluded that—

(A) defense trade licensing has become much more complex in recent years as a consequence of the increasing globalization of the defense industry;

(B) the most important challenge to the Department of State's licensing process has been the sheer growth in volume of applicants for licenses and agreements, without the corresponding increase in licensing officers;

(C) fiscal year 2005 marked the third straight year of roughly 8 percent annual increases in licensing volume;

(D) although an 8 percent increase in workload equates to a requirement for three additional licensing officers per year, there has been no increase in licensing officers during this period; and

(E) the increase in licensing volume without a corresponding increase in trained and experienced personnel has resulted in delays and increased processing times.

(8) In 2006, the Department of State processed over three times as many licensing applications as the Department of Commerce with about a fifth of the staff of the Department of Commerce.

(9) On July 27, 2007, in testimony delivered to the Subcommittee on Terrorism, Nonproliferation and Trade of the House Committee on Foreign Affairs to examine the effectiveness of the United States export control regime, the Government Accountability Office found that—

(A) the United States Government needs to conduct assessments to determine its overall effectiveness in the area of arms export control; and

(B) the processing times of the Department of State doubled over the period from 2002 to 2006.

(10) Although the current number of unprocessed applications for licenses to export defense items is less than 3,800 applications, due to the extraordinary efforts of the personnel and management of the Department of State's Directorate of Defense Trade Controls, at the end of 2006, the Department of State's backlog of such unprocessed applications reached its highest level at more than 10,000 unprocessed applications. This resulted in major management and personnel challenges for the Directorate of Defense Trade Controls.

(11)(A) Allowing a continuation of the status quo in resources for defense trade licensing could ultimately harm the United States defense industrial base. The 2007 Institute for Defense Analysis report entitled ''Export Controls and the U.S. Defense Industrial Base'' found that the large backlog and long processing times by the Department of State for applications for licenses to export defense items led to an impairment of United States firms in some sectors to conduct global business relative to foreign competitors.

(B) Additionally, the report found that United States commercial firms have been reluctant to engage in research and development activities for the Department of Defense because this raises the future prospects that the products based on this research and development, even if intrinsically commercial, will be saddled by Department of State munitions controls due to the link to that research.

(12) According to the Department of State's fiscal year 2008 budget justification to Congress, commercial exports licensed or approved under the Arms Export Control Act exceeded $30,000,000,000, with nearly eighty percent of these items exported to United States NATO allies and other major non-NATO allies.

(13) A Government Accountability Office report of October 9, 2001 (GAO–02–120), documented ambiguous export control jurisdiction affecting 25 percent of the items that the United States Government agreed to control as part of its commitments to the Missile Technology Control Regime. The United States Government has not clearly determined which department has jurisdiction over these items, which increases the risk that these items will fall into the wrong hands. During both the 108th and 109th Congresses, the House of Representatives passed legislation mandating that the Administration clarify this issue.

**SEC. 103. STRATEGIC REVIEW AND ASSESSMENT OF THE UNITED STATES EXPORT CONTROLS SYSTEM.**

(a) REVIEW AND ASSESSMENT.—

(1) IN GENERAL.—Not later than March 31, 2009, the President shall conduct a comprehensive and systematic review and assessment of the United States arms export controls system in the context of the national security interests and strategic foreign policy objectives of the United States.

(2) ELEMENTS.—The review and assessment required under paragraph (1) shall—

(A) determine the overall effectiveness of the United States arms export controls system in order to, where appropriate, strengthen controls, improve efficiency, and reduce unnecessary redundancies across Federal Government agencies, through administrative actions, including regulations, and to formulate legislative proposals for new authorities that are needed;

(B) develop processes to ensure better coordination of arms export control activities of the Department of State with activities of other departments and agencies of the United States that are responsible for enforcing United States arms export control laws;

(C) ensure that weapons-related nuclear technology, other technology related to weapons of mass destruction, and all items on the Missile Technology Control Regime Annex are subject to stringent control by the United States Government;

(D) determine the overall effect of arms export controls on counterterrorism, law enforcement, and infrastructure protection missions of the Department of Homeland Security;

(E) contain a detailed summary of known attempts by unauthorized end-users (such as

international arms traffickers, foreign intelligence agencies, and foreign terrorist organizations) to acquire items on the United States Munitions List and related technical data, including—

(i) data on—

(I) commodities sought, such as M–4 rifles, night vision devices, F–14 spare parts;

(II) parties involved, such as the intended end-users, brokers, consignees, and shippers;

(III) attempted acquisition of technology and technical data critical to manufacture items on the United States Munitions List;

(IV) destination countries and transit countries;

(V) modes of transport;

(VI) trafficking methods, such as use of false documentation and front companies registered under flags of convenience;

(VII) whether the attempted illicit transfer was successful; and

(VIII) any administrative or criminal enforcement actions taken by the United States and any other government in relation to the attempted illicit transfer;

(ii) a thorough evaluation of the Blue Lantern Program, including the adequacy of current staffing and funding levels;

(iii) a detailed analysis of licensing exemptions and their successful exploitation by unauthorized end-users; and

(iv) an examination of the extent to which the increased tendency toward outsourcing and off-shoring of defense production harm United States national security and weaken the defense industrial base, including direct and indirect impact on employment, and formulate policies to address these trends as well as the policy of some United States trading partners to require offsets for major sales of defense articles; and

(F) assess the extent to which export control policies and practices under the Arms Export Control Act promote the protection of basic human rights.

(b) CONGRESSIONAL BRIEFINGS.—The President shall provide periodic briefings to the appropriate congressional committees on the progress of the review and assessment conducted under subsection (a). The requirement to provide congressional briefings under this subsection shall terminate on the date on which the President transmits to the appropriate congressional committees the report required under subsection (c).

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees and the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report that contains the results of the review and assessment conducted under subsection (a). The report required by this subsection shall contain a certification that the requirement of subsection (a)(2)(C) has been met, or if the requirement has not been met, the reasons therefor. The report required by this subsection shall be submitted in unclassified form, but may contain a classified annex, if necessary.

**SEC. 104. PERFORMANCE GOALS FOR PROCESSING OF APPLICATIONS FOR LICENSES TO EXPORT ITEMS ON USML.**

(a) IN GENERAL.—The Secretary of State, acting through the head of the Directorate of Defense Trade Controls of the Department of State, shall establish the following goals:

(1) The processing time for review of each application for a license to export items on the United States Munitions List (other than applications for approval of agreements under part 124 of title 22, Code of Federal Regulations (or successor regulations)) shall be not more than 60 days from the date of receipt of the application.

(2) The processing time for review of each application for a commodity jurisdiction determination shall be not more than 60 days from the date of receipt of the application.

(3) The total number of applications described in paragraph (1) that are unprocessed shall be not more than 7 percent of the total number of such applications submitted in the preceding calendar year.

(b) ADDITIONAL REVIEW.—(1) If an application described in paragraph (1) or (2) of subsection (a) is not processed within the time period described in the respective paragraph of such subsection, then the Managing Director of the Directorate of Defense Trade Controls or the Deputy Assistant Secretary for Defense Trade and Regional Security of the Department of State, as appropriate, shall review the status of the application to determine if further action is required to process the application.

(2) If an application described in paragraph (1) or (2) of subsection (a) is not processed within 90 days from the date of receipt of the application, then the Assistant Secretary for Political-Military Affairs of the Department of State shall—

(A) review the status of the application to determine if further action is required to process the application; and

(B) submit to the appropriate congressional committees a notification of the review conducted under subparagraph (A), including a description of the application, the reason for delay in processing the application, and a proposal for further action to process the application.

(3) For each calendar year, the Managing Director of the Directorate of Defense Trade Controls shall review not less than 2 percent of the total number of applications described in paragraphs (1) and (2) of subsection (a) to ensure that the processing of such applications, including decisions to approve, deny, or return without action, is consistent with both policy and regulatory requirements of the Department of State.

(c) UNITED STATES ALLIES.—Congress states that—

(1) it shall be the policy of the Directorate of Defense Trade Controls of the Department of State to ensure that, to the maximum extent practicable, the processing time for review of applications described in subsection (a)(1) to export items that are not subject to the requirements of section 36(b) or (c) of the Arms Export Control Act (22 U.S.C. 2776(b) or (c)) to United States allies in direct support of combat operations or peacekeeping or humanitarian operations with United States Armed Forces is not more than 7 days from the date of receipt of the application; and

(2) it shall be the goal, as appropriate, of the Directorate of Defense Trade Controls to ensure that, to the maximum extent practicable, the processing time for review of applications described in subsection (a)(1) to export items that are not subject to the requirements of section 36(b) or (c) of the Arms Export Control Act to government security agencies of United States NATO allies, Australia, New Zealand, Japan, South Korea, Israel, and, as appropriate, other major non-NATO allies for any purpose other than the purpose described in paragraph (1) is not more than 30 days from the date of receipt of the application.

(d) REPORT.—Not later than December 31, 2010, and December 31, 2011, the Secretary of State shall submit to the appropriate congressional committees a report that contains a detailed description of—

(1)(A) the average processing time for and number of applications described in subsection (a)(1) to—

(i) United States NATO allies, Australia, New Zealand, Japan, South Korea, and Israel;

(ii) other major non-NATO allies; and

(iii) all other countries; and

(B) to the extent practicable, the average processing time for and number of applications described in subsection (b)(1) by item category;

(2) the average processing time for and number of applications described in subsection (a)(2);

(3) the average processing time for and number of applications for agreements described in part 124 of title 22, Code of Federal Regulations (relating to the International Traffic in Arms Regulations);

(4) any management decisions of the Directorate of Defense Trade Controls of the Department of State that have been made in response to data contained in paragraphs (1) through (3); and

(5) any advances in technology that will allow the time-frames described in subsection (a)(1) to be substantially reduced.

(e) CONGRESSIONAL BRIEFINGS.—If, at the end of any month beginning after the date of the enactment of this Act, the total number of applications described in subsection (a)(1) that are unprocessed is more than 7 percent of the total number of such applications submitted in the preceding calendar year, then the Secretary of State, acting through the Under Secretary for Arms Control and International Security, the Assistant Secretary for Political-Military Affairs, or the Deputy Assistant Secretary for Defense Trade and Regional Security of the Department of State, as appropriate, shall brief the appropriate congressional committees on such matters and the corrective measures that the Directorate of Defense Trade Controls will take to comply with the requirements of subsection (a).

(f) TRANSPARENCY OF COMMODITY JURISDICTION DETERMINATIONS.—

(1) DECLARATION OF POLICY.—Congress declares that the complete confidentiality surrounding several hundred commodity jurisdiction determinations made each year by the Department of State pursuant to the International Traffic in Arms Regulations is not necessary to protect legitimate proprietary interests of persons or their prices and customers, is not in the best security and foreign policy interests of the United States, is inconsistent with the need to ensure a level playing field for United States exporters, and detracts from United States efforts to promote greater transparency and responsibility by other countries in their export control systems.

(2) PUBLICATION ON INTERNET WEBSITE.—The Secretary of State shall—

(A) upon making a commodity jurisdiction determination referred to in paragraph (1) publish on the Internet website of the Department of State not later than 30 days after the date of the determination—

(i) the name of the manufacturer of the item;

(ii) a brief general description of the item;

(iii) the model or part number of the item; and

(iv) the United States Munitions List designation under which the item has been designated, except that—

(I) the name of the person or business organization that sought the commodity jurisdiction determination shall not be published if the person or business organization is not the manufacturer of the item; and

(II) the names of the customers, the price of the item, and any proprietary information relating to the item indicated by the person or business organization that sought the commodity jurisdiction determination shall not be published; and

(B) maintain on the Internet website of the Department of State an archive, that is accessible to the general public and other departments and agencies of the United States,

of the information published under subparagraph (A).

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the President or Congress from undertaking a thorough review of the national security and foreign policy implications of a proposed export of items on the United States Munitions List.

**SEC. 105. REQUIREMENT TO ENSURE ADEQUATE STAFF AND RESOURCES FOR DDTC OF THE DEPARTMENT OF STATE.**

(a) REQUIREMENT.—The Secretary of State shall ensure that the Directorate of Defense Trade Controls of the Department of State has the necessary staff and resources to carry out this subtitle and the amendments made by this subtitle.

(b) MINIMUM NUMBER OF LICENSING OFFICERS.—For fiscal year 2010 and each subsequent fiscal year, the Secretary of State shall ensure that the Directorate of Defense Trade Controls has at least 1 licensing officer for every 1,250 applications for licenses and other authorizations to export items on the United States Munitions List by not later than the third quarter of such fiscal year, based on the number of licenses and other authorizations expected to be received during such fiscal year. The Secretary shall ensure that in meeting the requirement of this subsection, the performance of other functions of the Directorate of Defense Trade Controls is maintained and adequate staff is provided for those functions.

(c) MINIMUM NUMBER OF STAFF FOR COMMODITY JURISDICTION DETERMINATIONS.—For each of the fiscal years 2009 through 2011, the Secretary of State shall ensure that the Directorate of Defense Trade Controls has, to the extent practicable, not less than three individuals assigned to review applications for commodity jurisdiction determinations.

(d) ENFORCEMENT RESOURCES.—In accordance with section 127.4 of title 22, Code of Federal Regulations, U.S. Immigration and Customs Enforcement is authorized to investigate violations of the International Traffic in Arms Regulations on behalf of the Directorate of Defense Trade Controls of the Department of State. The Secretary of State shall ensure that the Directorate of Defense Trade Controls has adequate staffing for enforcement of the International Traffic in Arms Regulations.

**SEC. 106. AUDIT BY INSPECTOR GENERAL OF THE DEPARTMENT OF STATE.**

(a) AUDIT.—Not later than the end of each of the fiscal years 2010 and 2011, the Inspector General of the Department of State shall conduct an independent audit to determine the extent to which the Department of State is meeting the requirements of sections 104 and 105 of this Act.

(b) REPORT.—The Inspector General shall submit to the appropriate congressional committees a report that contains the result of each audit conducted under subsection (a).

**SEC. 107. INCREASED FLEXIBILITY FOR USE OF DEFENSE TRADE CONTROLS REGISTRATION FEES.**

(a) IN GENERAL.—Section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717) is amended—

(1) in the first sentence—

(A) by striking ''For'' and inserting ''(a) IN GENERAL.—For''; and

(B) by striking ''Office'' and inserting ''Directorate'';

(2) by amending the second sentence to read as follows:

''(b) AVAILABILITY OF FEES.—Fees credited to the account referred to in subsection (a) shall be available only for payment of expenses incurred for—

''(1) management,

''(2) licensing (in order to meet the requirements of section 105 of the Defense Trade Controls Performance Improvement Act of 2008 (relating to adequate staff and resources of the Directorate of Defense Trade Controls)),

''(3) compliance,

''(4) policy activities, and

''(5) facilities,

of defense trade controls functions.''; and

(3) by adding at the end the following:

''(c) ALLOCATION OF FEES.—In allocating fees for payment of expenses described in subsection (b), the Secretary of State shall accord the highest priority to payment of expenses incurred for personnel and equipment of the Directorate of Defense Trade Controls, including payment of expenses incurred to meet the requirements of section 105 of the Defense Trade Controls Performance Improvement Act of 2008.''.

(b) CONFORMING AMENDMENT.—Section 38(b)(3)(A) of the Arms Export Control Act (22 U.S.C. 2778(b)(3)(A)) is amended to read as follows:

''(3)(A) For each fiscal year, 100 percent of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

''(i) management,

''(ii) licensing (in order to meet the requirements of section 105 of the Defense Trade Controls Performance Improvement Act of 2008 (relating to adequate staff and resources of the Directorate of Defense Trade Controls)),

''(iii) compliance,

''(iv) policy activities, and

''(v) facilities,

of defense trade controls functions.''.

**SEC. 108. REVIEW OF ITAR AND USML.**

(a) IN GENERAL.—The Secretary of State, in coordination with the heads of other relevant departments and agencies of the United States Government, shall review, with the assistance of United States manufacturers and other interested parties described in section 111(2) of this Act, the International Traffic in Arms Regulations and the United States Munitions List to determine those technologies and goods that warrant different or additional controls.

(b) CONDUCT OF REVIEW.—In carrying out the review required under subsection (a), the Secretary of State shall review not less than 20 percent of the technologies and goods on the International Traffic in Arms Regulations and the United States Munitions List in each calendar year so that for the 5-year period beginning with calendar year 2009, and for each subsequent 5-year period, the International Traffic in Arms Regulations and the United States Munitions List will be reviewed in their entirety.

(c) REPORT.—The Secretary of State shall submit to the appropriate congressional committees and the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate an annual report on the results of the review carried out under this section.

**SEC. 109. SPECIAL LICENSING AUTHORIZATION FOR CERTAIN EXPORTS TO NATO MEMBER STATES, AUSTRALIA, JAPAN, NEW ZEALAND, ISRAEL, AND SOUTH KOREA.**

(a) IN GENERAL.—Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended by adding at the end the following:

''(k) SPECIAL LICENSING AUTHORIZATION FOR CERTAIN EXPORTS TO NATO MEMBER STATES, AUSTRALIA, JAPAN, NEW ZEALAND, ISRAEL, AND SOUTH KOREA.—

''(1) AUTHORIZATION.—(A) The President may provide for special licensing authorization for exports of United States-manufactured spare and replacement parts or components listed in an application for such special licensing authorization in connection with defense items previously exported to NATO member states, Australia, Japan, New Zealand, Israel, and South Korea. A special licensing authorization issued pursuant to this clause shall be effective for a period not to exceed 5 years.

''(B) An authorization may be issued under subparagraph (A) only if the applicable government of the country described in subparagraph (A), acting through the applicant for the authorization, certifies that—

''(i) the export of spare and replacement parts or components supports a defense item previously lawfully exported;

''(ii) the spare and replacement parts or components will be transferred to a defense agency of a country described in subparagraph (A) that is a previously approved end-user of the defense items and not to a distributor or a foreign consignee of such defense items;

''(iii) the spare and replacement parts or components will not to be used to materially enhance, optimize, or otherwise modify or upgrade the capability of the defense items;

''(iv) the spare and replacement parts or components relate to a defense item that is owned, operated, and in the inventory of the armed forces a country described in subparagraph (A);

''(v) the export of spare and replacement parts or components will be effected using the freight forwarder designated by the purchasing country's diplomatic mission as responsible for handling transfers under chapter 2 of this Act as required under regulations; and

''(vi) the spare and replacement parts or components to be exported under the special licensing authorization are specifically identified in the application.

''(C) An authorization may not be issued under subparagraph (A) for purposes of establishing offshore procurement arrangements or producing defense articles offshore.

''(D)(i) For purposes of this subsection, the term 'United States-manufactured spare and replacement parts or components' means spare and replacement parts or components—

''(I) with respect to which—

''(aa) United States-origin content costs constitute at least 85 percent of the total content costs;

''(bb) United States manufacturing costs constitute at least 85 percent of the total manufacturing costs; and

''(cc) foreign content, if any, is limited to content from countries eligible to receive exports of items on the United States Munitions List under the International Traffic in Arms Regulations (other than de minimis foreign content);

''(II) that were last substantially transformed in the United States; and

''(III) that are not—

''(aa) classified as significant military equipment; or

''(bb) listed on the Missile Technology Control Regime Annex.

''(ii) For purposes of clause (i)(I)(aa) and (bb), the costs of non-United States-origin content shall be determined using the final price or final cost associated with the non-United States-origin content.

''(2) INAPPLICABILITY PROVISIONS.—(A) The provisions of this subsection shall not apply with respect to re-exports or re-transfers of spare and replacement parts or components and related services of defense items described in paragraph (1).

''(B) The congressional notification requirements contained in section 36(c) of this Act shall not apply with respect to an authorization issued under paragraph (1).''.

(b) EFFECTIVE DATE.—The President shall issue regulations to implement amendments made by subsection (a) not later than 180 days after the date of the enactment of this Act.

**SEC. 110. AVAILABILITY OF INFORMATION ON THE STATUS OF LICENSE APPLICATIONS UNDER CHAPTER 3 OF THE ARMS EXPORT CONTROL ACT.**

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by inserting after section 38 the following new section:

**"SEC. 38A. AVAILABILITY OF INFORMATION ON THE STATUS OF LICENSE APPLICATIONS UNDER THIS CHAPTER.**

''(a) AVAILABILITY OF INFORMATION.—Not later than one year after the date of the enactment of the Defense Trade Controls Performance Improvement Act of 2008, the President shall make available to persons who have pending license applications under this chapter and the committees of jurisdiction the ability to access electronically current information on the status of each license application required to be submitted under this chapter.

''(b) MATTERS TO BE INCLUDED.—The information referred to in subsection (a) shall be limited to the following:

''(1) The case number of the license application.

''(2) The date on which the license application is received by the Department of State and becomes an 'open application'.

''(3) The date on which the Directorate of Defense Trade Controls makes a determination with respect to the license application or transmits it for interagency review, if required.

''(4) The date on which the interagency review process for the license application is completed, if such a review process is required.

''(5) The date on which the Department of State begins consultations with the congressional committees of jurisdiction with respect to the license application.

''(6) The date on which the license application is sent to the congressional committees of jurisdiction.''.

**SEC. 111. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1)(A) the advice provided to the Secretary of State by the Defense Trade Advisory Group (DTAG) supports the regulation of defense trade and helps ensure that United States national security and foreign policy interests continue to be protected and advanced while helping to reduce unnecessary impediments to legitimate exports in order to support the defense requirements of United States friends and allies; and

(B) therefore, the Secretary of State should share significant planned rules and policy shifts with DTAG for comment; and

(2) recognizing the constraints imposed on the Department of State by the nature of a voluntary organization such as DTAG, the Secretary of State is encouraged to ensure that members of DTAG are drawn from a representative cross-section of subject matter experts from the United States defense industry, relevant trade and labor associations, academic, and foundation personnel.

**SEC. 112. DEFINITIONS.**

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) INTERNATIONAL TRAFFIC IN ARMS REGULATIONS; ITAR.—The term ''International Traffic in Arms Regulations'' or ''ITAR'' means those regulations contained in parts 120 through 130 of title 22, Code of Federal Regulations (or successor regulations).

(3) MAJOR NON-NATO ALLY.—The term ''major non-NATO ally'' means a country that is designated in accordance with section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) as a major non-NATO ally for purposes of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(4) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term ''Missile Technology Control Regime'' or ''MTCR'' has the meaning given the term in section 11B(c)(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(c)(2)).

(5) MISSILE TECHNOLOGY CONTROL REGIME ANNEX; MTCR ANNEX.—The term ''Missile Technology Control Regime Annex'' or ''MTCR Annex'' has the meaning given the term in section 11B(c)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(c)(4)).

(6) OFFSETS.—The term ''offsets'' includes compensation practices required of purchase in either government-to-government or commercial sales of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) and the International Traffic in Arms Regulations.

(7) UNITED STATES MUNITIONS LIST; USML.—The term ''United States Munitions List'' or ''USML'' means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

**SEC. 113. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each subsequent fiscal year to carry out this subtitle and the amendments made by this subtitle.

## Subtitle B—Miscellaneous Provisions

**SEC. 121. REPORT ON SELF-FINANCING OPTIONS FOR EXPORT LICENSING FUNCTIONS OF DDTC OF THE DEPARTMENT OF STATE.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on possible mechanisms to place the export licensing functions of the Directorate of Defense Trade Controls of the Department of State on a 100 percent self-financing basis.

**SEC. 122. EXPEDITING CONGRESSIONAL DEFENSE EXPORT REVIEW PERIOD FOR SOUTH KOREA AND ISRAEL.**

The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in sections 3(d)(2)(B), 3(d)(3)(A)(i), 3(d)(5), 21(e)(2)(A), 36(b)(2), 36(c)(2)(A), 36(d)(2)(A), 62(c)(1), and 63(a)(2) by inserting ''the Republic of Korea, Israel,'' before ''or New Zealand'';

(2) in section 3(b)(2), by inserting ''the Government of the Republic of Korea,'' before ''or the Government of New Zealand''; and

(3) in section 21(h)(1)(A), by inserting ''the Republic of Korea,'' before ''or Israel''.

**SEC. 123. AVAILABILITY TO CONGRESS OF PRESIDENTIAL DIRECTIVES REGARDING UNITED STATES ARMS EXPORT POLICIES, PRACTICES, AND REGULATIONS.**

(a) IN GENERAL.—The President shall make available to the appropriate congressional committees the text of each Presidential directive regarding United States export policies, practices, and regulations relating to the implementation of the Arms Export Control Act (22 U.S.C. 2751 et seq.) not later than 15 days after the date on which the directive has been signed or authorized by the President.

(b) TRANSITION PROVISION.—Any Presidential directive described in subsection (a) that is signed or authorized by the President on or after January 1, 2008, and before the date of the enactment of this Act shall be made available to the appropriate congressional committees not later than 90 days after the date of the enactment of this Act.

(c) FORM.—To the maximum extent practicable, the Presidential directives required to be made available to the appropriate congressional committees under this section shall be made available on an unclassified basis.

**SEC. 124. INCREASE IN CONGRESSIONAL NOTIFICATION THRESHOLDS AND EXPEDITING CONGRESSIONAL REVIEW FOR SOUTH KOREA AND ISRAEL.**

(a) FOREIGN MILITARY SALES.—

(1) IN GENERAL.—Subsection (b) of section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(B) by striking ''The letter of offer shall not be issued'' and all that follows through ''enacts a joint resolution'' and inserting the following:

''(2) The letter of offer shall not be issued—

''(A) with respect to a proposed sale of any defense articles or defense services under this Act for $200,000,000 or more, any design and construction services for $300,000,000 or more, or any major defense equipment for $75,000,000 or more, to the North Atlantic Treaty Organization (NATO), any member country of NATO, Japan, Australia, the Republic of Korea, Israel, or New Zealand, if Congress, within 15 calendar days after receiving such certification, or

''(B) with respect to a proposed sale of any defense articles or services under this Act for $100,000,000 or more, any design and construction services for $200,000,000 or more, or any major defense equipment for $50,000,000 or more, to any other country or organization, if Congress, within 30 calendar days after receiving such certification,

enacts a joint resolution''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b)—

(i) in paragraph (6)(C), as redesignated, by striking ''Subject to paragraph (6), if'' and inserting ''If''; and

(ii) by striking paragraph (7), as redesignated; and

(B) in subsection (c)(4), by striking ''subsection (b)(5)'' each place it appears and inserting ''subsection (b)(6)''.

(b) COMMERCIAL SALES.—Subsection (c) of such section is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by inserting after ''for an export'' the following: ''of any major defense equipment sold under a contract in the amount of $75,000,000 or more or of defense articles or defense services sold under a contract in the amount of $200,000,000 or more, (or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)''; and

(ii) by striking ''Organization,'' and inserting ''Organization (NATO),'' and by further striking ''that Organization'' and inserting ''NATO''; and

(B) in subparagraph (C), by inserting after ''license'' the following: ''for an export of any major defense equipment sold under a contract in the amount of $50,000,000 or more or of defense articles or defense services sold under a contract in the amount of $100,000,000 or more, (or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)''; and

(2) by striking paragraph (5).

**SEC. 125. DIPLOMATIC EFFORTS TO STRENGTHEN NATIONAL AND INTERNATIONAL ARMS EXPORT CONTROLS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should redouble United States diplomatic efforts to strengthen national and international arms export controls by establishing a senior-level initiative to ensure that such arms export controls are comparable to and supportive of United States arms export controls, particularly with respect to countries of concern to the United States.

(b) REPORT.—No later than one year after the date of the enactment of this Act, and annually thereafter for four years, the President shall transmit to the appropriate committees of Congress a report on United States diplomatic efforts described in subsection (a).

**SEC. 126. REPORTING REQUIREMENT FOR UNLICENSED EXPORTS.**

Section 655(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2415(b)) is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) were exported without a license under section 38 of the Arms Export Control Act (22 U.S.C. 2778) pursuant to an exemption established under the International Traffic in Arms Regulations, other than defense articles exported in furtherance of a letter of offer and acceptance under the Foreign Military Sales program or a technical assistance or manufacturing license agreement, including the specific exemption provision in the regulation under which the export was made.''.

**SEC. 127. REPORT ON VALUE OF MAJOR DEFENSE EQUIPMENT AND DEFENSE ARTICLES EXPORTED UNDER SECTION 38 OF THE ARMS EXPORT CONTROL ACT.**

Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended by adding at the end the following:

''(1) REPORT.—

''(1) IN GENERAL.—The President shall transmit to the appropriate congressional committees a report that contains a detailed listing, by country and by international organization, of the total dollar value of major defense equipment and defense articles exported pursuant to licenses authorized under this section for the previous fiscal year.

''(2) INCLUSION IN ANNUAL BUDGET.—The report required by this subsection shall be included in the supporting information of the annual budget of the United States Government required to be submitted to Congress under section 1105 of title 31, United States Code.

''(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.''.

**SEC. 128. REPORT ON SATELLITE EXPORT CONTROLS.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees and the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report regarding—

(1) the extent to which current United States export controls on satellites and related items under the Arms Export Control Act are successfully preventing the transfer of militarily-sensitive technologies to countries of concern, especially the People's Republic of China;

(2) the extent to which comparable satellites and related items are available from foreign sources without comparable export controls; and

(3) whether the current export controls on satellites and related items should be altered and in what manner, including whether other incentives or disincentives should also be employed to discourage exports of satellites and related items to the People's Republic of China by any country.

(b) DEFINITIONS.—In this section, the terms ''satellite'' and ''related items'' mean satellites and all specifically designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment for satellites as covered under category XV of the International Traffic in Arms Regulations (as in effect on the date of the enactment of this Act).

**SEC. 129. DEFINITION.**

In this subtitle, the term ''appropriate congressional committees'' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

## TITLE II—SECURITY ASSISTANCE AND RELATED SUPPORT FOR ISRAEL

**SEC. 201. ASSESSMENT OF ISRAEL'S QUALITATIVE MILITARY EDGE OVER MILITARY THREATS.**

(a) ASSESSMENT REQUIRED.—The President shall carry out an empirical and qualitative assessment on an ongoing basis of the extent to which Israel possesses a qualitative military edge over military threats to Israel. The assessment required under this subsection shall be sufficiently robust so as to facilitate comparability of data over concurrent years.

(b) USE OF ASSESSMENT.—The President shall ensure that the assessment required under subsection (a) is used to inform the review by the United States of applications to sell defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) to countries in the Middle East.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the initial assessment required under subsection (a).

(2) QUADRENNIAL REPORT.—Not later than four years after the date on which the President transmits the initial report under paragraph (1), and every four years thereafter, the President shall transmit to the appropriate congressional committees a report on the most recent assessment required under subsection (a).

(d) CERTIFICATION.—Section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended by adding at the end the following:

''(h) CERTIFICATION REQUIREMENT RELATING ISRAEL'S QUALITATIVE MILITARY EDGE.—

''(1) IN GENERAL.—Any certification relating to a proposed sale or export of defense articles or defense services under this section to any country in the Middle East other than Israel shall include a determination that the sale or export of the defense articles or defense services will not adversely affect Israel's qualitative military edge over military threats to Israel.

''(2) DEFINITION.—In this subsection, the term 'qualitative military edge' has the meaning given the term in section 205 of the Security Assistance and Arms Export Control Reform Act of 2008.''.

**SEC. 202. REPORT ON UNITED STATES' COMMITMENTS TO THE SECURITY OF ISRAEL.**

(a) INITIAL REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains—

(1) a complete, unedited, and unredacted copy of each assurance made by United States Government officials to officials of the Government of Israel regarding Israel's security and maintenance of Israel's qualitative military edge, as well as any other assurance regarding Israel's security and maintenance of Israel's qualitative military edge provided in conjunction with exports under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the period beginning on January 1, 1975, and ending on the date of the enactment of this Act; and

(2) an analysis of the extent to which, and by what means, each such assurance has been and is continuing to be fulfilled.

(b) SUBSEQUENT REPORTS.—

(1) NEW ASSURANCES AND REVISIONS.—The President shall transmit to the appropriate congressional committees a report that contains the information required under subsection (a) with respect to—

(A) each assurance described in subsection (a) made on or after the date of the enactment of this Act, or

(B) revisions to any assurance described in subsection (a) or subparagraph (A) of this paragraph,

within 15 days of the new assurance or revision being conveyed.

(2) 5-YEAR REPORTS.—Not later than 5 years after the date of the enactment of this Act, and every 5 years thereafter, the President shall transmit to the appropriate congressional committees a report that contains the information required under subsection (a) with respect to each assurance described in subsection (a) or paragraph (1)(A) of this subsection and revisions to any assurance described in subsection (a) or paragraph (1)(A) of this subsection during the preceding 5-year period.

(c) FORM.—Each report required by this section shall be transmitted in unclassified form, but may contain a classified annex, if necessary.

**SEC. 203. WAR RESERVES STOCKPILE.**

(a) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005.—Section 12001(d) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011), is amended by striking ''4'' and inserting ''6''.

(b) FOREIGN ASSISTANCE ACT OF 1961.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by striking ''fiscal years 2007 and 2008'' and inserting ''fiscal years 2009 and 2010''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on August 5, 2008.

**SEC. 204. IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING WITH ISRAEL.**

(a) IN GENERAL.—Of the amount made available for fiscal year 2009 for assistance under the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763) (commonly referred to as the ''Foreign Military Financing Program''), the amount specified in subsection (b) is authorized to be made available on a grant basis for Israel.

(b) COMPUTATION OF AMOUNT.—The amount referred to in subsection (a) is the amount equal to—

(1) the amount specified under the heading ''Foreign Military Financing Program'' for Israel for fiscal year 2008; plus

(2) $150,000,000.

(c) OTHER AUTHORITIES.—

(1) AVAILABILITY OF FUNDS FOR ADVANCED WEAPONS SYSTEMS.—To the extent the Government of Israel requests the United States to provide assistance for fiscal year 2009 for

the procurement of advanced weapons systems, amounts authorized to be made available for Israel under this section shall, as agreed to by Israel and the United States, be available for such purposes, of which not less than $670,650,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development.

(2) DISBURSEMENT OF FUNDS.—Amounts authorized to be made available for Israel under this section shall be disbursed not later than 30 days after the date of the enactment of an Act making appropriations for the Department of State, foreign operations, and related programs for fiscal year 2009, or October 31, 2008, whichever occurs later.

**SEC. 205. DEFINITIONS.**

In this subtitle—

(1) the term ''appropriate congressional committees'' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(2) the term ''qualitative military edge'' means the ability to counter and defeat any credible conventional military threat from any individual state or possible coalition of states or from non-state actors, while sustaining minimal damages and casualties, through the use of superior military means, possessed in sufficient quantity, including weapons, command, control, communication, intelligence, surveillance, and reconnaissance capabilities that in their technical characteristics are superior in capability to those of such other individual or possible coalition of states or non-state actors.

## TITLE III—WAIVER OF CERTAIN SANCTIONS TO FACILITATE DENUCLEARIZATION ACTIVITIES IN NORTH KOREA

**SEC. 301. WAIVER AUTHORITY AND EXCEPTIONS.**

(a) WAIVER AUTHORITY.—Except as provided in subsection (b), the President may waive, in whole or in part, the application of any sanction contained in subparagraph (A), (B), (D), or (G) of section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)) with respect to North Korea in order to provide material, direct, and necessary assistance for disablement, dismantlement, verification, and physical removal activities in the implementation of the commitment of North Korea, undertaken in the Joint Statement of September 19, 2005, ''to abandoning all nuclear weapons and existing nuclear programs'' as part of the verifiable denuclearization of the Korean Peninsula.

(b) EXCEPTIONS.—The waiver authority under subsection (a) may not be exercised with respect to the following:

(1) Any export of lethal defense articles that would be prevented by the application of section 102(b)(2)(B) of the Arms Export Control Act.

(2) Any sanction relating to credit or credit guarantees contained in section 102(b)(2)(D) of the Arms Export Control Act.

**SEC. 302. CERTIFICATION REGARDING WAIVER OF CERTAIN SANCTIONS.**

Assistance described in subparagraph (B) or (G) of section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)) may be provided with respect to North Korea by reason of the exercise of the waiver authority under section 301 only if the President first determines and certifies to the appropriate congressional committees that—

(1) all necessary steps will be taken to ensure that the assistance will not be used to improve the military capabilities of the armed forces of North Korea; and

(2) the exercise of the waiver authority is in the national security interests of the United States.

**SEC. 303. CONGRESSIONAL NOTIFICATION AND REPORT.**

(a) NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under section 301.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, and annually thereafter for such time during which the exercise of the waiver authority under section 301 remains in effect, the President shall transmit to the appropriate congressional committees a report that—

(1) describes in detail the progress that is being made in the implementation of the commitment of North Korea described in section 301, including all United States and international activities to verify compliance with such commitment;

(2) describes in detail any failures, shortcomings, or obstruction by North Korea with respect to the implementation of the commitment of North Korea described in section 301;

(3) describes in detail the progress or lack thereof in the preceding 12-month period of all other programs promoting the elimination of North Korea's capability to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems;

(4) describes in detail all United States assistance, regardless of the source, provided to North Korea by reason of the exercise of the waiver authority under section 301 and any assistance provided under any other authority if such assistance is provided for the same or similar purposes; and

(5) beginning with the second report required by this subsection, a justification for the continuation of the waiver exercised under section 301 and, if applicable, section 302, for the fiscal year in which the report is submitted.

**SEC. 304. TERMINATION OF WAIVER AUTHORITY.**

Any waiver in effect by reason of the exercise of the waiver authority under section 301 shall terminate if the President determines that North Korea—

(1)(A) on or after September 19, 2005, transferred to a non-nuclear-weapon state, or received, a nuclear explosive device; or

(B) on or after October 10, 2006, detonated a nuclear explosive device; or

(2) on or after September 19, 2005—

(A) transferred to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by North Korea to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

(B) sought and received any design information or component which is determined by the President to be important to, and intended by North Korea for use in, the development or manufacture of any nuclear explosive device,

unless the President determines and certifies to the appropriate congressional committees that such waiver is vital to the national security interests of the United States.

**SEC. 305. EXPIRATION OF WAIVER AUTHORITY.**

Any waiver in effect by reason of the exercise of the waiver authority under section 301 shall terminate on the date that is 4 years after the date of the enactment of this Act. The waiver authority under section 301 may not be exercised beginning on the date that is 3 years after the date of the enactment of this Act.

**SEC. 306. CONTINUATION OF RESTRICTIONS AGAINST THE GOVERNMENT OF NORTH KOREA.**

(a) IN GENERAL.—Except as provided in section 301(a), restrictions against the Government of North Korea that were imposed by reason of a determination of the Secretary of State that North Korea is a state sponsor of terrorism shall remain in effect, and shall not be lifted pursuant to the provisions of law under which the determination was made, unless the President certifies to the appropriate congressional committees that—

(1) the Government of North Korea is no longer engaged in the transfer of technology related to the acquisition or development of nuclear weapons, particularly to the Governments of Iran, Syria, or any other country that is a state sponsor of terrorism;

(2) in accordance with the Six-Party Talks Agreement of February 13, 2007, the Government of North Korea has ''provided a complete and correct declaration of all its nuclear programs,'' and there are measures to effectively verify this declaration by the United States which, ''[a]t the request of the other Parties,'' is leading ''disablement activities'' and ''provid[ing] the funding for those activities''; and

(3) the Government of North Korea has agreed to the participation of the International Atomic Energy Agency in the monitoring and verification of the shutdown and sealing of the Yongbyon nuclear facility.

(b) STATE SPONSOR OF TERRORISM DEFINED.—In this section, the term ''state sponsor of terrorism'' means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

**SEC. 307. REPORT ON VERIFICATION MEASURES RELATING TO NORTH KOREA'S NUCLEAR PROGRAMS.**

(a) IN GENERAL.—Not later than 15 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement of February 13, 2007, with specific focus on how such verification measures are defined under the Six-Party Talks Agreement and understood by the United States Government.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include, among other elements, a detailed description of—

(1) the methods to be utilized to confirm that North Korea has ''provided a complete and correct declaration of all of its nuclear programs'';

(2) the specific actions to be taken in North Korea and elsewhere to ensure a high and ongoing level of confidence that North Korea has fully met the terms of the Six-Party Talks Agreement relating to its nuclear programs;

(3) any formal or informal agreement with North Korea regarding verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement; and

(4) any disagreement expressed by North Korea regarding verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 308. DEFINITIONS.**

In this title—

(1) the term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services of the Senate;

(2) the terms ''non-nuclear-weapon state'', ''design information'', and ''component'' have the meanings given such terms in section 102 of the Arms Export Control Act (22 U.S.C. 2799aa–1); and

(3) the term ''Six-Party Talks Agreement of February 13, 2007'' or ''Six-Party Talks Agreement'' means the action plan released on February 13, 2007, of the Third Session of the Fifth Round of the Six-Party Talks held in Beijing among the People's Republic of China, the Democratic People's Republic of Korea (North Korea), Japan, the Republic of Korea (South Korea), the Russian Federation, and the United States relating to the denuclearization of the Korean Peninsula, normalization of relations between the North Korea and the United States, normalization of relations between North Korea and Japan, economy and energy cooperation, and matters relating to the Northeast Asia Peace and Security Mechanism.

## TITLE IV—MISCELLANEOUS PROVISIONS

### SEC. 401. AUTHORITY TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

(a) AUTHORITY.—The Secretary of State is authorized to conduct a program to respond to contingencies in foreign countries or regions by providing training, procurement, and capacity-building of a foreign country's national military forces and dedicated counter-terrorism forces in order for that country to—

(1) conduct counterterrorist operations; or

(2) participate in or support military and stability operations in which the United States is a participant.

(b) TYPES OF CAPACITY-BUILDING.—The program authorized under subsection (a) may include the provision of equipment, supplies, and training.

(c) LIMITATIONS.—

(1) ANNUAL FUNDING LIMITATION.—The Secretary of State may use up to $25,000,000 of funds available under the Foreign Military Financing program for each of the fiscal years 2009 and 2010 to conduct the program authorized under subsection (a).

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of State may not use the authority in subsection (a) to provide any type of assistance described in subsection (b) that is otherwise prohibited by any provision of law.

(3) LIMITATION ON ELIGIBLE COUNTRIES.—The Secretary of State may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(d) FORMULATION AND EXECUTION OF ACTIVITIES.—The Secretary of State shall consult with the head of any other appropriate department or agency in the formulation and execution of the program authorized under subsection (a).

(e) CONGRESSIONAL NOTIFICATION.—

(1) ACTIVITIES IN A COUNTRY.—Not less than 15 days before obligating funds for activities in any country under the program authorized under subsection (a), the Secretary of State shall submit to the congressional committees specified in paragraph (3) a notice of the following:

(A) The country whose capacity to engage in activities in subsection (a) will be assisted.

(B) The budget, implementation timeline with milestones, and completion date for completing the activities.

(2) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

(A) The Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(B) The Committee on Foreign Relations and the Committee on Appropriations of the Senate.

### SEC. 402. MAINTENANCE OF EUROPEAN UNION ARMS EMBARGO AGAINST CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has previously expressed its strong concerns in House Resolution 57 of February 2, 2005, and Senate Resolution 91 of March 17, 2005, with the transfer of armaments and related technology to the People's Republic of China by member states of the European Union, which increased eightfold from 2001 to 2003, and with plans to terminate in the near future the arms embargo they imposed in 1989 following the Tiananmen Square massacre.

(2) The deferral of a decision by the European Council to terminate its arms embargo following adoption of the resolutions specified in paragraph (1), the visit by the President of the United States to Europe, and growing concern among countries in the regions and the general public on both sides of the Atlantic, was welcomed by the Congress.

(3) The decision by the European Parliament on April 14, 2005, by a vote of 421 to 85, to oppose the lifting of the European Union's arms embargo on the People's Republic of China, and resolutions issued by a number of elected parliamentary bodies in Europe also opposing the lifting of the arms embargo, was also welcomed by the Congress as a reassurance that its European friends and allies understood the gravity of prematurely lifting the embargo.

(4) The onset of a strategic dialogue between the European Commission and the Government of the United States on the security situation in East Asia holds out the hope that a greater understanding will emerge of the consequences of European assistance to the military buildup of the People's Republic of China for peace and stability in that region, to the security interests of the United States and its friends and allies in the region, and, in particular, to the safety of United States Armed Forces whose presence in the region has been a decisive factor in ensuring peace and prosperity since the end of World War II.

(5) A more intensive dialogue with Europe on this matter will clarify for United States' friends and allies in Europe how their ''non-lethal'' arms transfers improve the force projection of the People's Republic of China, are far from benign, and enhance the prospects for the threat or use of force in resolving the status of Taiwan.

(6) This dialogue may result in an important new consensus between the United States and its European partners on the need for coordinated policies that encourage the development of democracy in the People's Republic of China and which discourage, not assist, China's unjustified military buildup and pursuit of weapons that threaten its neighbors.

(7) However, the statement by the President of France in Beijing in November 2007 that the European Union arms embargo should be lifted is troubling, especially since France will assume the six-month presidency of the European Union in July 2008.

(8) There continues to be wide-spread concerns regarding the lack of any significant progress by the Government of the People's Republic of China in respecting the civil and political rights of the Chinese people.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States Government to oppose any diminution or termination of the arms embargo that was established by the Declaration of the European Council of June 26, 1989, and to take whatever diplomatic and other measures that are appropriate to convince the Member States of the European Union, individually and collectively, to continue to observe this embargo in principle and in practice. Appropriate measures should include prohibitions on entering into defense procurement contracts or defense-related research and development arrangements with European Union Member States that do not observe such an embargo in practice.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every six months thereafter until December 31, 2010, the President shall transmit to the Committee on Foreign Affairs and Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on all efforts and activities of the United States Government to ensure the success of the policy declared in subsection (b).

### SEC. 403. REIMBURSEMENT OF SALARIES OF MEMBERS OF THE RESERVE COMPONENTS IN SUPPORT OF SECURITY COOPERATION MISSIONS.

Section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d)) is amended—

(1) by striking ''(d) Except as otherwise provided'' and inserting ''(d)(1) Except as otherwise provided''; and

(2) by adding at the end the following:

''(2) Notwithstanding provisions concerning the exclusion of the costs of salaries of members of the Armed Forces in section 503(a) of this Act and paragraph (1) of this subsection, the full cost of salaries of members of the reserve components of the Armed Forces (specified in section 10101 of title 10, United States Code) may, during each of fiscal years 2009 and 2010, be included in calculating pricing or value for reimbursement charged under section 503(a) of this Act and paragraph (1) of this subsection, respectively.''.

### SEC. 404. FOREIGN MILITARY SALES STOCKPILE FUND.

(a) IN GENERAL.—Subsection (a) of section 51 of the Arms Export Control Act (22 U.S.C. 2795) is amended—

(1) in paragraph (1), by striking ''Special Defense Acquisition Fund'' and inserting ''Foreign Military Sales Stockpile Fund''; and

(2) in paragraph (4), by inserting ''building the capacity of recipient countries and'' before ''narcotics control purposes''.

(b) CONTENTS OF FUND.—Subsection (b) of such section is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by inserting ''and'' at the end; and

(3) by inserting after paragraph (3) the following:

''(4) collections from leases made pursuant to section 61 of this Act,''.

(c) CONFORMING AMENDMENTS.—(1) The heading of such section is amended by striking ''SPECIAL DEFENSE ACQUISITION FUND'' and inserting ''FOREIGN MILITARY SALES STOCKPILE FUND''.

(2) The heading of chapter 5 of the Arms Export Control Act is amended by striking ''**SPECIAL DEFENSE ACQUISITION FUND**'' and inserting ''**FOREIGN MILITARY SALES STOCKPILE FUND**''.

### SEC. 405. SENSE OF CONGRESS.

It is the sense of Congress that the United States should not provide security assistance or arms exports to nations contributing to massive, widespread, and systematic violations of human rights or acts of genocide, particularly with respect to Darfur, Sudan.

**TITLE V—AUTHORITY TO TRANSFER NAVAL VESSELS**

**SEC. 501. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.**

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) PAKISTAN.—To the Government of Pakistan, the OLIVER HAZARD PERRY class guided missile frigate MCINERNEY (FFG–8).

(2) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ships OSPREY (MHC–51) and ROBIN (MHC–54).

(3) CHILE.—To the Government of Chile, the KAISER class oiler ANDREW J. HIGGINS (AO–190).

(4) PERU.—To the Government of Peru, the NEWPORT class amphibious tank landing ships FRESNO (LST–1182) and RACINE (LST–1191).

(b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516(g) of the Foreign Assistance Act of 1961.

(c) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient.

(d) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of the recipient performed at a shipyard located in the United States, including a United States Navy shipyard.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I rise in strong support of this bill and yield myself as much time as I may consume.

Mr. Speaker, the United States has a wide variety of foreign policy tools to promote the national security of the United States. While these tools are often referred to as ''soft power,'' they represent such diverse mechanisms as enhancing ties with friendly countries, ensuring that U.S. exports are regarded positively by prospective customers, ensuring that our policies reflect our values, and using U.S. assistance to stem the wave of proliferation of weapons of mass destruction that threaten our very homeland.

The bipartisan legislation before the House today, cosponsored by the distinguished ranking member of the Committee on Foreign Affairs, represents a new and important initiative to accomplish all these missions.

Title I of H.R. 5916 reforms the Arms Export Control process, based on proposals made by Mr. SHERMAN and Mr. MANZULLO as introduced in H.R. 4246, the Defense Trade Controls Performance Improvement Act of 2007 to create consistency in our export policy. It also provides for a strategic review of U.S. export control policies to help ensure they promote the protection of human rights.

It also amends the Arms Export Control Act to ensure that our close allies, South Korea and Israel, get the same expedited licensing review that our NATO allies, Australia, New Zealand and Japan currently enjoy. In this regard, the bill partially draws from H.R. 5443, the United States-Republic of Korea Cooperation Act of 2008, which was introduced by our colleagues, Mr. ROYCE and Mrs. TAUSCHER of California.

In addition, in order to address recent major sales of defense articles and services to countries in the Middle East, the bill insures that Israel will maintain its qualitative military edge against whatever security threats it may face, codifying this important principle into law for the first time. It also authorizes the security assistance to Israel, including implementing the recent U.S.-Israel Memorandum of Understanding Regarding Security Assistance.

It's only fitting that as Israel commemorates the 60th anniversary of its founding, the United States renews and strengthens its relationship with our most important friend in the region. Israel is a democratic island of stability in a sea of chaos, chaos which we continue to see just this week this neighboring Lebanon. It deserves all the support we can muster.

Finally, title III of this legislation provides for a limited waiver of current sanctions to support and accelerate U.S. efforts to eliminate North Korea's nuclear program. The waiver would apply to portions of what is commonly called the Glenn Amendment.

Glenn Amendment sanctions keep the Department of Energy from funding its own ongoing work on disabling and dismantling North Korea's nuclear program, including removing plutonium in the next phase of this process, as well as verifying that Pyongyang is living up to its commitments.

Until now, a flexible but limited fund at the Department of State has paid for this work. Continued exclusive use of this State Department mechanism will undermine the ability of the United States to urgently respond to unexpected opportunities to stop the proliferation of nuclear weapons elsewhere in the world.

Title III of our bill allows for more rational funding and planning of these activities without giving the administration a blank check. It provides a narrow, carefully tailored authority. It also requires the administration to document for Congress each year the need for keeping this authority in place.

Title III also includes a provision authored by ranking member ILEANA ROS-LEHTINEN that reinforces U.S. policy regarding removing North Korea from the State Department's list of countries supporting terrorism.

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The conditions laid out in that provision include certification that North Korea no longer is engaged in transferring to other countries any technology that enables the development or acquisition of nuclear weapons. The provision also underscores the importance of keeping the agreement laid out in the Six-Party talks, and it states that North Korea must agree to allow participation of the International Atomic Energy Agency in ensuring that the Yongbyon nuclear reactor is shut down and stays that way.

I pledge to this House that the Committee on Foreign Affairs will continue to keep a close eye on the implementation of the Six-Party Denuclearization Agreement. It is entirely possible that North Korea's own actions may sour the deal. However, in the interest of U.S. and global security, we need to forge ahead and accomplish what we can now.

Mr. Speaker, this is a good bill. I urge all of my colleagues in joining me in supporting this important legislation.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, May 12, 2008.*

Hon. HOWARD L. BERMAN,
*Chairman, Committee on Foreign Affairs, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I write to confirm our mutual understanding regarding H.R. 5916, ''To reform the administration of the Arms Export Control Act, and for other purposes.'' This legislation contains subject matter within the jurisdiction of the House Committee on Armed Services.

Our Committee recognizes the importance of H.R. 5916 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this legislation, the Committee on Armed Services will waive further consideration of H.R. 5916. I do so with the understanding that by waiving further consideration of the bill, the Committee does not waive any future jurisdictional claims over similar measures. In the event of a conference with the Senate on this bill, the Committee on Armed Services reserves the right to seek the appointment of conferees.

I would appreciate the inclusion of this letter and a copy of the response in your Committee's report on H.R. 5916 and in the Congressional Record during consideration of the measure on the House floor.

Very truly yours,

IKE SKELTON,
*Chairman.*

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COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
*Washington, DC, May 12, 2008.*

Hon. IKE SKELTON,
*Chairman, Committee on Armed Services, Rayburn House Office Bldg., Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5916, the Security Assistance and Arms Export Control Reform Act of 2008.

I appreciate your willingness to work cooperatively on this legislation. I'recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Armed Services. I agree that the inaction of your Committee with respect to the bill does not in any way prejudice the Armed Services Committee's jurisdictional interests and prerogatives regarding this bill or similar legislation.

Further, as to any House-Senate conference on the bill, I understand that your Committee reserves the right to seek the appointment of conferees for consideration of portions of the bill that are within the Committee's jurisdiction.

I will ensure that our exchange of letters is included in my Committee's report on the bill and in the Congressional Record during consideration on the House floor. I look forward to working with you on this important legislation. If you wish to discuss this matter further, please contact me or have your staff contact my staff.

Cordially,

HOWARD L. BERMAN,
*Chairman.*

I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I also rise in strong support of H.R. 5916, the Security Assistance and Arms Export Control Reform Act of 2008. Among this legislation's provisions is language I offered which was incorporated into the original text regarding North Korea's nuclear programs and the ongoing Six-Party talks.

We have heard in recent days about North Korea's hand-over of 18,000 pages of so-called logs concerning its plutonium extraction activity at the Yongbyon nuclear reactor. However, let's not be fooled yet again by North Korea or by those seeking an agreement with this regime at any and all costs.

These logs, according to many regional and nonproliferation experts, do not mark any substantive progress towards nuclear disarmament. For starters, the reporting is limited to North Korea's plutonium-based nuclear facilities and not the totality of its nuclear weapons program as called for under the February 2007 Six-Party agreement whereby North Korea commits to completely disarming itself in exchange for certain concessions from the West.

To address these important issues, the language I drafted, which was incorporated into title III of the bill before us, clarifies and reinforces the conditions that North Korea must meet before it can be removed from the list of state sponsors of terrorism and before related sanctions can be removed. No new conditions have been added. However, this bill does specify that North Korea must take verifiable actions regarding all of its nuclear activities before such an important concession is granted to this duplicitous regime.

These requirements, Mr. Speaker, include ceasing to provide nuclear assistance to countries such as Syria and Iran, providing a complete and correct declaration of all of its nuclear programs, and in addition to U.S. verification, agreeing to the participation of the International Atomic Energy Agency in monitoring and verifying the shutdown and sealing of the nuclear facility at Yongbyon.

Given North Korea's abysmal record in keeping its promises, verification of its declarations and actions is of central importance to any agreement. For that reason, this bill also contains language in title III that requires the State Department to submit a report to the committee describing the methods and actions that the U.S. will use to verify North Korea's declarations regarding its nuclear facilities, describing all formal and informal agreements regarding verification, and documenting any objections regarding these measures that have been expressed by North Korea.

This bill also strengthens U.S. national security interests and assistance to our strong ally, Israel. It requires the administration to perform an ongoing assessment of Israel's qualitative military edge and authorizes an increase in U.S. Foreign Military Financing that is consistent with the August 2007 U.S.-Israel memorandum on military assistance.

These provisions are of vital importance because, as we all know, Israel is surrounded by a multitude of threats which threatens its very survival. Radical Islamic jihadists in Gaza are continuing to launch large numbers of powerful, accurate, and deadly rockets at Israel civilians and have smuggled weapons, cash, and armed militants from Egypt through underground tunnels. Palestinian extremists continue to carry out attacks inside Israel itself, including the murder of eight people at a yeshiva in Jerusalem this past March, which included one American.

In the aftermath of the summer 2006 war launched by Hezbollah against Israel, this Islamic militant group continues its reign of terror made possible by aid from Iran and Syria, both sworn enemies of Israel, both state sponsors of terrorism, both seeking a nuclear capability, and both receiving support from the regime in North Korea.

According to a Congressional Research Service report finalized just last week and prepared at my request, North Korea's relationship with the Iranian Revolutionary Guard, an entity involved in proliferation activities and in supporting Islamic extremists, appears to be in two areas: One, coordination and support of Hezbollah; and two, cooperation in ballistic missile development.

And turning to Syria, Mr. Speaker, CIA Director Michael Hayden was recently quoted as saying that the nuclear reactor the Syrian regime was building with assistance from North Korea could have produced enough plutonium for one or two nuclear weapons within 1 year of beginning operations.

Then there is the growing menace from Iran's radical Islamist regime. Defense Secretary Robert Gates recently reminded us that Iran ''is hell-bent on acquiring nuclear weapons.'' As it aggressively pursues the nuclear option, the regime in Tehran still continues to call for Israel to be wiped off the map.

Thus, the provisions in this bill enhancing our relationship with Israel are critical to Israel's security and to our own vital interests in the region. This bill also advances U.S. national security and economic competitiveness by including language derived from legislation introduced by Mr. SHERMAN of California and Mr. MANZULLO promoting long-overdue reforms in the licensing of defense exports by the State Department. It also significantly strengthens congressional oversight over a range of issues requiring the Executive Branch to fully consult with our committee before undertaking any actions covered by this legislation.

Lastly, drawing upon an initiative led by Mr. ROYCE of California and strongly supported by Secretary of State Rice, it upgrades the foreign military sales, FMS, status of our staunch ally, the Republic of Korea. The bill also appropriately affords the same status to our close defense relationship with Israel.

Mr. Speaker, this bill is a strong, bipartisan effort unanimously adopted by our Committee on Foreign Affairs. It is the appropriate vehicle to address the significant policy changes on North Korea that the administration is requesting. It is my hope and expectation that we allow the legislative process to take its appropriate course and that we will not seek to circumvent the authority of the Committee on Foreign Affairs or to undermine this bill by attaching broad waiver language regarding North Korea to either the pending supplemental appropriations bill or the national defense authorization bill.

I urge my colleagues to support this carefully crafted, much needed, and bipartisan legislation.

I reserve the balance of our time.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 6 minutes to the gentleman from California, the chairman of the Subcommittee on Terrorism, Nonproliferation, and Trade, Mr. SHERMAN of California.

Mr. SHERMAN. I thank the gentleman from California.

Mr. Speaker, this legislation includes the text of H.R. 4246, the Defense Trade

Controls Improvement Act of 2008, which was introduced by myself and Mr. MANZULLO, and it is Title I, subtitle A of this bill.

This subtitle grew out of hearings in our subcommittee, the Subcommittee on Terrorism Nonproliferation and Trade, which were held last July. I want to thank Chairman BERMAN for including the revised text of H.R. 4246 into this larger piece of legislation. I want to thank Mr. MANZULLO for his efforts in crafting our original legislation, and I want to thank Mr. ED ROYCE, ranking member of the Subcommittee on Terrorism Nonproliferation and Trade, for his work as well.

The Defense Trade Controls Improvement Act, which is part of this larger legislation, seeks to address past performance failings and, most importantly, understaffing of the Directorate of Defense Trade Controls, the State Department agency responsible for adjudicating licenses for commercial arms sales. This agency was found to have more than 10,000 open cases at the end of 2006. Only an unsustainable winter offensive where leaves were canceled and overtime was made mandatory and people were moved in from other areas allowed this agency to reduce this huge backlog. Licenses had languished for months, not because they raised significant national security or foreign policy concerns in most cases, but because they simply sat in someone's in box unattended.

Why has the State Department consistently underfunded and understaffed the Directorate of Defense Trade Controls? I believe that there is simply an institutional bias in the State Department toward work that is more highbrow, more likely to be the subject of a seminar at the Woodrow Wilson's School of Diplomacy. But this work, the work of licensing munitions exports, is of critical importance; arguably there is nothing more important done by the State Department. And Congress provides typically over $1 billion to the relevant account which can be used by the State Department for a whole variety of staffing, yet they have consistently understaffed this very important function.

What the bill will do is basically add a couple of dozen licensing officers and avoid this tendency of the State Department to understaff the portion of the State Department which licenses munitions exports.

Why is this licensing process so important? Well, if we say ''yes'' and issue a license and make the wrong decision, the harm is obvious. We have sent the wrong technology to the wrong country which may hurt our military or the military of our allies in the future. But there is also enormous harm if we unduly delay or wrongfully deny an application. It means we lose jobs in the United States; it means our interoperability with our allies is diminished because they won't have American munitions and therefore, won't be able to operate as effectively with our military as they could; it can rupture or hurt our relationship with allies if we wrongfully do not export or unduly delay their request to purchase American munitions, and perhaps most importantly, when we don't act quickly and people in other countries buy their munitions elsewhere, we are building the munitions industry of other countries.

And what is the effect of that? More lost jobs for the United States, more losses on interoperability, and most of all, an undercutting of our policy objectives because once those munitions industries are well established in other countries, they will not be subject to any U.S.-State Department oversight and they may export to third countries things that we would not.

So right now the relevant State Department agency has roughly 40 licensing officers available to adjudicate 85,000 cases expected to be received this year. This bill will beef up the staffing by the third quarter of fiscal year 2010 so that there will be one licensing officer for every 1,250 applications that are based on what we anticipate to be the workload that year.

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That is to say, we will go from roughly 40 licensing officers to roughly 68 licensing officers. This is hardly overstaffing.

The Department of Commerce performs a similar function with regard, not to munitions, but rather, dual-use exports. The relevant part of the Department of Commerce deals with one-third as many applications that has five times the staffing. Clearly, we need those 68 licensing officers at the State Department.

This bill also requires a complete strategic review of our arms export control system, a policy review that has not occurred since 9/11.

The bill codifies the administration directives with respect to processing times for licenses with respect to export of hardware to our allies. Our exporters will have reasonable assurance that licenses will be adjudicated, not necessarily approved, but adjudicated within 60 days unless there are extenuating circumstances.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. BERMAN. Mr. Speaker, I extend an additional minute to the gentleman from California.

Mr. SHERMAN. This bill does not include any provisions clarifying the jurisdiction over civilian aircraft parts since the State Department has issued a proposed rule, designed to provide a bright line for those decisions.

Finally, I would like to note that improvement in the operations of the State Department office have already occurred, in part in response to the hearings we held in July of 2007.

I hope this bill will further improve our licensing process. It is not for us to tell the State Department that they need to have one licensing officer for every 1,250 applications is not being overly assertive. When we provide over $1 billion to the relevant account, we ought to provide some guidance as to how that money should be spent.

I thank the gentleman for including our provisions in the larger bill.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I might consume.

This measure before us addresses a number of objectives, I think all of them related to security assistance, and one of those is reform of the State Department's export control office. I think all of us know that it's been far too long that this office has been antiquated. It's been incapable of functioning well in a world of rapidly evolving technology, and what we need to do is a better job facilitating exports by focusing on those items that pose a true risk to our national security. This measure attempts to do that. It prevents those exports, while allowing U.S.-made exports to markets overseas.

I'd also like to thank Chairman BERMAN for including the key elements of H.R. 5443, which is the United States-Republic of Korea Defense Cooperation Improvement Act, in this underlying legislation. And this bill, which was authored by myself and Representative TAUSCHER, upgrades South Korea's military procurement status. It streamlines defense sales to South Korea. It puts Seoul basically on the same plane as members of NATO and Australia and New Zealand and Japan, and thus, it improves our defense cooperation. I think it's interesting that our top commander in Korea called it ''bizarre and strange'' to use his words that South Korea doesn't already enjoy this status.

Mr. Speaker, the U.S.-South Korean alliance I think is quite distinct. With a Mutual Defense Treaty that dates back to 1953, Korea and the U.S. form the most integrated alliance I think of interoperable forces. On the Korean Peninsula, interoperability by the way is not just a buzz word for the military forces there. It's a real life practice, and passage of this legislation would help cement that interoperability.

I'd also like to recognize the ranking member of the committee, Ms. ROS-LEHTINEN, for the inclusion in this bill of important language regarding North Korea and its nuclear program. The language in the underlying bill smoothes the way for dismantlement activities in North Korea, but it makes it clear that Congress expects a complete declaration on North Korean activities. This includes not just its plutonium program but its uranium program as well and proliferation business as well as the uranium. The intelligence community assesses that this activity, by the way, continues to this day, and indeed, North Korea is helping to fuel an arms race in the Middle East.

So this bill includes important language on verification, which despite the rhetoric has not been taken seriously by the administration to date.

I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MANZULLO), the ranking member of the Subcommittee on Asia, the Pacific and Global Environment.

Mr. MANZULLO. Mr. Speaker, we have a unique opportunity today to improve national security, support our foreign policy interests, and help American manufacturers.

H.R. 5916 is a product of nearly 18 months of work. We closely worked with the executive branch, the business community and non-proliferation non-government organizations. Without this legislation, foreign customers will continue to search out products that are ITAR-free to avoid being entangled in U.S. export control laws. The process improvements in this bill will make U.S. manufacturers more competitive in the international marketplace, creating and retaining American jobs, and supporting economic growth here in the United States.

This legislation permits the State Department's Directorate of Defense Trade Controls to hire more staff, reducing the backlog of defense trade license applications and improving our scrutiny of the most sensitive technologies.

The bill creates a special licensing authorization for American-made spare and replacement parts. It also establishes some goals for licensing processing, including a 7-day deadline for defense trade licenses for those countries who support our combat, peacekeeping or humanitarian operations.

I appreciate the Foreign Affairs Committee's efforts, particularly the outstanding leadership of my good friend from California, Mr. SHERMAN, on this very delicate issue. I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 5916, the Security Assistance and Arms Export Control Reform Act of 2008, introduced by my colleague Mr. Berman. I would like to thank the chairman for his leadership on this important legislation, which will make important reforms to U.S. arms exports.

I would also like to thank the chairman and the committee staff for working with me to incorporate two important amendments that I offered to this bill, both of which will encourage respect of basic standards of human rights in countries receiving security assistance and arms exports. I believe that these two amendments improve this legislation by taking steps to ensure that U.S. taxpayer dollars are not being used to arm governments contributing to or engaging in massive violations of human rights, including genocide.

My first amendment, which will be inserted as section 406 of this legislation, states that

"It is the sense of Congress that the United States should not provide security assistance or arms exports to nations contributing to massive, widespread, and systematic violations of human rights or acts of genocide, particularly with respect to Darfur, Sudan."

This Congress has already taken remarkable strides to condemn the genocide in Sudan, now entering its fifth year, and to work to ensure that the people of this Nation are not unwittingly supporting these human rights abuses. My amendment reaffirms that it is the sense of Congress that violations of this nature, which are gross, widespread, and systematic, are a serious issue, and that the United States should not be providing security assistance to countries that are contributing to such abuses.

In addition, I offered a second amendment, which would also serve to reinforce the respect for basic human rights under this act. Section 103 of this legislation requires a "comprehensive and systematic review and assessment" of the U.S. arms export controls system by the President, to be completed not later than March 31, 2009, and sets forth a number of elements that such a review must contain. My second amendment adds an additional element to this report. It states that the President's report must also:

"(F) assess the extent to which export control policies and practices under the Arms Export Control Act promote the protection of basic human rights."

This language will ensure that Congress will remain apprised of the implications of U.S. security assistance and arms exports on basic human rights. Through the inclusion of this amendment, we will ensure that Congress has all the information it needs to fully understand the impact of our security assistance. Because this amendment only requires an assessment of current human rights practices, it does not run the risk of restricting assistance to nations that, like Liberia, have a poor history of human rights but now, under new leadership, have made important strides toward respect of basic human freedoms.

Mr. Speaker, I believe that a nation's human rights record should be one element that the United States uses when determining whether security assistance or arms trade will be extended to that nation. My two amendments to this legislation seek to ensure that the United States is not arming governments that are contributing to or committing the grossest violations of human rights, like genocide, and to collect information on how our security assistance policies are affecting human rights in nations to which we are providing arms.

Mr. Speaker, the legislation, H.R. 5916, we are considering today includes a number of important provisions which will strengthen and reform U.S. security assistance and the defense trade licensing and review process. Congress has jurisdiction over oversight of both the U.S. arms export control process and individual sales, under the Arms Export Control Act, while the Department of State has primary responsibility to ensure that arms exports are in line with U.S. foreign policy and security objectives. Unfortunately, the State Department arms export process has broken down, and there is now an accumulated backlog of approximately 10,000 unprocessed applications for arms export license. Due to mismanagement and an underallocation of resources, the State Department process has proven dysfunctional.

This legislation contains a number of important provisions which will alleviate this serious and ongoing problem. It sets up a strategic review, to be conducted by the President, to determine the effectiveness of the current export control regime, and to make improvements where necessary, including in the efficiency in export licensing. Further, it establishes performance goals for the export licensing process, ensuring adequate staffing, flexibility in use of exporter annual registration fees for administrative purposes, regular Inspector General audits, and regular review of items for inclusion/deletion from the U.S. Munitions List. Finally, this legislation authorizes a special upfront licensing regime for spares and components for weapons systems previously sold to U.S. allies, and increasing licensing process transparency measures to facilitate Congressional oversight.

In addition to these important provisions, this legislation will strengthen vital security relationships with a number of U.S. allies. It adds South Korea to a list of countries already receiving expedited Congressional review, including NATO nations, Australia, New Zealand, and Japan. This move recognizes the critical importance of South Korea to U.S. security and regional stability, and it is a significant symbolic move.

This legislation also extends the same recognition to Israel, and it authorizes the initial phase-in of the Foreign Military Financing formula agreed on by the United States and Israel last year. Further, this legislation requires the administration to empirically assess, on an ongoing basis, the State of Israel's Qualitative Military Edge against conventional or non-conventional security threats. This provision codifies a principle that has been stated by every President since Lyndon Johnson, and requires the administration to provide an assessment to Congress every 4 years, to be used in reviewing arms exports to other Middle Eastern countries. These provisions continue U.S. assistance to Israel, and they provide for increased congressional oversight of this assistance.

Mr. Speaker, this legislation also allows for a waiver of Section 102 (b) of the Arms Export Control Act, commonly known as the Glenn Amendment, in the case of the North Korea nuclear program. The Glenn amendment, adopted in 1994, prohibits all U.S. economic and military assistance to any state that carries out a nuclear explosion and that is, under the nuclear non-proliferation treaty, defined as a non-nuclear weapon state. In light of the nuclear disablement and dismantlement activities agreed to in the Six-Party Talks, this waiver will grant the administration the ability to request appropriations directly to the Department of Energy for these activities, rather than its current practice of channeling such assistance through the State Department's Nonproliferation and Disarmament Fund, which has other high-priority demands on its funding and personnel. I support this provision because I believe that it is in the vital national security interest of the United States to continue to disable and hopefully remove North Korea's means to make more nuclear weapons, weapons or material that may be used against our interests or even transferred to other states.

Finally, Mr. Speaker, I support a provision in Title V of this legislation, which will grant to the government of Pakistan naval vessels, including the *Oliver Hazard Perry* class guided missile frigate *McInerney* (FFG–8). I believe that the continuation of U.S. assistance to Pakistan is particularly vital at this moment, following the February 2008 Pakistani elections in which two main opposition parties won a majority of seats. At this crucial time for the

new Pakistani Government, I believe that the continuation of U.S. assistance is vital if we are to see crucial reforms and ongoing strides in the global fight against terrorism.

Mr. Speaker, this legislation will strengthen and reform the process of U.S. security assistance and arms exports. I strongly urge my colleagues to join me in supporting this legislation.

Mr. ROYCE. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the bill, H.R. 5916, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## NORTH KOREAN HUMAN RIGHTS REAUTHORIZATION ACT OF 2008

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5834) to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5834

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''North Korean Human Rights Reauthorization Act of 2008''.*

***SEC. 2. FINDINGS.***

*Congress finds the following:*

*(1) The North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.) (in this section referred to as ''the Act'') was the product of broad, bipartisan consensus in Congress regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and refugee protection.*

*(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.*

*(3) Human rights and humanitarian conditions inside North Korea are deplorable, North Korean refugees remain acutely vulnerable, and the findings in section 3 of the Act remain accurate today.*

*(4) The Government of China is conducting an increasingly aggressive campaign to locate and forcibly return border-crossers to North Korea, where they routinely face torture and imprisonment, and sometimes execution. According to recent reports, the Chinese Government is shutting down Christian churches and imprisoning people who help North Korean defectors, and has increased the bounty paid for turning in a North Korean refugee by a factor of sixteen, to an amount roughly equivalent to the average annual income in China.*

*(5) In an attempt to deter escape attempts, the Government of North Korea has reportedly stepped up its public execution of border-crossers and those who help others cross into China, including the February 20, 2008, shooting of 13 women and 2 men in Onsung County, and the March 30, 2008, execution of three residents in Hyesan. As is commonly the case, employees and residents of nearby institutions, enterprises, and neighborhoods were required to attend and observe those killings.*

*(6) In spite of the requirement of the Act that the Special Envoy on Human Rights in North Korea (the ''Special Envoy'') report to the Congress no later than April 16, 2005, a Special Envoy was not appointed until August 19, 2005, more than four months after the reporting deadline.*

*(7) The Special Envoy appointed by the President has filled that position on a part-time basis only.*

*(8) On February 21, 2006, a bipartisan group of senior Members of the House and Senate wrote Secretary of State Condoleezza Rice ''to express [their] deep concern for the lack of progress in funding and implementing the key provisions of the North Korean Human Rights Act'', particularly the lack of North Korean refugee admissions to the United States.*

*(9) Although the United States refugee resettlement program remains the largest in the world by far, the United States has resettled only 37 North Koreans in the period from 2004 through 2007.*

*(10) From the end of 2004 through 2007, the Republic of Korea resettled 5,961 North Koreans.*

*(11) Extensive delays in assessment and processing at overseas posts have led numerous North Korean refugees to abandon their quest for United States resettlement, and long waits (of more than a year in some cases) have been the source of considerable discouragement and frustration among refugees, many of whom are awaiting United States resettlement in circumstances that are unsafe and insecure.*

*(12) From 2000 through 2006, the United States granted asylum to 15 North Koreans, as compared to 60 North Korean asylum grantees in the United Kingdom, and 135 in Germany during that same period.*

***SEC. 3. SENSE OF CONGRESS.***

*It is the sense of Congress that—*

*(1) the United States should make it a priority to seek broader permission and greater cooperation from foreign governments to allow the United States to process North Korean refugees overseas for resettlement in the United States, through persistent diplomacy by senior officials of the United States, including United States ambassadors to Asia-Pacific nations;*

*(2) at the same time that careful screening of intending refugees is important, the United States also should make every effort to ensure that its screening, processing, and resettlement of North Korean refugees are as efficient and expeditious as possible;*

*(3) the Special Envoy for North Korean Human Rights Issues should be a full-time position within the Department of State in order to properly promote and coordinate North Korean human rights, humanitarian, and refugee issues, as intended by the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.);*

*(4) in an effort to more efficiently and actively participate in humanitarian burden-sharing, the United States should approach our ally, the Republic of Korea, to revisit and explore new opportunities for coordinating efforts to screen and resettle North Koreans who have expressed a wish to pursue resettlement in the United States and have not yet availed themselves of any right to citizenship they may enjoy under the Constitution of the Republic of Korea; and*

*(5) because there are genuine refugees among North Koreans fleeing into China who face severe punishments upon their forcible return, the United States should urge the Government of China to—*

*(A) immediately halt its forcible repatriation of North Koreans;*

*(B) fulfill its obligations pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China; and*

*(C) allow the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to North Koreans inside China to determine whether they are refugees and whether they require assistance.*

***SEC. 4. DEFINITIONS.***

*Section 5(1)(A) of the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7803(1)(A)) is amended by striking ''International Relations'' and inserting ''Foreign Affairs''.*

***SEC. 5. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.***

*Section 102(b)(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7812(b)(1)) is amended by inserting after ''2008'' the following: ''and $4,000,000 for each of fiscal years 2009 through 2012''.*

***SEC. 6. RADIO BROADCASTING TO NORTH KOREA.***

*Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors (BBG) shall submit to the appropriate congressional committees, as defined in section 5(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7803(1)), a report that describes the status and content of current United States broadcasting to North Korea and the extent to which the BBG has achieved the goal of 12-hour-per-day broadcasting to North Korea pursuant to section 103 of such Act (22 U.S.C. 7813).*

***SEC. 7. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.***

*Section 104 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7814) is amended—*

*(1) in subsection (b)(1), by striking ''2008'' and inserting ''2012''; and*

*(2) in subsection (c), by striking ''in each of the 3 years thereafter'' and inserting ''annually through 2012''.*

***SEC. 8. SPECIAL ENVOY ON NORTH KOREAN HUMAN RIGHTS ISSUES.***

*Section 107 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7817) is amended—*

*(1) in the section heading, by striking ''**HUMAN RIGHTS IN NORTH KOREA**'' and inserting ''**NORTH KOREAN HUMAN RIGHTS ISSUES**'';*

*(2) in subsection (a)—*

*(A) in the first sentence—*

*(i) by striking ''human rights in North Korea'' and inserting ''North Korean human rights issues''; and*

*(ii) by inserting before the period at the end the following: '', by and with the advice and consent of the Senate'';*

*(B) in the second sentence, by inserting before the period at the end the following: ''who shall have the rank of ambassador and shall hold the office at the pleasure of the President'';*

*(3) in subsection (b), by inserting before the period at the end the following: '', including the protection of those people who have fled as refugees'';*

*(4) in subsection (c)—*

*(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;*

*(B) by inserting before paragraph (2), as so redesignated, the following new paragraph:*

*''(1) coordinate the implementation of activities carried out pursuant to this Act;''; and*

*(C) in paragraph (5), as so redesignated, by striking ''section 102'' and inserting ''sections 102 and 104''; and*

*(5) in subsection (d), by striking ''for the subsequent 5 year-period'' and inserting ''thereafter through 2012''.*

***SEC. 9. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.***

*Section 201(a) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7831(a)) is amended, in the matter preceding paragraph (1), by striking ''in each of the 2 years thereafter'' and inserting ''annually thereafter through 2012''.*

***SEC. 10. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.***

*Section 203(c)(1) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7833(c)(1)) is amended by striking ''2008'' and inserting ''2012''.*

***SEC. 11. ANNUAL REPORTS.***

*Section 305(a) of the North Korean Human Rights Act of 2004 (22 U.S.C. 7845(a)) is amended—*

*(1) in the subsection heading, by inserting ''AND REFUGEE'' before ''INFORMATION'';*

*(2) in the matter preceding paragraph (1)—*

*(A) by striking ''for each of the following 5 years'' and inserting ''through 2012''; and*

*(B) by striking ''which shall include—'' and inserting ''which shall include the following:'';*

*(3) in paragraph (1)—*

*(A) by striking ''the number of aliens'' and inserting ''The number of aliens''; and*

*(B) by striking ''; and'' at the end and inserting a period;*

*(4) in paragraph (2), by striking ''the number of aliens'' and inserting ''The number of aliens''; and*

*(5) by adding at the end the following new paragraphs:*

*''(3) The number of aliens who are nationals or citizens of North Korea who contacted United States personnel overseas and expressed an interest in pursuing resettlement in the United States, irrespective of whether such aliens pursued the resettlement process to its conclusion.*

*''(4) A detailed description of the measures undertaken by the Secretary of State to carry out section 303, including country-specific information with respect to United States efforts to secure the cooperation and permission of the governments of countries in East and Southeast Asia to facilitate United States processing of North Koreans seeking protection as refugees. The information required under this paragraph may be provided in a classified format, if necessary.''.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I rise in strong support of this bill and yield myself as much time as I may consume.

I want to first thank our colleague, Mr. Speaker, and our ranking member of the Committee on Foreign Affairs, Ms. ILEANA ROS-LEHTINEN of Florida, for introducing this important legislation.

The human rights situation in North Korea remains one of the bleakest on the planet. As we speak, millions of North Koreans live in desperate conditions. Political, economic and religious freedoms are nonexistent. Many are starving and undernourished and live in fear of arbitrary arrests where they know they may be tortured or executed.

The North Korean government knows that access to information outside the country is a threat to the regime's control. So it maintains an absolute grip over all legal media, using it to manipulate the population into believing that life is no better anywhere else.

Those who manage to leave the country face further danger, denial of rights and threats to their lives. China stubbornly refuses to categorize North Koreans who flee horrific living conditions and persecution as refugees, instead labeling them economic migrants. This disingenuous, semantic trick relieves Beijing of its obligation to assist the North Koreans who escape into China in accordance with international conventions on refugees to which Beijing is a signatory.

North Koreans are routinely arrested and abused by the Chinese authorities and sent back to North Korea where they are considered traitors. Upon return, they are arrested, likely tortured, and sometimes killed.

Earlier this year, Pyongyang reminded the world how it treats those who desperately seek a better life by leaving North Korea when it executed 13 women and 2 men at the Chinese border. In response to the incident, a local North Korean official is reported to have said plainly, ''We shot them to send a warning to people.''

The suffering people of North Korea need assistance, and in 2004, Congress passed with overwhelming bipartisan support the North Korea Human Rights Act in an effort to focus U.S. attention on their plight. The Act provided new resources to assist North Korean refugees, support democracy and human rights programs, and improve access to information through radio broadcasts and other activities. It also required the President to appoint a special envoy on North Korean human rights.

H.R. 5834, which we're considering today, reauthorizes this vitally important legislation. The current bill extends the North Korean Human Rights Act through fiscal year 2012, doubles the original funding authorization for human rights and democracy programs, and enhances the role of the special envoy by making it an ambassadorial rank and requiring it be a full-time position.

I'm proud to be an original cosponsor of this legislation, which I strongly support and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I'm pleased that we're taking up H.R. 5834, the North Korean Human Rights Reauthorization Act that I introduced last month with my dear friend and partner, Congressman BERMAN of California.

Informed by the experience of the past 4 years, this bill reauthorizes and makes minor revisions to the North Korea Human Rights Act of 2004. That law captured the strong, bipartisan consensus in favor of promoting human rights, transparent humanitarian assistance, and refugee protections for the people of North Korea.

The people of North Korea continue to suffer some of the worst conditions imaginable. The totalitarian regime does not permit meaningful political freedom, nor religious liberty, and requires cult-like devotion to the Kim dynasty. It crushes any who dare to dissent.

The vast North Korean gulag holds an estimated 200,000 men, women and children in brutal, sub-human conditions where entire families are tortured, abused and worked to death.

The centrally directed economy that exacerbated the North Korean famine of the 1990s, which killed somewhere between 1 and 3 million people, continues to threaten the basic welfare of the population.

The scores of North Korean women and girls who flee into China are vulnerable to repeated trafficking, sexual abuse, and exploitation. If they are pregnant when repatriated, they are routinely subjected to forced abortions by North Korean officials, often by vicious, physical beatings.

Trying to sweep the refugee problem under the rug before the 2008 Olympics, China has dramatically raised the bounty that it pays for North Korean border crossers, and routinely repatriates refugees to North Korea where they are sure to face prison, torture, and sometimes even execution.

In an attempt to deter escape, the North Korean regime has been stepping up its executions of people involved in border crossings. They execute them at public gatherings, where attendance by the local population, including children, is required.

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On February 20 of this year, North Korean officials in Onsung County made their point by shooting and killing 13 women in front of the assembled community. Tragically, these atrocities are common in North Korea. We should, therefore, not be surprised when a dictatorship so willing to brutalize its own people is proven untrustworthy and dangerous in its dealings with the outside world.

Whether the issue is human rights, missiles or nuclear proliferation, the only consistent interest of the current North Korean regime is the continuation of the current North Korean regime. It holds no value and no regard

for human life or the welfare of humanity as a whole.

In an effort to help address the grim situation endured by the North Korean people, this bill extends key authorities of the original North Korean Human Rights Act for an additional 4 years, such as funding for humanitarian assistance to North Korean refugees and trafficking victims, efforts to increase freedom of information inside North Korea, support for democracy and human rights activities, and reporting requirements regarding implementation of this act.

It also attempts to energize the United States' anemic North Korean refugee admissions, and clarifies and strengthens the role of the Special Envoy, which Congress intended to be a full-time position within the Department of State to champion better policy making on North Korean human rights, humanitarian, and refugee issues.

The United States is home to the largest ethnic Korean community outside of the Korean Peninsula, and many of our 2 million Korean-American constituents have family ties to North Korea. Our Nation also has the largest refugee resettlement program in the world by far and has resettled approximately 150,000 refugees from around the world since the year 2004, when the act became law. But over the past 4 years, Mr. Speaker, the United States has settled fewer than 50 North Koreans, notwithstanding the clear mandate of section 303 of the act directing the Secretary of State to facilitate North Korean refugee applications. This is an embarrassment, and it is not in keeping with the intent of Congress in passing the North Korean Human Rights Act.

More North Koreans have approached the United States seeking resettlement, but many have been deterred or have abandoned their pursuit because of extended delays that sometimes continue even after they have passed U.S. security screening. A group of increasingly desperate North Korean refugees, some of whom have been awaiting U.S. resettlement for over 2 years, recently carried out a hunger strike to draw attention to their extended limbo. This situation, which continues despite the good work from our regional refugee coordinators, requires persistent, high-level diplomacy by senior executive branch officials to secure permission from more foreign countries to allow us to process refugees, and prompt exit visas when those North Koreans are ready to leave for the United States.

I want to thank my good friend, Chairman BERMAN, and our original cosponsors from both sides of the aisle for their commitment to this important issue, including my friend, Congresswoman SHEILA JACKSON-LEE, whose language on North Korean refugees in China was added to section 3 of the bill.

I urge unanimous consent for this measure. And I hope that we can work together to get this bill through to the other body and onto the President's desk.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to yield such time as he may consume to my friend from California (Mr. ROYCE), the ranking member on the Subcommittee on Terrorism, Nonproliferation, and Trade.

Mr. ROYCE. Mr. Speaker, I rise again in support of this North Korean Human Rights Act.

I think it's very difficult to communicate the conditions of North Korea to those who have not seen those who have survived the torture, have not seen the malnourished children from North Korea. But 2 weeks ago was North Korean Human Rights—North Korean Freedom Week is what we call it now, and I had the opportunity to meet with Shin Dong Hyuk, who was a North Korean defector. And this particular young man was actually born in the prison camp. He was raised in that prison camp. He talked about the torture that was done to him when his parents were executed for trying to escape. And he told me how, after he escaped from the North Korean gulag, he couldn't believe the colors of life outside the prison walls because people in North Korea actually had clothes that were colorful. That's something he had never seen throughout his life living in that gulag.

And that's some statement about the North Korean prison system considering what life itself in North Korea means. It is a total denial of political, civil and religious liberties; no dissent or criticism of Kim Jong-il. The media, of course, is tightly controlled by the regime. There is severe physical abuse dolled out to citizens who violate any restriction. There are, of course, food shortages as the regime distributes food based on perceived loyalty. And in the ''no go'' areas, they don't get the food. The food goes to the ruling elite and the military.

The North Korean Human Rights Act will be an important tool to bring about change in North Korea because this bill places an emphasis, among other things, on broadcasting into North Korea, setting forth a plan to bring 12 hours per day of broadcasting. And the reason I think, Mr. Speaker, that those broadcasts are going to be helpful, those expanded broadcasts, is because of the role they play in bringing objective news and the truth to a closed society.

Fifty years ago, we had the experience with RFE/RL starting its broadcast into the Eastern Bloc, presenting objective news and the democratic ideal over the airwaves. And today we have a situation where Vaclav Havel and Lech Walesa both say that those radio broadcasts were essential to Poland and the Czech Republic's freedom struggle.

North Korea is the world's most secluded society, but this is changing. We do a little bit of broadcasting there now. And now, 30 percent of those who escape tell us they're listening to the broadcast; that includes civil servants and military officers. But there are also the cell phones and the DVDs that are making their way over from China. And these broadcasts will be key in shattering the state-sponsored lies that people are listening to.

Lastly, let me mention that we are in the midst of Six-Party Talks here with North Korea trying to end North Korea's nuclear weapons program. A key part of any agreement is verification. There are different standards of verification, and I'm concerned that the administration will settle, frankly, for a low standard.

In deciding what's acceptable in a deal, it's useful to understand the nature of the other party. And I'd just like to close with this thought: A regime that massively abuses its own people, as North Korea does, puts no value on paper agreements. Andrei Sakharov made this point some years ago about the nature of a regime and the way it treats its own citizens, and how, therefore, in dealing with that kind of a regime you better get verification. And we'd better understand that.

Mr. BERMAN. Mr. Speaker, I yield myself 30 seconds.

The gentleman's ending quote was a very powerful one. And then there was a President here who said, that's why, with those kinds of regimes, you must verify.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker. I rise today in support of H.R. 5834, the North Korean Human Rights Reauthorization Act of 2008, introduced by my colleague Congresswoman ROS-LEHTINEN. I believe that this legislation makes important improvements to the North Korean Human Rights Act, passed in 2004.

Mr. Speaker, between 1994 and 1998, about 2.5 million people died during a period of famine in North Korea. During this period, large numbers of North Koreans began crossing the border to China in search of refuge. At current count, the U.S. State Department estimates some 30,000–50,000 North Korean refugees currently live in China, while some nongovernmental organizations put this figure as high as 300,000. Also according to the State Department, those North Koreans who are repatriated face harsh punishments, ranging from forced labor to execution.

Despite China's obligations under international refugee law, China continues to view North Koreans resident in China as economic migrants rather than political refugees, and, on this basis, refuses to grant U.N. agencies, including the U.N. Refugee Agency (UNHCR), access to these populations. Also because of its refusal to recognize North Koreans as refugees, China has argued that, under a bilateral 1986 repatriation agreement with North Korea, it must return all border crossers. While at times this bilateral agreement has, in practice,

been ignored, The government of China is actively locating and deporting border-crossers back to North Korea.

The practice of returning North Koreans who have fled to China is particularly worrisome, because, under the North Korean judicial system, to leave the country without state permission is considered as an act of treason. North Koreans who flee to neighboring nations, including China, face a high risk of execution should they ever return.

Mr. Speaker, North Korea is an extremely closed society, and millions of North Koreans live in desperate conditions. The regime is classified by Human Rights Watch as being "among the world's most repressive." The government controls virtually all aspects of life, and political, economic, and religious freedoms are nonexistent. Without guarantees of due process and fair trials, citizens live in fear of arbitrary arrest, and of torture and execution by the state. The state controls all access to information, utilizing their control of the media to manipulate the population. Following the famine of 1994–1998, food shortages persist, and many residents are to this day suffering from hunger.

Large numbers of North Koreans have fled these conditions, a significant percentage of which would likely fit the legal definition of refugees. The percentage of these refugees who are women is strikingly high, with recent estimates putting the figure potentially as high as 75%, an enormous increase from an estimated 20% only four to five years ago, though the reasons for this trend are unclear. Female refugees throughout the world face specific challenges, and, in China, any children born to North Korean women face an extremely uncertain future.

In 2004, Congress passed the North Korea Human Rights Act with overwhelming bipartisan support, in an effort to refocus U.S. attention on the people of North Korea. This legislation provided humanitarian assistance to the North Korean people, as well as improved access to information through radio broadcasts and other activities and resources to help refugees fleeing the oppressive regime. This legislation also required the President to appoint a special envoy on North Korea.

This legislation that we are considering reauthorizes this important bill, extending the North Korean Human Rights Act through fiscal year 2012. This doubles the original funding authorization for human rights and democracy programs enhancing the role of the special envoy position, making it a full-time ambassadorial rank post.

I believe that this bill makes necessary improvements upon the original North Korean Human Rights Act of 2004. I am a tireless advocate for human rights worldwide as my continual involvement in promoting human rights for countries such as Syria, Iran, Sudan, and Vietnam is a testament of my dedication towards human rights. I believe those fleeing North Korea should be provided with vital support and aid by the United States Government.

Mr. Speaker, this legislation makes an important statement about Congress's commitment in addressing violations of human rights, wherever they occur. I urge my colleagues to join me in support of this legislation in giving these people hope in humanity.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the bill, H.R. 5834, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SIMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 6 o'clock and 25 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1835

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. ROYBAL-ALLARD) at 6 o'clock and 35 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 1181, de novo;

H.R. 6022, by the yeas and nays;

H.R. 4008, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## EXPRESSING CONDOLENCES AND SYMPATHY TO PEOPLE OF BURMA FOR LOSS OF LIFE AND DESTRUCTION CAUSED BY CYCLONE NARGIS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1181.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and agree to the resolution, H. Res. 1181.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CROWLEY. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 1, not voting 22, as follows:

[Roll No. 306]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Filner
Flake
Forbes
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh

McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Westmoreland
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—22

Andrews
Bonner
Bono Mack
Carney
Crenshaw
Ferguson
Gerlach
Hinojosa
Hulshof
Mack
Mollohan
Myrick
Peterson (PA)
Richardson
Rohrabacher
Roskam
Rush
Sires
Udall (NM)
Watson
Weller
Wynn

□ 1901

Messrs. YOUNG of Alaska and KINGSTON changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MOMENT OF SILENCE FOR THE PEOPLE OF BURMA

(Mr. CROWLEY asked and was given permission to address the House for 1 minute.)

Mr. CROWLEY. Madam Speaker, my colleagues, we just passed a resolution expressing the condolences and sympathy of the House of Representatives to the people of Burma, who are suffering incredible loss of life and destruction, mass destruction, within Burma because of the effects of Cyclone Nargis.

I would ask, if we could, on behalf of the suffering people of Burma, the millions of people who are without clean water, without proper sanitary conditions, without food, who are suffering incredibly, if we could stand for a moment of silence in their memory and on behalf of all the people of Burma today.

The SPEAKER pro tempore. Members will rise and observe a moment of silence.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

## STRATEGIC PETROLEUM RESERVE FILL SUSPENSION AND CONSUMER PROTECTION ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 6022, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill, H.R. 6022.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 25, not voting 23, as follows:

[Roll No. 307]

YEAS—385

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Clarke
Cleaver
Clyburn
Coble
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Duncan
Edwards
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Filner
Flake
Forbes
Fortenberry
Fossella
Foster
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Welch (VT)
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—25

Akin
Barton (TX)
Campbell (CA)
Cole (OK)
Conaway
Cubin
Doolittle
Ehlers
Foxx
Franks (AZ)
Hensarling
Herger
Inglis (SC)
King (IA)
Lamborn
Linder
Lucas
Mica
Neugebauer

Pickering
Radanovich
Scalise
Weldon (FL)
Westmoreland
Wilson (SC)

NOT VOTING—23

Andrews
Bonner
Bono Mack
Carney
Clay
Crenshaw
Ferguson
Gerlach
Hinojosa
Hulshof
Larson (CT)
Mack
Mollohan
Myrick
Peterson (PA)
Richardson
Rohrabacher
Roskam
Rush
Udall (NM)
Watson
Weller
Wynn

□ 1913

Mr. KIRK, Mrs. BIGGERT and Ms. FALLIN changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MOMENT OF SILENCE FOR THE PEOPLE OF SICHUAN PROVINCE, CHINA

(Mr. WU asked and was given permission to address the House for 1 minute.)

Mr. WU. Madam Speaker, yesterday, at 2:28 p.m. local time, a massive earthquake measuring 7.9 on the Richter scale struck Sichuan Province in southwest China. Tragically, the death toll is now estimated in excess of 12,000 people, and it may rise.

There are thousands of people injured and thousands more remain trapped beneath rubble. Especially tragic are the hundreds, and, perhaps over 1,000, school children who are trapped beneath their collapsed schools.

I ask my colleagues to join me in observing a moment of silence to express our deep sympathy for those affected by yesterday's earthquake in China.

The SPEAKER pro tempore. Members will rise for a moment of silence.

□ 1915

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

## CREDIT AND DEBIT CARD RECEIPT CLARIFICATION ACT OF 2007

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 4008, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MAHONEY) that the House suspend the rules and pass the bill, H.R. 4008.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 26, as follows:

[Roll No. 308]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Filner
Flake
Forbes
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Hinchey
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Westmoreland
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—26

Andrews
Bilbray
Bonner
Bono Mack
Carney
Crenshaw
Diaz-Balart, L.
Ferguson
Gerlach
Higgins
Hinojosa
Hulshof
Mack
Miller, George
Mollohan
Myrick
Peterson (PA)
Richardson
Rohrabacher
Roskam
Rush
Stark
Udall (NM)
Watson
Weller
Wynn

□ 1923

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 2419, FOOD, CONSERVATION, AND ENERGY ACT OF 2008

Mr. McGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110–629) on the resolution (H. Res. 1189) providing for consideration of the conference report to accompany the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR ADOPTION OF S. CON. RES. 70, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009

Mr. McGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110–630) on the

resolution (H. Res. 1190) providing for the adoption of the Senate concurrent resolution (S. Con. Res. 70) setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013, which was referred to the House Calendar and ordered to be printed.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2054

Ms. WASSERMAN SCHULTZ. Madam Speaker, I seek unanimous consent to remove my name as a cosponsor of H.R. 2054, the Universal Service Reform Act of 2007. My name was listed due to a clerical error.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

## SYMPATHY EXTENDED TO PEOPLE'S REPUBLIC OF CHINA

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to join my colleagues in offering my deepest sympathy and that of the constituents of the 18th Congressional District to the people of Mainland China, the People's Republic of China, for the enormous tragedy that they are now facing. There are 12,000 expected dead and more, some 19,000 still buried. And what has been the singular tragedy is innocent children sitting in their classroom seats and having a building collapse upon them.

We are told that if this earthquake had occurred in the United States, it would range from Maine to Arizona. We can imagine the enormity of this tragic situation. I would hope that the United States is moving quickly to be of assistance and that we will keep the people of China, the People's Republic of China, in our thoughts.

And as we offer them our prayers and thoughts, let us be reminded of those in the United States who suffered through the terrible tornadoes that our country has been experiencing over a period of time. I hope we will keep all in our prayers.

## RON STONE, TEXAS NEWSMAN

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, the Eyes of Texas are shining tonight on the life and legacy of Houston news legend Ron Stone. Stone died today at the age of 72.

For 30 years, Ron Stone was a fixture on Houston television and the host of one of my favorite shows, the Eyes of Texas, featuring the real-life stories about unique people and places of our great State.

Though he had countless awards to mark his contributions in the media industry, it was his down to earth, folksy style that endeared him to audiences all across the Houston area.

He was born in Oklahoma, but Stone came to Houston in the 1960s, and his love for Texas took root then. He said he wasn't born in Texas, but he got there as fast as he could. After retiring from KPRC in 1992, he continued to leave his mark on the industry. He was a recognized filmmaker, author of several books on Texas history and continued his dedication to our community.

I met Ron many years ago while I was a judge in Houston. It was his personal approach to news that set him apart from others, and captivated audiences for more than 30 years. Ron Stone leaves a unique mark on Houston's history. May the Eyes of Texas forever shine on him and his family.

And that's just the way it is.

□ 1930

## LET'S LOWER GAS PRICES

(Mr. MCHENRY asked and was given permission to address the House for 1 minute.)

Mr. MCHENRY. Madam Speaker, tonight we had a bipartisan vote to suspend deposits in the Strategic Petroleum Reserve. It's a great bipartisan vote. I join with my Democrat colleagues in supporting this legislation. The reason why it works is because it decreases the amount of consumption of oil here in the United States, thereby bringing prices down because it's the control of supply and demand.

Well, likewise, I would ask my Democrat colleagues to join with me in increasing domestic production and refining capacity here in the United States, which is another way to bring prices down for our consumers. We can do this in a bipartisan way.

Madam Speaker, I ask that we join together in a bipartisan vote so we can lower gas prices for the short term and for the long term.

## NATIONAL TRAUMA CENTER STABILIZATION ACT

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, tonight I come to the floor of the House to talk about the bipartisan health care bill introduced by Mr. TOWNS, Ms. BLACKBURN and Mr. WAXMAN. This bill, the National Trauma Center Stabilization Act, is particularly timely, given that this is National Hospital Week.

While it seems like there's a special observance for everything these days, National Hospital Week celebrates the vital role hospitals play in our communities. From delivering our babies to treating traumatic injuries, to caring for our sick and elderly, our Nation's 6,000 hospitals are a critical component of the American health care system, and the American health care system is the best in the world, in part, due to the quality of our Nation's hospitals.

Because of my background treating patients, one of my top priorities in Congress is ensuring that the Federal Government does its part to maintain and improve health care in this country. This includes strong support for our hospitals.

To this end, the National Trauma Center Stabilization Act will help give the 500 trauma centers around the country the support they need to do the critical work they do, 24 hours a day, 365 days a year.

Madam Speaker, I took an oath as a physician and as a policy maker to serve patients and people to the best of my abilities. It's wonderful when these two pledges intersect to make productive policy. The bipartisan National Trauma Center Stabilization Act meets both of these criteria. There's no better time to sign on than today, during National Hospital Week.

## COAL TO LIQUID TECHNOLOGIES

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, we just took an interesting vote on the floor a few minutes ago, and that was to stop filling the SPR and make sure there's 70,000 barrels on the market. The projections by my friends on the other side is that this will affect the cost from 5 cents to 25 cents per gallon.

Just think what putting a million barrels of crude oil into the market—and we can do that by bringing on more supply.

I've been on the floor numerous times to talk about coal to liquid technologies. We have 250 years worth of coal in the Illinois coal basin alone. Turning that into liquid fuel.

Of as great importance is the Outer Continental Shelf, billions of barrels of oil, trillions of cubic feet of natural gas, off-limits based upon policies enacted here in this House. And if 70,000 barrels will do 5 to 25 cents a gallon, just think what a million barrels of crude oil.

We have one problem. We haven't built a refinery in 32 years.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## HONORING THE CITY OF GREENSBORO, NORTH CAROLINA'S BICENTENNIAL CELEBRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Madam Speaker, I rise today to honor the City of Greensboro's Bicentennial Celebration.

Since 1808, the citizens of Greensboro have been pioneers in manufacturing, education and civil rights for North Carolina, for the South and for the Nation. Greensboro has been and remains a leader in economic and cultural development within North Carolina.

Greensboro became the ''Gate City'' at the turn of the last century as North Carolina's rail trade and manufacturing center. Greensboro soon became a leader in North Carolina's textile industry. Henry Humphreys opened the State's first steam-powered cotton mill, and by the 1940s, Greensboro businesses were flourishing. Rayon weaving from Burlington Industries, denim from Cone Mills, and overalls from Blue Bell dominated world markets for their products. In the late 1980s, the Piedmont Triad International Airport again established Greensboro's place as a regional travel and transportation hub.

Greensboro's always been at the forefront of education in North Carolina. Greensboro College, the first State-chartered college for women opened its doors in 1833.

In 1837, Quakers founded the first coeducational school in the State, Greensboro's ''New Garden Boarding School,'' today known as Guilford College, my wife's alma matter.

Greensboro Technical Community College has provided training and an adult education since 1958.

What began as Women's College, and is now the University of North Carolina at Greensboro, and North Carolina Agriculture and Technical College, A & T, is a historical black land grant institution, are leaders in university research, development and art.

With such a strong concentration of academic institutions, Greensboro has obviously developed a thriving cultural scene, particularly renowned for theater, for music and film. In the last few decades there's been an expanded public library system, a children's museum, work in historic preservation, including an effort to save the Woolworth's where the sit-in movement began, as well as the Greensboro Coliseum Complex, which is known for the arts, as well as for college basketball. It's frequently the host of the Atlantic Coast Conference's Men's Basketball Tournament.

Greensboro has also played an important role for racial equality. Greensboro was a stop on the Underground Railroad, as citizens, both black and white, helped slaves escape to the North.

In 1873, Greensboro founded Bennett College for Women to provide education for newly emancipated slaves.

On February 1, 1960, four North Carolina A & T students sat down at the Woolworth's white only lunch counter. Ezell Blair, now Jibreel Khazan, Franklin McCain, Joseph McNeil and David Richmond remained seated until the store was closed, and returned the next day and the next day and the next day, joined each day by more and more who were protesting segregation. The ''Greensboro Four'' or the ''A & T Four'' inspired similar civil rights protests across the South. The sit-in protest that began in Greensboro was the moment the civil rights struggle became a movement.

Later, Greensboro's peaceful public school integration was a model for other communities all over the nation. And today, Greensboro celebrates a diverse population, with citizens from Southeast Asia, Eastern Europe, Latin America, as well as Africa.

In the tradition of the Underground Railroad, the tradition begun with Greensboro's participation in the Underground Railroad, Greensboro now welcome refugees from conflicts around the world, the Sudan, Liberia, Myanmar and on and on.

I am proud to honor the Bicentennial Celebrations of the City of Greensboro, and I'm honored to represent Greensboro in Congress.

## TURN OUT THE LIGHTS—THE PARTY'S OVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Madam Speaker, Congress passed an energy bill which should have been called the Anti-American non Energy Bill, because it punishes Americans for using energy, rather than finding new sources of affordable energy. But the bill does one thing, Madam Speaker, it controls the type of light bulbs that all Americans must use throughout our fruited plains.

Congress's energy bill bans incandescent light bulbs by 2014, and requires Americans to buy compact fluorescent bulbs. Those are called CFLs. Now we can say goodbye to Thomas Edison's incandescent bulb and his invention.

Madam Speaker, I have a Constitution here and, like most Members of Congress, I carry it with me. I've read it through and through, but I don't see anywhere in the U.S. Constitution that it gives the government the power to control the type of light bulbs used in Dime Box, Texas or any other place in the United States. Besides the lack of constitutional authority, let me discuss these light bulbs further.

Nothing in Congress seems to be easy, and that phrase is certainly true with these CFL light bulbs. These light bulbs contain mercury, so they have to be disposed of in a certain way. According to EPA rules, you're supposed to take them to a local recycling center. Thanks to Congress, nothing is easy.

If you throw them out at home, you're supposed to seal the bulb in two plastic bags and place them in the outside trash; otherwise, the bulb may break and pollute the landfill, of all things.

CFLs are made of glass, so they're fragile. If one breaks it or drops it, you have to follow simple rules, thanks to Congress. And according to the EPA, here's what do you if you break one of these light bulbs, and I quote. ''Have people and pets leave the room, and don't let anyone walk through the area.'' We must evacuate the room, Madam Speaker.

I continue. ''Open a window and leave the room for 15 minutes or more. Shut off the central heating and air conditioning system. Carefully scoop up glass fragments and powder using stiff paper or cardboard and place them in a glass jar with a metal lid.'' Obviously, that's readily available.

I continue. ''Use sticky tape, such as duct tape, to pick up any remaining small grass fragments and powder.'' Of course we do have lots of duct tape in Texas, so that's no problem. But we're not through yet.

I continue to quote. ''Wipe the area clean with a damp paper towel or disposable wet wipes and place them in the glass jar or plastic bag. Do not use a vacuum or a broom.''

And, Madam Speaker, I ask unanimous consent to file this 3-page, single space requirements the EPA has made all Americans follow on disposing of one of these broken light bulbs.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. POE. If you break a light bulb in a high rise where the windows don't open, will the EPA light bulb police haul us off to jail because of improper disposal procedures?

If I dropped this light bulb, we would have to evacuate the House of Representatives, according to the EPA light bulb law. Have we gone a bit too far with this nonsense?

Thanks to Congress, we're making what is simple very difficult. And besides, these light bulbs, are expensive, and using them may fade photographs on the wall.

Now, Madam Speaker, I'm going to carefully remove one of these light bulbs from a box that contains all these warnings on the outside. And this is one of those CFL light bulbs that Congress is requiring all Americans to use by 2014.

There's more to the requirements of using these. It says here, and I quote, ''these light bulbs may cause interference to radios, televisions, wireless telephones and remote controls.'' Now we're in trouble for Monday night football because we're going to have to turn out the lights so there's no interference with our TV.

We can also thank Congress for giving more money to China. This light bulb, it says right here, with all the warnings on it, is made in China. And Madam Speaker, they are only made in China. They're not made in the United States. We import every one of these things.

You know, over the past year we've seen Chinese pet food kill our dogs and

cats; Chinese lead paint is poisoning our children, and now Chinese light bulbs that contain mercury can be harmful to our health. Doesn't this bother anybody?

Meanwhile, gasoline nears $4 a gallon, and Congress still has no energy plan except turn on these light bulbs.

□ 1945

Oh, I yearn for the day when America took care of Americans by developing our own abundant natural resources like coal and natural gas and crude oil to provide affordable energy to America. But those days have gone the way of Edison's incandescent light bulb. We might as well turn out the lights, the party's over.

And that's just the way it is.

WHAT TO DO IF A FLUORESCENT LIGHT BULB BREAKS

Compact fluorescent lights (CFLs) are lighting more homes than ever before, and EPA is encouraging Americans to use and recycle them safely. Carefully recycling CFLs prevents the release of mercury into the environment and allows for the reuse of glass, metals and other materials that make up fluorescent lights.

EPA is continually reviewing its clean-up and disposal recommendations for CFLs to ensure that the Agency presents the most up-to-date information for consumers and businesses. Maine's Department of Environmental Protection released a CFL breakage study report on February 25, 2008. EPA has conducted an initial review of this study and, as a result of this review, we have updated the CFL cleanup instructions below.

Pending the completion of a full review of the Maine study, EPA will determine whether additional changes to the cleanup recommendations are warranted. The agency plans to conduct its own study on CFLs after thorough review of the Maine study.

Fluorescent light bulbs contain a very small amount of mercury sealed within the glass tubing. EPA recommends the following clean-up and disposal guidelines:

*Before clean-up: ventilate the room*

1. Have people and pets leave the room, and don't let anyone walk through the breakage area on their way out.
2. Open a window and leave the room for 15 minutes or more.
3. Shut off the central forced-air heating/air conditioning system, if you have one.

*Clean-up steps for hard surfaces*

4. Carefully scoop up glass fragments and powder using stiff paper or cardboard and place them in a glass jar with metal lid (such as a canning jar) or in a sealed plastic bag.
5. Use sticky tape, such as duct tape, to pick up any remaining small glass fragments and powder.
6. Wipe the area clean with damp paper towels or disposable wet wipes and place them in the glass jar or plastic bag.
7. Do not use a vacuum or broom to clean up the broken bulb on hard surfaces.

*Clean-up steps for carpeting or rug*

4. Carefully pick up glass fragments and place them in a glass jar with metal lid (such as a canning jar) or in a sealed plastic bag.
5. Use sticky tape, such as duct tape, to pick up any remaining small glass fragments and powder.
6. If vacuuming is needed after all visible materials are removed, vacuum the area where the bulb was broken.
7. Remove the vacuum bag (or empty and wipe the canister), and put the bag or vacuum debris in a sealed plastic bag.

*Disposal of clean-up materials*

8. Immediately place all cleanup materials outside the building in a trash container or outdoor protected area for the next normal trash.
9. Wash your hands after disposing of the jars or plastic bags containing clean-up materials.
10. Check with your local or state government about disposal requirements in your specific area. Some states prohibit such trash disposal and require that broken and unbroken mercury-containing bulbs be taken to a local recycling center.

*Future cleaning of carpeting or rug: ventilate the room during and after vacuuming*

11. The next several times you vacuum, shut off the central forced-air heating/air conditioning system and open a window prior to vacuuming.
12. Keep the central heating/air conditioning system shut off and the window open for at least 15 minutes after vacuuming is completed.

## LET'S LEAVE NO VETERAN BEHIND

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the civil war in Iraq has devastated the colleges and the universities in that country. It is estimated that thousands of students and professors have been forced to flee the violence, cutting short their studies and their academic careers.

A humanitarian organization called the Iraqi Student Project is trying to help. It's working with 15 American universities to identify quality Iraqi students and provide them with a tuition-free education here in the United States. The project, which was created by two Americans based in the Middle East, is modeled on the Bosnian Student Project of the 1990s, a project that brought approximately 150 Bosnian students to American colleges.

This Friday, Madam Speaker, I will have the honor of delivering the commencement address at the graduation ceremonies for Dominican University's graduate students. I'm proud to say that Dominican University in my district is one of the institutions working with the Iraqi Student Project. Dominican anticipates admitting two Iraqi students in September and waiving their tuition. Upon graduation, it is hoped that the students will return to Iraq to help that devastated country rebuild.

In the coming days, this House will have the chance to show that we, too, have the right priorities. We will be considering the 21st Century GI Bill. This is a bipartisan proposal that would provide a college education to our brave troops when they return from the fighting in Iraq and Afghanistan.

After World War II, Madam Speaker, the GI Bill sent millions of veterans to college. Everyone agrees it was one of the best investments our country has ever made. It fueled the post-war economic boom, vastly expanded our country's middle class, and made good of our Nation's solemn promise to care for our veterans.

But today, the GI Bill covers just half of the average cost of a college education. The proposed legislation would provide coverage for the full costs of going to a public university, and it would help with the cost of attending private university.

The need for this bill is great. It will help make the transition back to civilian life easier for our veterans and for their families. Many of those who have already returned home are unemployed or underemployed. They need a college education to help them succeed in the workplace, and our Nation, we need them to succeed to keep our economy strong.

But surprise, surprise. The administration doesn't share this view. Secretary of Defense Gates has expressed opposition to expanding education benefits. He has said that it would cause retention problems in the military because it would encourage troops to leave the service. I believe, Madam Speaker, that our troops have already done quite enough to help the military achieve its retention goals. Many of our troops have served two, three, and four tours of duty, and the number of troops who have been forced to stay in the service involuntarily through the Pentagon's Stop-Loss policies is actually rising in spite of the Army's promise to cut the number.

Our troops have done all that we have asked of them. They've done it again and again and again. It is true that the occupation of Iraq has stretched our military to the breaking point, but the solution to the problem is to end the occupation, not to ask our brave troops to give up their futures and not to ask them to give up a chance to get a college education.

The 21st Century GI Bill is the right thing to do for our veterans and the smart thing to do for our country. It's a win-win, and it has strong bipartisan support, and it will leave no veteran behind.

## END THE UNJUST IMPRISONMENT OF U.S. BORDER PATROL AGENTS COMPEAN AND RAMOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Madam Speaker, today is day 482 of a terrible injustice in America. Two U.S. Border Patrol agents have been in Federal prison in solitary confinement since January 17 of 2007. Agents Compean and Ramos were convicted in March of 2006 for shooting an illegal alien drug smuggler from Mexico. The smuggler brought $1 million worth of marijuana across our borders into Texas.

The prosecution's star witness, the illegal alien drug smuggler, recently

pled guilty to four felony counts for smuggling drugs while under immunity to testify against the border agents. Ramos and Compean were doing their job to protect America and to protect our border. Yet through a questionable prosecution, the agents were convicted and sentenced to 11 and 12 years in prison, respectively.

Despite the efforts of the American people and Members of Congress in both parties, nothing has been done to reverse this injustice. Members of Congress and outside groups have filed court briefs to support these agents, and on December 3, 2007, the Fifth Circuit Court of Appeals in New Orleans heard oral arguments for their appeals. The only glimmer of hope for these agents and their families rest with the Fifth Circuit Court's decision.

The American people have not forgotten Ramos and Compean. The more time these men spend behind bars, the longer it takes for a decision on their appeal, the more frustrated the American people become, Madam Speaker, as millions of Americans eagerly await a ruling by the Fifth Circuit Court. My prayers are with the agents and their families. I hope that the judges' decision will rectify this gross miscarriage of justice and faith in our judicial system may be restored.

I thank Congressman ROHRABACHER for calling for a national day of prayer last Sunday on behalf of these two decorated U.S. Border Patrol agents. In addition to Mother's Day, this past Sunday marked the beginning of National Police Week. This week is a fitting time for the American people to join in prayer not only for agents Ramos and Compean, but for all men and women in uniform who risk their lives each day to protect our communities. Agents Ramos and Compean were willing to risk their lives to defend our border and protect America from illegal drug smugglers.

Madam Speaker, before I close, again, we call on this White House to please listen to the pleas of the American people and the Congress to say let these men go for doing their job to protect the American people from a drug smuggler. I pray that justice will finally prevail for these men and their families.

And with that, Madam Speaker, again, I call on this White House to listen to the American people.

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## REQUIRING A VOTER'S PHOTO ID WILL DENY MANY AMERICAN CITIZENS FROM THEIR RIGHT TO VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. ELLISON) is recognized for 5 minutes.

Mr. ELLISON. Madam Speaker, it was on May 7, the day of the Indiana primary election just last Tuesday, I believe that was May 5, excuse me, May 5, that 12 nuns came to the voting booth to cast a ballot in the election. These nuns, women of the cloth, women who have dedicated their lives to prayer and service, only wanted to vote but were barred from doing so by Indiana's photographic identification law. This law, which is the most stringent in the United States, the most stringent of any State, requires that before you can cast a ballot, you must present a government-issued photographic identification card. This 98-year-old nun, American citizen, devoted to her country and her faith, was denied along with 11 of her colleagues.

I'm disappointed to tell you, Madam Speaker, that this problem didn't have to happen. Only a few days before this Indiana photographic ID law was put in place, the United States Supreme Court reviewed this law and found that it was reasonable for Indiana to force citizens to provide such identification.

Now, Madam Speaker, you might say, well, isn't this designed to just stop voter fraud? The answer is ''no,'' Madam Speaker. In the United States Supreme Court decision, the Justice that wrote the majority opinion admitted and acknowledged that there was no evidence of voter impersonation. And in fact, Madam Speaker, this bill was a bill to solve a problem that simply did not exist at all. This bill was confronting a mythical voter fraud that worked only to stop 12 nuns and many others from voting.

The bill that required the photographic ID clearly would disenfranchise people who were low-income and didn't have a photographic ID. It clearly would, and did, disenfranchise older Americans who may not have an ID or maybe were born at home and can't even find a birth certificate, which is what they would need to get such a photographic ID. It would clearly bar college students, who maybe haven't gotten a driver's license yet, from voting.

In effect, this bill prohibited people from voting who need a change in America. It stopped seniors who are against the donut hole of the prescription drug, Prescription Medicare Part D that is hurting our seniors. It's barring their way to the ballot box. It's barring our students' way to the ballot box as they struggle to confront galloping tuition increases and mounting debt. It's barring the rights of our citizens who cry for greater civil and human rights in our country. And it's basically standing in the way of voters who need a fairer, more equal, more just society.

The fact is, Madam Speaker, I wish those people who pushed this law forward would have simply admitted that they don't want to debate the ideas, they just want to stop voters from getting to the ballot box. They don't want to debate whether or not it makes sense to help rich people get even richer, to help big corporations get even bigger. They don't want to debate that. They just want to stop the people who would be opposed to their ideas from them ever being able to cast a ballot.

Madam Speaker, I want to commend the New York Times which, on May 13, submitted this editorial: The Myth of Voter Fraud. And what this editorial shows is it is not just Indiana but many other States which are requiring this absolutely unneeded, unneeded photographic ID requirement. States like Missouri, Kansas, Florida, South Carolina, and now others are considering these bills. They must and should be stopped. They're not intended to stop fraud. In fact, if there's any fraud going on, Madam Speaker, it is that people in the category that I mentioned, the senior citizens, communities of color, low-income people, students, those people are being defrauded because actively in almost every election, we've seen schemes and devises reminiscent of Jim Crow to bar them from the ballot box.

And so, Madam Speaker, I ask you and all of the Members of this House to consider a bill that will preempt the Supreme Court's decision in the decision that upheld the Indiana voter law. It's what we need. It would improve the quality of democracy in our country.

And as I close, Madam Speaker, I just want to say our country is a great one not because of bombs and guns and a huge economy, it's a great country because this country has been advancing liberty ever since its inception.

In the beginning of this country, Madam Speaker, you and I know that only white men of property were able to vote. Just being a white male would not get you the vote. But then we saw the Jacksonian Revolution, and people without property could vote; and then we saw the Civil War come, and then black men could vote; and then we saw the 19th amendment, and then women could vote. And then we saw the barring of the 24th amendment which said that no more poll taxes could stand in the way of people voting. And then we saw the amendment that allowed people 18 years old to vote. Every generation we've seen increases in the right to vote except for this one. It's a sad day, Madam Speaker.

I yield back, and I call on this Congress to keep the doors to the voting booth open for all Americans.

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## OPPOSE THE FARM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Madam Speaker, tomorrow we're going to be voting on a very important piece of legislation. This is the farm bill, something that we reauthorize every 5 years or so, and I would

have hoped that we could have a good debate tomorrow. But I just learned a few minutes ago that the bill will come to the floor under a structured rule which will not allow anybody opposed to the bill to claim time in opposition.

So, if you can believe this, this is one of the most expensive, most important pieces of legislation to come before this body in years, and it will come to the floor under a structured rule that does not allow those opposed to the rule to claim time in opposition. This is a bill that the President has said that he will veto. This is a bill that has opposition. But those who favor this farm bill do not want those who oppose the bill to be heard. Imagine that.

There is time under the rule, as with any bill that comes to the floor, for what's called general debate. If you can think of this, general debate tomorrow will mean that time will simply be split between the majority party, which favors the bill, and those on the minority party who also favor the bill. If you oppose the bill, you cannot claim time in opposition, and you must go and get time, which you may or may not be able to get from your respective party officials or those who are controlling the time.

That is simply wrong. We shouldn't run the House this way, under Republicans or Democrats. A bill of this importance should be debated, should be debated fully.

Let me explain a few parts of the bill that I think led to the decision to make this a structured rule where those opposed to the bill cannot claim time in opposition.

We have said we had heard that we were going to have some reform in this farm bill. Those who are on farms making millions of dollars on farms in the past have been able to claim massive subsidies. We were told that this was going to change. In fact, what the President said is that we should have a limit of $200,000 adjusted gross income, or AGI. Anything above that and you should not be able to receive subsidies. That sounds reasonable.

But instead, in this piece of legislation, you can make in farm income $750,000 in adjusted gross income. As an individual, a single farmer can make that. Remember, that's adjusted gross income. That's your income minus expenses. That's after all expenses are taken out. You can still make as a single farmer $750,000 and receive subsidies. If you're married and you structure it properly, your spouse can also make $750,000. That means you can have adjusted gross income as a couple of $1.5 million and still receive thousands and thousands and hundreds of thousands of dollars in subsidy payments from your government.

What's more, if you're a farmer and the farmer's spouse making up to $1.5 million in adjusted gross income, if you have non-farm income, that can amount to $500,000 in addition, and then if your spouse has non-farm income, that's another $500,000. So you can have a couple making $2.5 million in adjusted gross income. Again, adjusted gross income is your income minus your expenses.

People will point out farming's an expensive venture. There are a lot of expenses, but those are taken out, and you can still have adjusted gross income of $2.5 million and collect subsidies under this bill. Is it any wonder that those who favor this farm bill didn't want anybody to be able to claim time in opposition to the bill tomorrow when we debate it?

A few other things that should be discussed here. I should mention that over the past couple of years, since we passed the last farm bill, farm incomes have shattered all kinds of records. We have net farm income that will reach $92.3 billion in 2008. That's a 56 percent increase over 2006.

Average household farm income significantly exceeds the national average. In fact, average household income for farmers is $89,434. Why do we have these kind of subsidies for those who are far better off than the average American? It simply doesn't make sense.

There are also some pretty severe budget gimmicks in this bill to make it look like it's coming in under budget when it really isn't. The Congressional Budget Office, or CBO, identified numerous gimmicks in both the House and the Senate versions of the bill that, for example, they shift costs outside the 10-year window and unrealistically assume that some of these programs will be ended in 5 years, and we know that they won't, just to fit them under the budget window.

Also under this legislation, for the first time that I've seen this, those writing the bill were able to go baseline shopping where you basically say I don't like this year's baseline funding or baseline limit so I'm going to go off last year's baseline limit; that will allow me to spend more. It's like if I were filling out my taxes and I said, well, you know, I could pay less if I claimed last year's income instead of this year's and I would be able to choose that.

That's what the sponsors of this legislation have done. They've shopped for a cheaper baseline so they could fit more spending. That gimmick should be exposed, and it's no wonder they didn't want anybody to claim time in opposition.

Madam Speaker, I don't know how anybody in America thinks that we're going to be serious enough to address the entitlement problem we have in this country with Social Security and Medicare if we can't say no to millionaire farmers. How will we ever address entitlements if we can't say no to millionaire farmers?

## SUNSET MEMORIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Madam Speaker, I stand once again before this House with yet another Sunset Memorial.

It is May 13, 2008, in the land of the free and the home of the brave, and before the sun set today in America, almost 4,000 more defenseless unborn children were killed by abortion on demand. That's just today, Madam Speaker. That's more than the number of innocent lives lost on September 11 in this country, only it happens every day.

It has now been exactly 12,895 days since the tragedy called Roe v. Wade was first handed down. Since then, the very foundation of this Nation has been stained by the blood of almost 50 million of its own children. Some of them, Madam Speaker, died and screamed as they did so, but because it was amniotic fluid passing over the vocal cords instead of air, no one could hear them.

And all of them had at least four things in common. First, they were each just little babies who had done nothing wrong to anyone, and each one of them died a nameless and lonely death. And each one of their mothers, whether she realizes it or not, will never be quite the same. And all the gifts that these children might have brought to humanity are now lost forever. Yet even in the glare of such tragedy, this generation still clings to a blind, invincible ignorance while history repeats itself and our own silent genocide mercilessly annihilates the most helpless of all victims, those yet unborn.

Madam Speaker, perhaps it's time for those of us in this Chamber to remind ourselves of why we are really all here. Thomas Jefferson said, "The care of human life and its happiness and not its destruction is the chief and only object of good government." The phrase in the 14th Amendment capsulizes our entire Constitution, it says, "No State shall deprive any person of life, liberty or property without due process of law." Madam Speaker, protecting the lives of our innocent citizens and their constitutional rights is why we are all here.

The bedrock foundation of this Republic is the clarion declaration of the self-evident truth that all human beings are created equal and endowed by their Creator with the unalienable rights of life, liberty and the pursuit of happiness. Every conflict and battle our Nation has ever faced can be traced to our commitment to this core, self-evident truth.

It has made us the beacon of hope for the entire world. Madam Speaker, it is who we are.

And yet today another day has passed, and we in this body have failed again to honor that foundational commitment. We have failed our sworn oath and our God-given responsibility as we broke faith with nearly 4,000 more innocent American babies who died today without the protection we should have given them.

Madam Speaker, let me conclude in the hope that perhaps someone new who heard this Sunset Memorial tonight will finally embrace the truth that abortion really does kill little babies; that it hurts mothers in ways that we can never express; and that 12,895 days spent killing nearly 50 million unborn children in America is enough; and that the America that rejected human slavery and marched into Europe to arrest the Nazi Holocaust is still courageous and compassionate enough to find a better way for mothers and their unborn babies than abortion on demand.

So tonight, Madam Speaker, may we each remind ourselves that our own days in this sunshine of life are also numbered and that all too soon each one of us will walk from these Chambers for the very last time.

And if it should be that this Congress is allowed to convene on yet another day to come, may that be the day when we finally hear the cries of innocent unborn children. May that be the day when we find the humanity, the courage, and the will to embrace together our human and our constitutional duty to protect these, the least of our tiny, little American brothers and sisters from this murderous scourge upon our Nation called abortion on demand.

It is May 13, 2008, 12,895 days since Roe versus Wade first stained the foundation of this Nation with the blood of its own children, this in the land of the free and the home of the brave.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

(Mr. GILCHREST addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## ENERGY INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, just a little while ago, we voted to suspend the acquisition of petroleum for the Strategic Petroleum Reserve and for other purposes, a bill, H.R. 6022, which is going to take about 70,000 barrels of oil a day that would be going into the petroleum reserve and put it into the market for Americans to use in gasoline and other products.

It sounded very good and I voted for it because it is one small step, if you can call it a small step, in the right direction, but it's really not going to solve the problem.

The problem we have is that the United States is not energy independent. We have been talking about energy independence for the last 35 to 40 years, and we haven't done anything about it.

This House, and primarily the Democrat party, is being held hostage by the environmental lobby that won't allow us to drill in places like the ANWR in Alaska. Alaska is three-and-a-half times the size of Texas. It's huge. I've been up to Alaska. Drilling up there in the ANWR isn't going to hurt anybody or anything. And I cannot understand why we can't get 1 million to 2 million barrels of oil a day out of there that would help the American people see the price of their gasoline and other fuel products reduced dramatically.

We can't drill off the continental shelf, even 100 miles out, because of the environmental lobby, and yet Fidel Castro, and his brother Raul Castro, 90 miles off of the Florida shore, can drill within 45 miles or 50 miles of the United States of America and actually drill into oil reserves that we have down in that area. In other words, taking our oil reserves and pumping them out of that area and into their coffers, and they're selling that under contract to China, our oil reserves that we could drill for down in the area between us and Cuba.

We also have such dependency on the Middle East it isn't even funny. We have dependency on Venezuela. One of our chief adversaries now is the President of Venezuela, and he controls in large part the price of oil and gasoline in this country, as do the people in the Middle East that have great oil reserves and are pumping it.

And it's extremely important, in my opinion, that we do something about becoming energy independent. We talk about it all the time. We talk about moving toward other forms of energy and I'm for that, but it's going to take time for that transition to take place. And in the meantime, the environmental lobby is blocking us from drilling in the ANWR, drilling offshore on the continental shelf, and allowing our enemies to make a huge profit at our expense.

The gasoline prices that the American people are paying today is a direct result of us caving in this country to the environmental lobby year after year after year. We could move dramatically toward energy independence if we could just pass an energy bill that would allow us to use our resources.

And we come to this floor and talk about it all the time, and the American people are getting a steady diet that President Bush is responsible for the high gas prices. That's absolutely absurd. The reason the gas prices are as high as they are today is because we can't drill the oil out of our country and get our reserves to the market so that the gas prices can be reduced.

We can't do it because the Democratic party primarily is caving in after year after year to the environmental lobby, and we can extract oil out of the ANWR and off the continental shelf in an environmentally safe way. So, if the people of this country are really concerned about gas prices, they ought to find where the fault really lies, and that is with this Congress and the liberals who are controlled by the environmental lobby and will not allow us to drill to get the oil reserves that we have in our country and off the continental shelf.

It's a tragic shame, and I just wish the American people could get the information and the drive-by media, as Mr. Limbaugh calls it, would report the facts as they are. We have the ability to move toward energy independence, and we don't do it year after year after year, and we continue to be dependent on foreign oil. That's one of the main reasons why the price of gasoline is approaching $4 a gallon.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

(Mr. BURGESS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

## ILLEGAL IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Madam Speaker, earlier a gentleman who addressed the House talked about the issue of voter fraud, and he was concerned about the fact that there were States that were actually trying to do something about it using voter IDs in order to make sure that the person who is at the polls is, in fact, who they say they are.

Now, we may think that there is no such thing as voter fraud. The fact is that unfortunately there's an enormous amount of voter fraud. I recalled as I was listening to the gentleman speak on this issue, and I cannot remember now the county, but I remember hearing about a county that sent out a notice to all of its citizens with regard to being empaneled as jurors. And of course, one of the questions they asked on this is whether or not you were a citizen, and if you checked that, then you were not eligible to sit on a jury.

Well, they then went and took the information apparently and looked at the voter information rolls, and there were hundreds of people that had identified themselves as not citizens for the purpose of serving on a jury because they didn't want to do that, because they were not citizens and they were willing to say so, and on the other hand, they had registered to vote because they also wanted to do that. That was okay with them.

Of course, this is in just one particular county, and as I say, I can't recall it now, but I just was thinking about that as I heard him because there are all kinds of things that are happening throughout this country and have been happening for a long time that attack the whole concept of citizenship.

We keep taking things away from that idea of what it means to be a citizen, bestowing these same privileges on anyone who happens to be here. Simply a resident, that's all it takes anymore.

There are cities, of course, that call themselves sanctuary cities and allow people who are not even legally present in this country the ability to have all kinds of services, to stay essentially hidden from the authorities because

they have broken the law by entering this country without our permission, but they are given this special sanctuary status, and they were given not only that but a lot of other kinds of benefits.

Recently, just as sort of the, I don't know, one of these I can't believe it's true stories that I hear almost every single day, something happened in Los Angeles that really points out again the fact that we are moving ever more closely to making the term ''citizenship'' meaningless.

Madam Speaker, the L.A. Times ran a story about the illegal immigration epidemic in this country and how much it was putting pressure on our most vulnerable citizens, in this case, those awaiting organ transplants. And they picked out one particular individual, a lady by the name of Ana Puente who was here illegally.

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She had already undergone three liver transplants, two in 1989, and a third in 1998, each paid for by taxpayers, in this case, by the taxpayers of California under a program that allows for any individual in California to be eligible for this kind of medical service up until the time that they are 21 years old. And if they are unable to pay for it, the State pays for it.

Well, when Ms. Puente turned 21 last June, she aged out of her taxpayer-funded health insurance in California. So what did she do? She found out something very interesting. She found out that if she was here illegally, which she was, and notified U.S. Immigration and Customs of that fact, then at that point in time she would be eligible for the service, a free service. She would be eligible for the medical service that she wanted. Why? Because illegal aliens in this country are entitled to benefits under the Medi-Cal system. So when she admitted her illegal status in the country, her benefits were restored, and she is now awaiting her fourth transplant at taxpayer expense.

Madam Speaker, what this means is that in California, if you're an illegal alien, you're entitled to taxpayer-funded health care for complex procedures like organ transplants. If you're an American, you may be out of luck. How much money are we talking about? Well, the average cost of a liver transplant and the first year of follow up runs about $500,000; anti-rejection medications alone can run about $30,000 annually. As we all know well, liver donors are also in scarce supply. In California alone, 4,000 people are awaiting livers.

It is amazing. We all know that the health care system is a triage system. Some things are allowed, some things are available. One of the things that should be considered is legal status in this country.

## NATIONAL POLICE WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Washington (Mr. REICHERT) is recognized for 60 minutes as the designee of the minority leader.

Mr. REICHERT. Madam Speaker, it's an honor and a privilege for me to be a servant of the people in the House of Representatives.

I came to this office through a rather unusual route. My first career was in law enforcement. And we are here tonight to recognize National Police Week, and especially National Police Memorial Day on Thursday.

My 33-year career in law enforcement started in 1972. I was a 21-year-old police officer, a sheriff's deputy with the King County Sheriff's Office. I worked patrol for 5 years. I worked as a property crimes detective. I worked as a homicide detective. And I've worked as a lead detective on a serial murder case. I've worked as a patrol sergeant, SWAT commander, a hostage negotiator—just about every aspect of law enforcement that you can think of I've been fortunate enough to experience—and finally, my last 8 years as first elected Sheriff in King County in almost 30 years. And here I stand today, in my second term in the House of Representatives, to talk about law enforcement.

I feel I have, as you might guess, some knowledge about what police officers do and what dangers they might face. And this week especially is an important week to stop and think about what police officers across this Nation do. I think that sometimes we take them for granted, the brave men and women who serve all across this Nation to protect us each and every day.

If you think about your life, think about my life and what we do each day by getting up in the morning, preparing breakfast, going to work, going to school, feeling safe, coming home from work, picking up your children from school, we sort of take those police cars for granted that we see patrolling our neighborhood. And Sunday, this past Sunday we celebrated Mother's Day, an opportunity for families to get together with their children and grandchildren, as I did on Sunday with my three—actually, two of my children showed up, and some of my grandchildren were there, but an opportunity for us to come together and celebrate the contribution that mothers make to this Nation. And we did it safely in our home.

But at the same time, I remember, as I was sitting there this Sunday, and most holidays, really, reflect back on my career and think about those days I was in a police car, as I drove around the neighborhoods that I was patrolling and recognizing that all of these families were together on this special day, Thanksgiving, New Year's, Christmas, Mother's Day, Father's Day, all those days that bring families together that I was driving around in my patrol car in those communities, all the cars parked at these homes, it was my job, and my partner's job on either side of me in the districts that they patrolled, to keep them safe while they enjoyed that day. We take that for granted. I think we take our freedom for granted.

I once spoke at the University of Washington not too long after taking this office and I was talking to a group of students, 400, 500 students or so, and really was emphasizing the importance of freedom and how much that we need to embrace our freedom and recognize that freedom isn't free, not just the men and women who are serving here as police officers in our country, protecting us each day here at home, but those men and women who are protecting our freedom all around the world in our armed services.

And as I was a little bit passionate about freedom and about how important it is for us to recognize that if we don't guard freedom it will slip through our fingertips, a young lady in the class raised her hand and said—and they still call me Sheriff, by the way—Sheriff, I don't understand why you're talking about freedom so much. We have been a free country for years, and we're going to continue to be free. That really struck me, that one comment by that young college student, because she really pointed out what I had believed for a long time, that people in this country are taking our freedom for granted.

Success in our world today, success in our communities today, it really depends upon what our police officers do. Remember your police officers out there who are balancing, protecting your neighborhoods every day. I was the sheriff during WTO. We had 40 to 50 thousand people who were rioting in the streets of Seattle in 1999.

Now, there is a great balance that had to take place there as we tried to bring peace to the city of Seattle during those riots. Before the riots began, people were saying, let's go to Seattle and listen to people speak and express their freedom of speech. And then as people arrived and some decided to create havoc, people were a little bit nervous because crimes were being committed, the rights of other people were being trampled upon by those who felt that their freedom of speech was more important than others who were trying to express their freedom by going to work, coming home, leaving and going and moving and shopping and doing the things that we do every day.

So at one point what we had to do in WTO during those days was to shut the city down. Certain segments of the city of Seattle were cordoned off. There was a curfew placed on the city of Seattle on the citizens. So freedom was lost. If you think about freedom on a continuum, you have the ''freedom to'' and the ''freedom from.'' ''Freedom to'' is the police officers that raise their right hand and say, I swear that I will uphold the Constitution of the United States, that I will protect your rights provided to each and every citizen of the United States of America. And on the other end of the continuum you have the

''freedom from.'' We promise that we will do our best to keep you from becoming victims of crime. Well, in WTO you saw that balance sway. Freedom was being expressed, people were expressing their freedom more vocally than they should have. It got out of control. Chaos ensued. Police came in. Freedom was taken away. The balance in the continuum of freedom was unbalanced.

But in America and in Seattle, as peace was restored to the city, the curfew was removed and certain areas of the city that were closed off were now open once again for people to move about the city. This is America, where we recognize that we can't keep people from moving where they want to move and go where they want to go. It's a free country.

So the police have a tough job. Imagine being a police officer, 50,000 people rioting in the streets and you're one of the police officers standing in line trying to protect America, protect the citizens of Seattle. And I saw this happen. One of the police officers, the sheriff's deputies standing his post shoulder to shoulder with the rest, as I was standing behind him, was standing stoically in the face of thousands of people screaming and yelling and protesting. And one had a stick in his hand and reached over and hit the police officer, the sheriff's deputy over the head with that stick. And the sheriff's deputy didn't move, just stood there. And they moved the crowd along. It's a tough job to balance freedom and protection of America, but our police officers do it every day.

Let's take a moment to talk about and think about National Police Week. This is a week where we celebrate and appreciate and remember the efforts that all of our police officers put forth each and every day. And boy, I could tell you some stories, I would be here all night, about my experiences on patrol and some of the things that police officers see and the dangers that they face.

More than 56,000 police officers are assaulted every year. Every 53 hours a police officer is killed in the line of duty here in the United States. I've lost some friends over my 33-year career. I want to share their stories briefly. And as you can tell, it's emotional, memories that come bubbling up as I remember those days.

My best friend by the name of Sam Hicks, he and I were working homicide together. We were tracking down a killer. He went out one night with another friend of mine because they got a tip on where this killer was. And as they went out in search of this killer, they found him. They began to follow him. And the killer and his brother ambushed my partner and shot him in the chest with a .308 Winchester rifle and took his life. He left behind a wife and five children. That was June 1982.

Two years later, a good friend of mine who was a classmate in the academy—in fact, we rode together every day to the police academy in 1973—Mike Rayburn, a great public servant, excellent police officer, dedicated, committed to his job and his family and his community, was working a special unit in Seattle. He knocked on a door, the door opened, the man opened the door and thrust a World War II sword through the crack of the door and into Detective Rayburn's body. He fell and died.

These are only two stories of two special friends. There are many people who are touched by the loss of a police officer, mothers and fathers, sisters, brothers, spouses, sons and daughters, grandparents, neighbors and friends. It's a job we should respect, we should thank them for, praise them for, not take for granted, and always remember them.

I'd like to pause in my presentation for a moment and yield some time to my good friend who is a judge from Texas, Congressman Ted Poe.

□ 2030

Mr. POE. I want to thank the gentleman for yielding.

I appreciate your service in the House but also in your other career as a sheriff. I'm sure, based upon the information we know about you, Sheriff, when you left the State of Washington and came to the House of Representatives, the criminals were probably cheering that you had left town and you were coming to Washington, DC. But I want to thank you and the other several individuals in the House of Representatives who served in law enforcement prior to coming to the House of Representatives.

This week is Police Week, May 11 through the 17th. I am proud to be the author of House Resolution 1132 to designate May 15 of this year as Peace Officers Memorial Day so that we can honor all Federal, State, and local peace officers killed in the line of duty or disabled in the line of duty.

As you have mentioned, Sheriff, thousands of local, State, and Federal law enforcement officers across the country are injured every year. Almost 60,000 a year are injured in the line of duty. Many others are also killed in the line of duty.

Peace officers selflessly protect our communities and our property regardless of the dangers they face. Every day when they get up, they pin that badge or star on, and they go on patrol throughout this country, they always put their life on the line for the rest of us. There are almost 1 million sworn peace officers in the United States today.

When I came to Congress, I was the author and founder of the Victims' Rights Caucus. This bipartisan group advocates not only on behalf of crime victims but peace officers as well, to give bipartisan support for the work that peace officers do because many of them also become victims of crime.

You mentioned that you spent 33 years in law enforcement. I saw it probably from the other position. You used to catch them and I used to prosecute them, so to speak. I spent 8 years prosecuting criminals in Houston, Texas, and left the District Attorney's office and became a judge in Houston for 22 more years, hearing only criminal cases, hearing some 25,000 cases during that period of time. And I saw firsthand how police officers became victims of crime. During my years as a prosecutor, I knew several peace officers that were injured or killed in the line of duty. And since the first recorded police death in 1792, there have been almost 20,000 officers killed in the line of duty in the United States. Of course, the deadliest day in law enforcement history was September 11, 2001, when 72 officers were killed responding to international criminal attacks against the United States. Last year 181 officers were killed. That's 30 more than in 2006.

Law enforcement officers are also frequently the victims of assault. They continue to be assaulted day in and day out. And it's not part of their duty and job to be victims of assault. But as you mentioned, many times they take it because that's what they do.

Here in Washington, DC., we have the National Law Enforcement Officers Memorial. This memorial lists the names of brave men and women who have died in the line of duty, and every year more names are added to that memorial, and every year more families suffer the rest of their lives for being a victim of crime and the loss of their loved one.

This year, in 2008, Texas has the highest number of law enforcement officers that have been killed, with Georgia being second. Ranking in the States, California has lost the most, Texas the second most, and New York the third most since we have been recording the number of officers killed. This week allows us an opportunity to pay tribute to these brave men and women who are no longer with us because they protected our communities.

Texas has a high number of officers who have been killed because of the unique problem we have with illegal trespassers and that epidemic that is occurring on our southern border. You can open a newspaper almost every week in Texas and read about some illegal trespasser committing a crime, and too often that crime is against a peace officer. Right now, as we are here tonight, down in Houston, Texas, an illegal trespasser by the name of Juan Leonardo Quintero-Perez, who had already been deported from this country once for child molesting, came back into the United States and was arrested by Houston Police Officer Rodney Johnson for a routine traffic stop. But Officer Johnson was the victim of a crime because this illegal criminal shot Officer Johnson four times in the back of the head. His wife was also a Houston police officer. Now they mourn his loss while the killer is on trial for capital murder, too often a

scenario that occurs here in the United States.

This week also there is another group that is meeting, and the name of this organization is Concerns of Police Survivors, or COPS, as it's called. They have their National Police Survivors' Conference this week, and it's an organization of 15,000 families of law enforcement officers that were killed in the line of duty, and they are meeting this week to honor the loss of their loved ones and peace officers throughout the United States.

It is important that we in Congress recognize the work that peace officers throughout the United States do on a daily basis. They don't get much recognition, and it's our responsibility to make sure that we are their advocate and we're their voice.

When I was growing up in Texas, before we moved to Houston, we lived in a small town called Heidenheimer. You've never heard of it, Sheriff. But occasionally we would go to the biggest town in our area, Temple, Texas. And once I was there with my dad watching a parade, and I noticed that there was an individual standing on the side at the curb not involved in the parade, just watching the parade. And, of course, that was a local Temple police officer. And back in those days, they didn't wear uniforms. They just wore a cowboy hat and a white shirt and a star, as some of them still do. And I was 5 or 6 years of age. And I remember my father told me, because he noticed I was watching this individual, he said, ''If you are ever in trouble, if you ever need help, go to the person who wears the badge because they are a cut above the rest of us.''

Now, those words were true many, many years ago when I was a kid, but they are true today as well. People still, when they're in trouble, when they need someone to help them, they go to peace officers, those individuals who wear the badge, because they are the last strand of wire between the law and the lawless, and they protect us from those who wish to commit crimes against our community. They are all that separate us from the barbarians, if you will. And we honor them for wearing the badge of an American peace officer.

When September 11, 2001, occurred, all Americans remember what they were doing that morning. I was driving my jeep to the courthouse, and I was listening to the radio, and it was interrupted, and we heard about an airplane that crashed into the World Trade Center. And as I continued driving to the courthouse, we heard about a second plane that crashed into the World Trade Center, the second tower. And then another plane crashing in Pennsylvania because of some heroes on that plane, and the fourth plane crashing not far from here, into the Pentagon.

And later that evening, as most Americans were watching television, as I was, while peace officers like yourself, Sheriff, were out doing your duty on patrol, I noticed that there were thousands and thousands of people. When those planes hit the World Trade Center, thousands of people were running as hard as they could to get away from that crime in the skies.

But there was another group, not near as many, but they were there anyway, a small group, that when those planes hit the World Trade Center, they were running as hard as they could to get to that crime scene. Who were they? Emergency medical technicians, firefighters, and peace officers. And 72 of those peace officers gave their lives that day.

And while it's important that we remember the 3,000 that were killed on 9/11, it's equally important we remember those that lived because peace officers and other first responders gave their lives so they could live and are living today.

So it's important that we honor our peace officers because they are, as my dad said many, many years ago, ''a cut above the rest of us.''

And that's just the way it is.

Mr. REICHERT. I thank my good friend from Texas, and it's good to have others in Congress who understand the role that law enforcement officers across this country play and the important work that they do to keep us all safe. And the judges were a great partner for us in keeping our communities and neighborhoods safe.

I want to thank you for your years of service in law enforcement and thank you for being here tonight to share some of your thoughts with us on National Police Week.

Some of the things that you mentioned I want to touch on.

We, as Americans, cannot really talk about success and freedom in America and being free in America until we know our children are safe and we know our children and family are secure. One of the things that I think is important is to have people in Congress who understand law enforcement. And for those police officers out there listening, I assure you that there are people here who understand and appreciate so much what you do. Some of us have been there.

The judge touched on a number of police officers injured in the line of duty. I was one of those in a domestic violence call in the mid-1970s, back when I was much younger and had dark brown hair. But in the middle of trying to save the wife of a deranged person, her husband, I was in the battle for my life. This man had a butcher knife and was trying to slit the throat of his wife, and I was able to grab her and push her out a bedroom window but suffered butcher knife wounds to the side of my neck.

I also understand the need for support, for the community to come around us and support us and be there for us when we need them to stand up and tell elected officials: We need more police officers. We need technology. We need more help. We need you to be there for us and support us with budget increases, not budget cuts. We need you to make strong laws in your local communities, your cities, and your States and your counties that help us do our job, that help us protect American citizens from criminals, from being victims, and also to protect our rights.

The United States has some serious problems that we need to address, and I don't think they're being addressed the way they should be. People know that we have a gang problem. People know that we have a drug problem. People know that we have child predators on the Internet, sexual predators on the Internet, preying on our children.

I want to share a few facts with you. Gangs are increasing. We used to think about gang problems, drug problems, and those sorts of things as inner-city problems, inner-city crimes. These crime activities now are spread across the Nation, as you can see by this map. This is an indication of the gang problem across our country. The white dots you see are where gang activity exists today, and it's pretty much maintained the same level over a number of years. The red dots indicate increases in gang activity. The blue dots, which you don't see many of, indicate a decrease. Now, if you can't see this fully on your TV screen at home, please feel free to go to our Web site and check your neighborhood, check your city, check your State to see what condition your neighborhood is in as far as increase in gang activity and drug activity.

Today there are 25,000 gangs operating in more than 3,000 jurisdictions in the United States. Gang membership has escalated to 850,000 members.

Even more alarming, gangs are increasingly targeting our young kids. They're not recruiting kids from college, young men and women from college. Yes, they are, but this isn't their target age. They're not just recruiting kids from high school. They're not just recruiting kids from junior high school or middle schools. But they're also targeting our kids who are in elementary schools. The average age of a gang recruit today is seventh grade. That's an 11- or 12-year-old child being recruited into a gang in some city across the United States of America now, today, tomorrow, and the day after.

□ 2045

What are we doing? According to a 2001 Department of Justice survey, 20 percent of students age 12 through 18 reported that street gangs had been present at their school during the previous 6 months. More than one-quarter of the students in urban schools reported a street gang presence. Eighteen percent of students in suburban schools and 13 percent in rural schools reported the presence of street gangs. This is not just an inner city problem. This is a problem that is spread across this country. It is in suburban schools. And

it is in the suburban neighborhood that I live in in Washington State.

Gangs threaten the freedom and security of our communities in many ways. They are directly linked to the narcotics trade, human trafficking, ID theft, assault, murder and a host of other crimes. There were over 631 gang-related homicides in the United States in 2001. Gangs readily employ violence to control and expand their drug trade.

Now I have personal experience too, of course, with that but more on a personal level rather than a professional level as a police officer. I want to talk about the impact of drugs on children and families. I am the proud grandfather of six grandchildren. Two of my grandchildren are adopted. They were foster grandchildren, foster children of my daughter and her husband, who were drug-addicted babies. They came into my daughter's home and her husband's home when they were about 2½ months old. Little Briar is 6 years old and doing fine. He was 2½ pounds when he was born, a little meth-addicted baby. Little Emma is 5 years old. She was a crack cocaine, heroin, meth and alcohol-addicted baby.

Think about that for a minute. Drug-addicted babies. Gang members who are promoting drugs and selling drugs to young teenage girls on our streets who then become pregnant and give birth to drug-addicted babies.

I hope that everyone watching understands the impact of what I just said. Do you know what happens when a meth baby is born? Have you ever thought about the pain they go through? When they are born, they have no idea they are hungry. In fact, they don't know how to eat. They don't know how to suck on a bottle. The poison from the meth escapes through their bottom. So they put the babies on their belly in a fetal position with a warming light over the top of them. The poison, as I said, escapes through their bottom. But you can't put any ointment on them because it holds the poison against the skin. You can't use baby powder. It does the same thing. It creates more pain.

So what do you do with a meth-addicted baby? You let the baby suffer for 2 or 3 weeks and let the drug escape through the bottom while the baby feels intense burning and pain during that period of time. Briar went through that. Emma, as a crack cocaine, heroin and meth-addicted baby had additional issues to deal with. Today these children are in a good home. They have a chance at a good life and to be productive citizens in this country.

But ladies and gentlemen, those are the kids that we need to protect. Those are the kids that our police officers are out there every day trying to prevent them from becoming drug-addicted babies, trying to prevent those young girls that we see out there from becoming mothers of drug-addicted babies, trying to prevent those young men out there from becoming fathers of drug-addicted babies and then disappearing into the streets.

So we have to say enough is enough. We have a crisis on our hands. Gangs, drugs, sexual predators, Internet sexual predators, gangs on the rise, organized gangs, 850,000 gang members. Congress needs to stop talking about these issues and needs to act. We need to act today. And during this Congress, the majority has been silent on this issue. And as I said, I understand as a sheriff, as a police officer in a uniform driving a police car, and as a detective, I needed the tools then to do my job. I know there was a fight in the battle in the budget arena at the county council level, at the State level and at the Federal level to find us the tools that we needed. But every day we went out and we did our job with the tools that we had.

One of the things I wanted to point out today is that we have, as Republicans, presented over 103 pieces of legislation to help police officers get the job done. I have to tell you that as a cop, because I still see myself as a cop trying to be a legislator, trying to find the way to stop the craziness and the violence in this country, where are the people of the United States who need to push their representative, who need to call their representative, who need to e-mail their representative, who need to be pounding on the front door and demanding that we do something about gang violence in this country, that we do something about stopping the recruitment of our grade school kids and junior high school kids into gangs?

Of the only six bills that we have out of the 103 that the Democrats have agreed to accept, and they have actually passed, three of those are resolutions. While we support resolutions and the statements that they make in support of police officers, in support of stopping crime and protecting our citizens, we need real action.

To address the gang epidemic in our suburban communities, I have introduced legislation, H.R. 367, the Gang Elimination Act, that would identify and target the three international gangs that present the greatest threat to the United States and create a gang most-wanted list and develop a national strategy to eliminate the gang epidemic plaguing our neighborhood. This bill has not seen the light of day. I even testified in front of the committee. That bill has not even seen the light of day.

Why not? Is it because it is a Republican bill? Is it because the majority doesn't support the job that police officers are out there trying to do every day? Why are we not providing the tools that our cops need? I ask that question every day when I come to work in this body.

Crime is on the increase. Violent crime is on the increase. Gang activity is on the increase. Drug addiction is on the increase. More drug-addicted babies are being born. The pediatric interim care center that Briar and Emma were taken to and treated and foster cared out and finally adopted by my family has increased their capacity to now nearly 45 babies that they can hold within that facility. And it's not enough. They need more space.

So I would ask the majority, please consider the other 103 bills. Let's bring the Gang Elimination Act to the floor. Let's bring these other 103 bills to the floor. Let's act on these today. Let's help the police officers out there in our country that need our help today. Let's not wait another minute. I demand that we have action here in Congress in helping our police officers.

Madam Speaker, I yield back the balance of my time.

## THE PRICE OF GASOLINE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Madam Speaker, it is an honor to be recognized to address you here on the floor of the United States House of Representatives. And of all the issues that are before this country today, tonight, yesterday, last week, last month and tomorrow, energy is the number one issue that is on the minds of the American people.

And as the American people pull into the gas pump and pay $3.60 or $3.70 for a gallon of gasoline, and if they are buying diesel fuel for their truck or maybe for their diesel automobile, they are up there at $4.17 and $4.20 a gallon, and that inflation of the fuel cost is on the minds of all Americans. And it costs us all in a number of different ways.

I have a group of constituents, and a lot of them use something like a gallon, gallon and a half of gas to go to work every day. We don't all live in a compressed place in the inner city like millions of Americans do. Some of us live 25, 30 or 40 miles from our work. Even if we get a car that gets 20 or 25 miles to the gallon, we might still drive, if it's 25 miles to the gallon, 25 miles. That's a gallon of gas to get to work. And it's a gallon of gas to get home. And that gallon of gas at $3.60 adds up over the week, an extra gallon going to work, and an extra gallon coming from work. And if you do that Monday through Friday and sometimes for half a day on Saturday, that means that over the week, let's just say that gas is up $1.50 a gallon from where it was not that long ago, that's $1.50 extra going to work and $1.50 extra coming home from work. That's $3 a day, $20 a week, perhaps $18 to $20 a week, and that's $80 or more a month. That $80 more a month is a significant amount out of the paycheck of the American people, Madam Speaker.

We can deal with that, Madam Speaker, if we adjust. We can make these adjustments as we go. We can squeeze our budgets down. We can carpool a little bit. We might go to the auto dealer and buy ourselves a car

that gets a little better mileage. And that's happening. Those dealers that are selling high-mileage vehicles are doing okay right now.

Some of the American people can't afford to trade up in their vehicles. And some of them have to drive the vehicles that don't get as good mileage. And some of them have to go to work every day. And when they pull into the gas pump, and they stick the nozzle in the tank and fill that tank up, they know that they're paying in most States a State tax, as well. Certainly where I come from in Iowa there is a State gas tax. And that goes to build our roads. And there is 18.4 cents of Federal tax on the gasoline that goes to build our roads. And when they stick that nozzle in the tank, squeeze that nozzle and fill the tank up or put in $20 or whatever it is they can afford, they don't mind paying that 18.4 cents because they want to drive, Madam Speaker, on a good road.

And yet that 18.4 cents doesn't all go to road construction, road improvement and road maintenance. A lot of that 18.4 cents is broken up into a number of different categories. Seventeen percent goes to mass transit. Three percent goes to trails. About 28 percent, according to the Transportation Committee a few years ago, goes to archeological and environmental compliance.

And if you add up the pieces of that gas tax, of that 18.4 cents, it comes up to the point where maybe one-third of the 18.4 cents in Federal gas tax actually goes to build and maintain the road that these cars that are paying the tax are driving on. So it's one thing to have a gas tax. And it's another to apply the gas tax to the place where it's used. If this is a user's fee, if we are taxing the gas because cars wear out roads, and trucks that use diesel and pay diesel tax wear out roads and we need to rebuild them, refurbish them and resurface them, then it doesn't make sense that such a high percentage of that gas tax dollar goes to something other than the roads that are being driven on.

□ 2100

Now, the rationale is we need trails because that's where we put our bicycles, and that takes them off of the highway. Well, it does to some degree, but it's not a user's fee for the bicycles.

If we take the position that mass transit takes people off of the roads and puts them into, say, the subway system, for example, the ''L'' in Chicago, the Metro here in Washington, DC, then if it takes them off the roads and it slows down the congestion in our highways and it frees up our roads, if you put people in the subway, under the tunnel, in the city, it does do that. But the people that are riding under the city that don't own a car, that don't buy any gas, that are going back and forth cheaply from job to job, those people are getting a discount at the expense of the people that are paying the gas tax.

For example, and I will just pick a number, if you go down to the South Capitol stop, here in Washington, DC, and you decide you want to go out to Falls Church on the Metro, I think that's about a buck and a quarter to take that ride out to Falls Church. Well, you can't get a taxi ride out there for that, and you can't drive out there for that, but you can take Metro out there for a buck and a quarter. Now, that's nice, a lot of folks do that. They take that ride out there to Falls Church or points beyond. Travel around within our cities and Washington, DC, and most of the major cities in America are on the subway, and they do that very subsidized with the 17 percent of that gas tax that's paid for by people that are driving cars and buying gasoline.

I wonder, why is it that the majority in this Congress, headed up by Speaker of the House, NANCY PELOSI, and the San Francisco approach to energy, coupled with the Massachusetts approach to finances, how can the Democrat administration that's here, the Democrat leadership that's here in this Congress, how can they continue to bring education or bring energy bills to this Congress that constantly reduce the supply of energy, tax the energy more, regulate the energy more, seek to impose windfall profit taxes on our energy producers, do all of that, which reduces the amount of energy that's on our market, which drives up the cost of gasoline. Why do not the constituents of the people that are in this majority, the ones who hold the gavels to chair the committees, why don't their constituents rise up and say that's enough, I want cheaper gas. I don't want to pay $3.60, I don't want to pay $3.70, I don't want $4 gas and I sure don't want to buy $129 crude oil by the barrel.

My constituents rise up and say let's do something. Why don't theirs? Why is it the red zones in America want less expensive energy and always—and why is it the people in the blue zones in America are willing to tolerate higher energy costs?

That question is one that actually has an answer. When one examines it, I come up with this conclusion. If you are driving on the roads of America, and, especially, if you live a long way from your work, that gallon or gallon and a half of gas that you have to burn to get to work and that much to get home again and do it every day, if you are in that kind of an environment, and you are paying for the gas, it matters to you right now, $3.60 gas matters right now, and you don't maintain the tax so much because you need a good road to drive on.

But if you go out every day and you don't own a car, if you don't own an automobile, and you go down into the subway and you get your season ticket or your daily ticket, and you run it through there and you get on the subway, you get on the Metro and you take your subsidized ride, you are not thinking, thank you, gas-buying America for helping to fund my ride on this subway today. You are just thinking this is the way the expenses are in my life, they aren't so bad, I can deal with that. I don't know what's wrong with those people that think we should not—and the people that are riding the subways in America don't understand why it is that those of us that are buying gas want to drill in ANWR, want to drill the Outer Continental Shelf, want to drill the nonnational park public lands in America and provide a distribution system, including pipelines, including collector pipelines, including access roads, so that we can pull this energy that's underneath this continent and bring it into the marketplace.

They don't understand that because it doesn't matter to them, because the gas price is paying for their ticket on the Metro, their ticket on the subway, their ticket on the ''L,'' their ticket on the trolley cars in San Francisco. That's the problem.

There's a political imbalance here. Alexander Titler said at one point, and I will paraphrase his statement, that when a majority of American people figure out that they can vote themselves benefits from the public treasury, on that day democracy ceases to exist. That is from Alexander Titler, more than 100 years ago.

He understood what would happen within this great constitutional republic that we have if we are going to let people go to the polls and vote, and if they elect representatives to come here to this Congress and go to the State legislatures and the county supervisors and the city councils in America and vote themselves benefits from the public treasury when there is a disproportionate share of tax that is being paid by a smaller percentage of the people. When a majority of the people in the United States of America, if they are to this point, where a majority of the people are not paying taxes, and yet they go to the polls and vote themselves benefits from the public treasury, look what happens.

They don't care how much tax there is on the rich, because there is no tax on the poor, at least so to speak, and the people that are riding the subsidized mass transit, they don't care how much tax there is on gasoline and they don't care how expensive it gets. After all, they are not paying the price for that.

But if we would index the price of a ticket from South Capitol to Falls Church to the price of gasoline, and if we would tax that ticket for the equivalent amount of gasoline so that they could help fund the construction of their mass transit and their construction and the maintenance of our roads, it would be a far more expensive ticket to take that ride on the Metro. The people that are paying the price would be demanding something entirely different of their Members of Congress.

This reflexion that we have here, this apathy about high gas prices, this apathy about short energy supplies, this

reverence, this love, this almost irrational religion about opposing drilling in ANWR, a place that I can't imagine that oil could be in a more logical and better place for humanity to access it than ANWR. Now, having heard a lot of arguments against drilling in ANWR, I thought it was important for me to go up there and visit. I did do that.

As one who was signed up to go on the original pipeline back in 1970 that opened up the oil fields in the north slope of Alaska, I was signed up to go up there, and the court injunctions stopped the exploration and the development of that pipeline in 1970. I got married in 1972, the court injunctions were finally lifted later on that year. That was the year that my wife convinced me that I should stay home in Iowa, and I think it might have been very good advice. But, in any case, we began the right-of-way construction for the pipeline in 1972 or early 1973 and opened up the oil fields up there in the north slope of Alaska about that same period of time.

As we move forward till 1983, 1993, 2003, 35 years, in 35 years we have developed a lot of oil, we have pumped a lot of crude oil down through that pipeline to Valdez and put it on our oil tankers and headed them to points south and to oil refineries south of Valdez, Alaska. In all that time, despite of the fact that there have been some very minor leaks on the pipeline, and without regard to where the tanker did run ashore there in, I believe, it's Prince William Sound, those events will happen occasionally.

The cleanups took place immediately along the pipeline. The very minor leaks that they have had, they have been very minor spills. They have been cleaned up immediately. The impact on the environment has been either zero or negligible, depending on whether you want to make the environmentalist argument or the oil producers' argument.

But zero environmental impact or negligible environmental impact in any case does not remove the argument that it was the right thing to do. To drill the north slope, it was the right thing to do to build the Alaska pipeline. It's absolutely the right thing to do to move to the east and develop the oil fields in ANWR and pull that oil up out of the ground and pump it into the Alaska pipeline and send it south. That needs to happen. The oil is there.

I read an article in one of my local Iowa newspapers here over the weekend that said, so, why would you want to drill ANWR if there is a guarantee that the oil that's there would eliminate the United States' dependency on foreign oil for 5 years? The criticism was, what are you going to do in the sixth year?

Well, if somebody has got a 5-year solution for $3.60 gas, I want to take it. I want to take it right now. I want to punch those holes in the ground. I want to connect those pipelines up, and I want to get that oil coming south.

If we had done that 5 years ago, we would have that north slope connected to ANWR, and that oil would be coming out of the ground today. It would be holding down the increase in energy prices. It wouldn't have changed the world supply on such a point that it would be utterly dramatic, but it would be holding down the increase in costs and, in fact, it would be cheaper today if we had put that ANWR oil on the market 5 or 10 years ago.

If we go then to the Outer Continental Shelf, offshore to Florida in particular, natural gas prices have been volatile. They have been way up, they have come back down a ways. They are back up a little bit again.

High natural gas prices have almost destroyed the domestic production of fertilizer in the United States because natural gas is the feedstock. The cost factor of 90 percent of the cost of producing nitrogen fertilizer is the cost of natural gas when you go through the process of conversion of natural gas and anhydrous ammonia.

Because of high natural gas prices, that fertilizer business has gone offshore. We are sitting here with 406 trillion cubic feet of natural gas on the Outer Continental Shelf, and we can't go offshore to Florida and drill some natural gas wells 199.9 miles offshore? That's the 200-mile mineral rights that were declared by Ronald Reagan back in about 1983.

We can't punch a well out at 199.9 miles to bring up the natural gas that we know is there and put it into the marketplace by the trillions of cubic feet, 406 trillion cubic feet? We are blocked from doing that because environmentalists say don't drill, don't drill in ANWR, don't drill the Outer Continental Shelf, don't drill 200 miles offshore in Florida because, well, maybe we would pollute the environment with a natural gas well, when there is not a single historical example of a natural gas well that's polluted the environment.

Natural gas comes up out of the ocean floor every day by the millions of cubic feet, and it bubbles to the surface just like we saw it bubbling to the surface during Katrina in the hurricane in the aftermath in the floods of New Orleans when there was a natural gas pipeline break. I actually saw two of those myself, alive, for real, bubbling up out of the water that had flooded New Orleans.

It wasn't a pollution into the environment, it had bubbled up into the atmosphere and was dissipated in the atmosphere. That's the worst thing that happens in a natural gas well is if you get a natural gas leak. It goes into the atmosphere, it does what it does, it bubbles out of the ocean floor every day all across the globe.

The environmentalists are opposed though. They are opposed because they are opposed to producing energy. They are opposed to having energy on our market. They team up with the tourism industry in places like Florida that is concerned that we will set up a drill rig out there at 199.9 miles offshore, way beyond our ability to be able to see it.

Let me think about this. Christopher Columbus figured out the world was round by watching the ships come into port, and he could see the top of the masts first. The closer the ship got, the more he saw the ship because he figured out the curvature of the earth put that ship a little over the horizon as it came forward. He could see the top of the mast, more of the mast. After a while he could see the hull, then he could see the whole ship. He surmised, correctly, well, the earth is round. That's why you don't just happen to see that ship materialize when it comes forward to you across the ocean.

For the same reason you can't see an oil rig, I am advised, about 12 miles out. You can argue that, and whether it's 12 more or less, but you don't see that oil rig at 199.9 miles.

Imagine a place on the surface of this earth that's 200 miles away from you. I think for me, roughly 200 miles would be if I were standing on the Missouri border, the southern border of Iowa. If I went down to Lineville and maybe Pleasanton and stood there, and I looked north about 200 miles to Minnesota, if there is a drill rig on the Minnesota border, I am not going to see it from the southern border of Iowa and Missouri, it's too far.

But we still can't put a drill rig out at 200 miles offshore in Florida because they are afraid that somebody might be concerned that they can see it from the beach of Florida, they might not drive down there and sit on the beach and it will diminish tourism? Yet the Chinese can bring in drill rigs within 45 miles of Key West and be punching oil wells down into the open sea north of Havana 45 miles south of Key West. Forty-five miles in the middle, the Chinese are there drilling oil for the Cubans, and we can't drill 200 miles offshore, and why?

□ 2115

A vote went up in the Senate today that failed to open up ANWR. It failed to open up the Outer Continental Shelf, and it failed to open up the energy supply here in the United States of America. And yet 60 or so Senators voted no.

Here on this floor, if this vote comes up tonight, Mr. Speaker, or tomorrow, Mr. Speaker, I am confident that the votes don't exist in this Chamber for the responsible thing to take place, for us to step up and say let's tap into our energy supply. Let's drill into ANWR, let's drill the Outer Continental Shelf, let's go to the nonnational park public lands in the United States and drill the places where we have the oil.

There was some data that came out about 4 years ago that identified that if we would drill the nonnational park public lands in America for natural gas, we know there is enough natural gas there to heat every home in America for the next 150 years.

So what nation in its right mind would sit here and twiddle its thumbs

and agonize over $3.60 a gallon gas, what Nation would set a policy that brought energy bills to this floor, over and over again, energy bills that diminish the supply of energy on the marketplace, tightened up regulations and made it more difficult to develop energy, imposed windfall profit taxes on energy producers. This is the Pelosi Congress that had a plan, had a strategy for energy? We had a new energy policy, what is it? It is at least $1.60 a gallon higher gasoline, that is what the energy policy is. There is no strategy to solve the problem. There isn't a strategy.

And so their constituents, Speaker PELOSI's constituents, give her a pass because they have the San Francisco trolley car subsidized by the gas buyers in America.

And the constituents coming out of New York, they give their congressmen and congresswomen a pass because they are riding on the subway subsidized by the gas buyers in America. Seventeen percent of the gas tax goes to mass transit.

And the people riding on the Metro here in Washington, D.C., they're riding around on transportation subsidized by the gas buyers in America.

There is no outrage over here because the folks on this side of the aisle have figured out how to tax the folks on this side of the aisle for their energy. There is no outrage over here because the folks on this side of the aisle don't believe we ought to have cheaper energy. And even if they did believe that, they don't believe in the law of supply and demand. This law of supply and demand which says if you increase the supply and decrease the demand, the prices will fall because the producers have to lower their price in order to sell their product. If you reduce the supply and increase the demand, the prices will go up because sellers will know there is a high demand for their product. Those consumers will be searching to buy that product, and the price will go up.

This Congress has reduced the supply of energy, all kinds of energy. The demand for energy is going up and the price is going high.

I mean, this is not a complicated equation, Mr. Speaker. The drug dealers in America figured it out a long time ago. If there are a lot of illegal drugs on the market and not many buyers, illegal drugs get cheap. If there is only a little bit of illegal drugs on the market, if our law enforcement people are successful and they interdict those illegal drugs at our southern border, for example, then if the supply has been shut down by an aggressive law enforcement effort, we know a couple of things happen: The price of illegal drugs goes up, and probably the quality goes down. That happens. The drug pushers have it figured out. Why is it that the majority in this Congress doesn't have it figured out? I think they do have it figured out, actually, Mr. Speaker. But my question is why do their constituents not have it figured out?

So the supply is down. The demand is up. The price for energy is up, and what is really going on, what is behind this all is not just a, I will say a lack of concern about the high cost of energy, but a belief, Mr. Speaker, that high energy prices will cause people to use less energy, drive less, maybe buy less, and shut down and diminish the consumption of energy in this country. And it is a belief on the part of the majority party that if you can start to slow down the consumption of energy, you are doing something really good because in their mind we are saving the planet.

If we use less energy because the cost is high, we will use less energy consumption. Less energy consumption means fewer greenhouse gases, fewer greenhouse gases escaping into the atmosphere means the abysmal energy policy that drives up the cost, the higher energy gets, the more you save the planet. That's what is going on in the minds of the people in San Francisco, in Massachusetts, in the inner cities of America, those people who are not faced with having to put the nozzle in the tank and pay 18.4 cents a gallon in tax and pay $3.60 or $3.70 for that gasoline, and be subsidizing the mass transit, the people in the city that are supporting their Members of Congress that are driving up energy prices, cutting down on supply.

You cannot suspend the laws of nature and nature's God. They cannot be suspended. What goes up must come down, that's gravity. That was Newton's law. The law of economics is that if you have a lot of supply and little bit of demand, the price goes down. If you have a little bit of supply and a lot of demand, the price goes up.

The sun comes up in the east, not the west. It doesn't rise over San Francisco and San Francisco values; and if you think you can suspend the law of supply and demand, then you're out there in Pe-la-la-losi-land if that's what you think.

So our solution, Mr. Speaker, is this: And it is a Republican solution. It is a rational solution, and it is a commonsense American solution. It recognizes this: We have an overall energy pie chart, this circle, this 360-degree circle. In it are these slices of this energy pie. The slices are our consumption of energy, gasoline, diesel fuel, coal, natural gas, hydroelectric, nuclear, wind, ethanol, biodiesel, and the list goes on. Energy conservation is another slice of this overall energy pie.

You put that all together out there and what we need to do for our solution is grow the size of the energy pie. We need that pie chart of all of the Btus that are consumed in America. That energy that is consumed, we need a lot more on the marketplace. If we do that, if we increase the amount of Btus that are in this marketplace, then we will push the price down. And as we push our price of energy down, that means then that there will be more of that energy available. There has more energy available, more in proportion to the consumption we have. We push the price of energy down, and that means the cost of American goods get cheaper, not higher. That's the equation. That is not suspending the law of nature and nature's God. That is recognizing the laws of the economic dynamics of supply and demand.

And so, Mr. Speaker, this is simple commonsense, simple commonsense that the American people will understand once we convey the message to them, and this Congress needs a debate on energy. There is another debate that is going on on energy right now, and it is one that has been constantly harped at and chipped away at by the Wall Street Journal, the New York Times, and the Washington Post. The list of critics goes on. Generally it is critics that look around and they think that somebody is making some money and it is not them, and so they should figure out how to undermine that effort to make money.

About 10 or 11 months ago I had people come to me, Mr. Speaker, and say what do you think is going to happen? Can we lose the blenders' credit for ethanol? Can that be reduced or eliminated? How strong is the support for ethanol in the Congress? I would say to them, no problem, I don't think there is any problem. I am not finding a logical, cogent argument that says we should not be building ethanol plants and producing ethanol from corn. That was maybe 10 months ago, Mr. Speaker.

And yet as these 10 months have unfolded, I have seen more and more arguments, and some have come to the floor of this Congress, and they made some arguments. They were arguments of convenience, but not necessarily arguments of logic. In fact, I don't believe they could sustain themselves in the face of laboratory facts and a logical analysis.

So here's what we have done. I have shaken the hand that squeezed the nozzle that pumped the first gallon of ethanol into a tank. That was back in about 1977. That was a State senator from Corwith, Iowa, named Senator Thurman Gaskill. He squeezed the nozzle that pumped the first gallon. I think we ought to bronze that hand. Maybe we should have bronzed the nozzle. That was a dream and a vision back in 1977 when crops weren't worth much and they needed a way to expand the markets for the commodities that we were producing. They were looking for different ways to provide that marketing of our commodities, and so they began developing an ethanol industry.

The first thing that happened is they went to ADM and Cargill and said you are the people producing ethanol. You have the skill and the technology and the talent and the infrastructure to do this. Those companies were not that interested. So they set about producing their own ethanol. I visited some of

those farms where they got out the torch and the welder and the band saw and they put together a still that looked like it could have been, oh, in the mountains of Tennessee a couple of generations earlier. Sorry, Mr. Speaker, the metaphor just came to mind. It could have been a still anywhere down there in that moonshine country. And yet what it was, it was an ethanol production plant on farms in Iowa. As they built these plants, they would get their efficiency that they could get. They would reach a level, and then they would go back and take the torch and cut it up and start all over again. They finally built an industry. Minnesota led very well. I want to give them credit for that. They passed legislation in the Minnesota legislature that provided a tax benefit, and I don't remember exactly the structure, but it was up to 15 million gallons of ethanol for a plant that size. So it was a subsidy to get this jump started. And then they mandated that a blend of ethanol be in all gallons of gasoline sold in Minnesota, and that worked pretty good.

Some of those Minnesota farm boys went to work and put together their engineering degrees, and a couple of really good companies grew out of that. And other companies will grow out of it. And today, they are producing millions and millions of gallons of ethanol out of corn. This all grew because we needed to figure out how to market our products. It didn't grow necessarily because gas was high, but it sure fit into the situation we are in today.

Then here I am, Mr. Speaker, and people are coming to me and saying, What are we going to do about the high cost of food? Somebody told me the other day that food prices have gone up 64 percent. I reject that. I haven't seen a number like that. I don't believe a number like that, Mr. Speaker. I look back at the numbers for food inflation for 2007, and the ones I see are food that has gone up 4.9 percent; not 64 percent, but 4.9 percent. And they blame that all on ethanol because we are taking corn and converting it into energy. Food versus fuel. If you would Google ''food versus fuel,'' you will find all kinds of hits because that seems to be the argument du jour, food versus fuel.

I will argue that is not what should be debated here. But if it is, if food is up 4.9 percent over 2007, energy is up 18 percent over 2007. Why are energy prices higher, because we have a diminished supply and an increased demand. The law of supply and demand says energy costs went up 18 percent. Food went up 4.9 percent, but we dumped and produced 9 billion gallons of ethanol into that marketplace. And because we did that, into about a 142 billion gallon consumption of gasoline, because we did that we held down the price of gasoline with our ethanol.

I would submit to you, Mr. Speaker, that the food inflation, that 4.9 percent in food inflation, was driven up more by energy costs, high energy costs, than it was because there was corn taken off the market.

□ 2130

In the first place, Mr. Speaker, the corn that goes into ethanol is not initially there for human consumption. I mean, it gets produced into some 300 different products, including high grade corn sweeteners. And that's a smaller percentage of the crop that goes into those things, Mr. Speaker. But what it does go to is primarily into animal feed and to livestock feed, cattle and hogs and poultry, primarily.

And so here's how the equation works. And I say this into the CONGRESSIONAL RECORD for that purpose, Mr. Speaker. We don't have less corn on the market for the 2007 production year. We've got more. We produced more corn than we've ever produced before. The law of supply and demand works. So using corn to produce ethanol would have to have taken corn off the market in order for the price of food to go up.

Well, here's the equation. We produced 13.1 billion bushels of corn in 2007. That's more than ever before. And we exported 2.5 billion bushels of corn for 2007. That's more than ever before. You can take your math and subtract that down. And then, from that we also converted 3.2 billion bushels of corn into ethanol, 3.2 billion bushels. But out of that 3.2 billion, we add back in half of that, because we didn't convert the corn into ethanol; we converted the starch into ethanol. We preserved the protein, rolled that back into the feed stock, and so that's worth 1.6 billion added back into that equation.

The net result is this: You take 13.1 billion bushels and you subtract 2.5 billion for export, you subtract another 3.2 billion bushels that went to ethanol, but you add back half of that, which is 1.6 billion bushels because that's back into the feed supply and dry distillers grain. You end up with 9 billion bushels of corn available for domestic consumption.

The average throughout the balance of the decade was 7.4 billion bushels of corn available for domestic consumption. Last year was 9. So we increased by 1.6 billion bushels the amount of corn that's available for domestic consumption.

And yet I've got economic and financial gurus around America that say ethanol has driven up the commodity prices and driven up the food cost prices. What's their math based on, Mr. Speaker? I've given the math for this. If you produce more corn than ever before and you put more into the domestic market than ever before, what's the argument that ethanol drove up the price?

I'd argue instead that the cheap dollar has driven up the price of food, and the cheap dollar has been a big reason why energy has cost us more. And so if we would shore up the value of our dollar and bring that dollar up to where it was in more traditional levels within the last couple to 3 years, we would see about 35 percent reduction in gas prices, diesel fuel prices, crude oil prices to the American dollar.

We'd also see a little reduction in our grain prices, corn, soybeans, soybean oil, those things that go into energy. And it would slow down some of our exports. And that's true, and it would shift our balance of trade back the other way.

On balance, I think it's the right thing to do, Mr. Speaker, shore up the value of the dollar, grow the size of the energy pie, put more Btus on the market in every way we can, continue and accelerate the construction of the nuclear generating plant in South Carolina, first one since 1975.

We'll see what the voters of South Dakota say about building the Hyperion oil refinery in Union County, South Dakota. If they say yes, then that means that the pipeline down from Alberta in the tar sands in the northern part of Alberta comes down into that region and we refine gasoline there and send the gas and diesel fuel and the other petroleum products and send that to the points across the North American continent. That's a good thing for us. That means more gas and diesel fuel and more oil into the marketplace coming out of Canada.

I'd lot rather do business with the Canadians than I would the Middle Easterners. We're awful close to the same kind of people when you go up there and visit the Albertans, and I'd very much like to see that happen.

If we can continue to do that, if we can drill the Outer Continental Shelf, if we can drill in ANWR we can put that crude oil on the marketplace. We can expand the ethanol production from corn.

And we'll see how this cellulosic goes. I think it's five to 10 years away before we have an effective cellulosic production of ethanol.

We do all of those things, and we continue to put coal out here, which is one of the cheapest alternatives that we have, and develop nuclear, I would do hydro electric if we can figure out how to get it done, and to the extent that wind and solar will work, yes, we should do those things. All of those pieces of the energy pie need to be expanded so that there's more and more Btus on the market.

That, Mr. Speaker, is our solution. And yes, conservation is a part of that. And cars that can be more fuel efficient are a good thing. But to mandate that at 75 miles to the gallon says that there's lots of folks that would have to park their Harley. A lot of motorcycles don't get that kind of mileage, Mr. Speaker.

That's some of the energy piece that we're dealing with here. Another one is, another myth that needs to be blasted out of the water, Mr. Speaker, is the myth that it takes more energy to produce ethanol out of corn than you get out of it. It's simply not true.

It can't be held up in a laboratory experiment, and it cannot be held up when you do that experiment in the ethanol production plant.

But according to Argon Labs, Chicago, here's the analysis, the argument that it takes more energy to produce ethanol than you get out of the ethanol. Here's what it actually takes.

If you set a bushel of corn at the gates of an ethanol plant, let's just say in Iowa, Mr. Speaker. It could be anywhere. It takes .67, two-thirds of a BTU in energy of input into that plant to get 1 BTU of energy out in the form of ethanol from corn. Two-thirds of a BTU input, 1 BTU coming back out in the form of ethanol from corn.

But if you have a barrel of crude oil sitting outside the gates of the refinery in Texas, and you need to refine that crude oil and refine the gasoline out of the crude oil, it takes 1.3 BTUs in energy to refine 1 BTU out of the crude oil.

So remember that equation, Mr. Speaker. .67 BTUs to get the 1 BTU of energy out of corn in the form of ethanol. 1.3 BTUs to get 1 BTU of energy in the form of gasoline out of crude oil, almost twice as much energy to extract gas from crude as it takes to convert corn to ethanol, 1 BTU matched up against 1 BTU. That, Mr. Speaker, is the real analytical answer on where we are with this energy.

And as one of the gentlemen here and I have debated many times, his argument that it takes energy to produce a tractor, energy to produce the combine to farm the fields; it takes energy to pump the water and water to produce ethanol. This list goes on and on.

And as I look at this and I read the studies, and I read one of those studies. It was about a 63-page long study that supposedly concluded that it takes a lot more energy to produce ethanol than you get out of it. And I read through there and it's so much energy to produce the combine, so much energy for the tractor, seven trips across the field, so much fuel used in each one of those trips, allowing 4,000 calories for the farm worker per day, charged against the production of corn that we're convert to go ethanol. That, Mr. Speaker, is a, I will call it an obscene stretch of science, and it never should have been taken seriously, and would not have been if the people were quoting that ''scientific report,'' and I put that in quotes, that scientific report, if they were serious, if they were intellectually honest, they would have had to say this study doesn't hold water; it doesn't hold ethanol, and this study doesn't hold crude oil.

But my argument against that is that if you want to calculate seven trips across the field, the energy it takes to produce the tractor and the combine, 4,000 calories a day for the farmer, then you also have to calculate the energy that it takes to drill the oil well, produce the oil rig, set the workover rig up there, manufacture the pumps and the pump jacks and the piping and the casings and all of that equipment that it takes to complete the old field and do the collector lines that come in and set up the refinery and all of the energy that it takes to refine, including the 1.3 BTUs in energy for every BTU you get out of crude oil; and if that doesn't match up against the corn, from an energy standpoint, you still have to go calculate the energy that it takes to produce the battleship and cast the anchor for the battleship and produce the M–16s and the F–16s, and all of the equipment that it takes and all the manpower that it takes to defend our interests in the Middle East, including the bulletproof vests. And then there's the price of blood on top of that, Mr. Speaker.

No, there's not a comparison. It takes a lot less energy to produce ethanol out of corn than it does to produce gasoline out of crude oil, and that is an important part of this.

And we have a farm bill coming up, Mr. Speaker. This farm bill may be on this floor tomorrow. And as the people sat in the conference committee and brought their amendments forth and the process, you know, it's not a perfect process, and it's not one that if the public saw it all happen would be very comfortable with it, Mr. Speaker.

But they've done some things such as reduce the blenders credit on ethanol from 51 cents a gallon down to 45 cents, 6 cents dinged out of that. Some of that's rolled back up to cellulosic ethanol at $1.01 in blenders credit, under the hope that there'll be a cellulosic industry that would be built. It may be built, Mr. Speaker, with that kind of a subsidy. I don't know.

But I know this, that $1.01 in blenders credit for cellulosic ethanol sets that ethanol up as a separate kind of product that would be indistinguishable from corn-based ethanol or any other kind. And if food versus fuel is the argument, then with the food versus fuel argument, one day somebody's going to look out and decide, there's so much subsidy out here for my cellulosic, my switchgrass base ethanol that I think I'm going to take that field that's been corn rotated every other year, and I think I'm just going to put it into permanent switchgrass. Imagine how that works if that turns out to be millions of acres year after year after year in permanent switchgrass, because there's a subsidy, a cellulosic-based ethanol, that land will come out of food production and it will go into fuel production. Then we truly have a debate. We truly have a debate about food versus fuel, and that imbalance in cellulosic ethanol subsidy sets the stage for just that kind of a problem, Mr. Speaker.

And if I look at some of the other components of this farm bill, one of the components that I am very concerned about is the kind of veiled insertion of the Pigford Farms issue into the farm bill. Now, Pigford Farms, we might remember, goes back to pre-1995. 1995, then Secretary of Agriculture Dan Glickman stepped up in a press conference and he said to America, the United States Department of Agriculture has discriminated against black farmers. And in that confession it started a class action lawsuit. That class action lawsuit moved forward. There was negotiation on it, and finally they reached a consent decree. And that consent decree set up a way by which those black farmers that had been discriminated against could go file a claim, and that claim would be resolved.

Now, the claims were often $50,000 or the settlement was often $50,000. The applications that came forward, they estimated there would be 2,500 applications, maybe as many as 3,000 applications that came from farmers that alleged that they were discriminated against, perhaps because they'd been denied a loan, for example. And I don't doubt, Mr. Speaker, that this happened, that we had black farmers that were discriminated against. And I don't doubt that there were some that deserved to be compensated for that discrimination.

But I question, Mr. Speaker, the numbers that have unfolded since then. We spent $1 billion in settlements to the black farmers that were going to be about 2,500. And this, by the way, is their attorneys that put this number on at about 2,500 claimants.

Well, those numbers of claimants have grown and grown and grown. The consent decree was resolved. There was a statute of limitations, a sunset on the time by which they could file a claim. And that sunset period of time has long since passed.

And then there was an effort to bring this forward before the Judiciary Committee and open up Pigford Farms again, Mr. Speaker. And I sit on the Ag Committee and on the Judiciary Committee. There are two of us that sit on both of those positions. And I look back at the numbers and I listened to the testimony, and I saw what was going on.

And the President of the black farmers testified that there were less than 29,000 black farmers. The number that was produced as the best estimate came at perhaps 18,000 black farmers. Now, the number that was estimated of those that might file claims, not the number discriminated against, but those that might file claims, came to 2,500, Mr. Speaker.

□ 2145

So we're working with 2,500 that might have been discriminated against, that might have filed claims out of a universe of 18,000 black farmers. And today, we're looking at 96,000 claims on something that's been closed and settled all in and all up and all done, $1 billion for presumably 2,500 now grown to 96,000 claims, or potential claims, which is another $3 billion written into this Farm Bill in a nice little subtle way where you would hardly notice that it's there. And not very much of America knows what this is about.

I have talked to people who have administered these accounts and claims in the USDA. They had to reach out across the country and pull people in, bring many to Washington, set them down and deal with the claims and deal with the claimants one-on-one. And they went to the South to do that, too.

And I looked through some of these applications, and some of them are just ludicrous and ridiculous. And some of our FSA, at the time ASCS, directors, who sat there and day after day dealt with those claims, simply sat down and they poured their heart out to me, and said I cannot believe it. I can't believe my country is doing this. I can't believe my country carries such a guilt complex that they would open up the checkbook of American taxpayers for something that has this high a level of fraud.

And they tell me, Mr. Speaker, 75 percent minimum fraud rate in these claims. 75 percent. Now that may or may not be right, but I sat down with the administrator of these claims, had that discussion with this individual, and of the 96,000 claims, I asked, Have there been people discriminated against? Have black farmers been discriminated against? And the answer was, Yes, I believe there are. And I accept that answer on face value, Mr. Speaker.

Then I asked the question, Of the 96,000 claims, how many actually suffered discrimination? And the answer was, Mr. Speaker, 50. And when my staff asked the question while he was taking notes, 50,000? The answer came back, No, 50. Five-zero. Now that may or may not be the actual number, but I will submit, Mr. Speaker, that's a lot closer to the real number than the 96,000 that we're looking at in claims.

And this account, this slot that's written into the Farm Bill for Pickford Farms, the line that's in there at $100 million I will guarantee will be a lot higher than that. But this Congress cannot be in the business of taking taxpayer dollars from the hardworking Americans and putting them in the hands of people that decide they want to defraud the Federal Government when there is a consent decree and a resolution of a class-action lawsuit and the court wraps this up and says, Any claims that are not filed after this date are not valid.

We have no business in this Congress opening that back up again, because what we're doing is opening up the checkbook of the American taxpayer and handing a blank check to anybody, anybody that will come forward that's of color and say, Well, I wanted to farm; or, I would have liked to have filed for a loan; or, I did ask for one but nobody answered me; or, I went to the door and shook it but it was locked and it was or wasn't business hours. I may not know where the Farm Service Administration office is, but by golly, I wanted a farm and I was just so intimidated by their attitude I never tried.

All of these claims are rolling out here at us, and it's the taxpayers that will end up paying it, Mr. Speaker, $3 billion. Not $100 million. $3 billion wrapped up in the Farm Bill.

Another thing, Mr. Speaker, is the language that's in the Farm Bill that sets up and requires the Davis-Bacon wage scale for ethanol-production facilities and biodiesel-production facilities. Davis-Bacon wage scale. That, Mr. Speaker, is this: federally mandated union scale for construction workers out there in the rural areas of America in the corn belt, in the soybean belt, in the farm areas where we have merit shop employees, good employees, highly skilled employees. We pay them what they're worth. Some of us bring them in and we give them a full year-round job and we give them health insurance, retirement benefits. We want to keep them. We set up the scenario by which we can keep our employees.

But if we're compelled, when we're working on ethanol-production facilities or biodiesel-production facilities, to pay a federally mandated union scale, that means there will be fewer trainees, there will be fewer vocations, there will be fewer that learn the skills; and we'll have to go into the union hall and hire people out there and put them into the job.

And I can tell you how that works: If you got somebody out there that's worth $16 an hour and the Federal Government mandates said you pay them $26 an hour, then you bring them out and you put them to work and you set them in the seat of the machine and you work them hard for all 60 minutes of every hour, and the instant you don't need them again, boom, they're gone. You send them back off the job site. And then you put your salaried employees in, and they've got to grease the machines and scoop the dirt out of the tracks and fuel them, and you may or may not do the maintenance; and the next day they come again. And you drive them. You drive them. You use them like machines because you can't afford to bring them along and train them. They have to be there. They have to know.

But if we allow merit-shop employees and let the employers do the hiring and the employers make the deal with the employees, what business is it of the Federal Government to tell an employer and an employee, We won't let you two make a deal on what you're worth? If the employer thinks you're worth $14 an hour and the employee thinks that's a pretty good paycheck, the Federal Government might step in and say, No, you have to pay that man $18.50 because the lack of wisdom of this Federal Government somehow is that the employer is a victimizer and the employee is a victim.

I met with an employer last weekend—I guess it's two weekends ago now, Mr. Speaker—who said, Here's how it is. It was last weekend. If we are paying too low of wages, nobody shows up and wants the job, and we can't recruit people to come in here and go to work. If we're paying too much in wages, there's a lineup outside that door, people that want to come to work for the company that's paying too much money.

There's a happy medium in the middle. We provide that happy medium. We pay the wages we need to pay to get good employees to go to work, and it is supply and demand that determines what wages are, wages and benefit packages, including health insurance and retirement benefits. Those are the things that come with a labor market.

We don't need the Federal Government to mandate a union scale and call a prevailing wage. And by the way, Davis-Bacon wage scale is not and has not in my judgment ever been a prevailing wage. It's always been an imposed union scale, and it is, as far as I can remember. I can't think of another one. So I'm going to say I believe, Mr. Speaker, it is the last vestige of Jim Crow laws here in America because Davis-Bacon was designed to keep black construction workers out of the trade unions in New York City. That's a fact of history. It's a Jim Crow law designed to discriminate against black construction workers in the trade unions in New York City that happened in 1931.

It still has a process—I don't allege today that it's actively race-based, but we do know that the unions kind of sort who comes and who goes within their unions, and it's different from place to place and locale to locale across the country. But it is a union scale, not a prevailing wage; and if we're to go out and do the survey, there are States that impose mini Davis-Bacon, they call it, which distorts the pay scale, too.

If supply and demand sets the price for oil and for gas and for ethanol and for biodiesel, it also sets the price for crude oil, for corn and beans and gold, and all of those commodities. Supply and demand, Mr. Speaker, needs to set the price for labor as well. It will do that without the Federal Government's help, and we will not build the renewable energy infrastructure that we could have built with Davis-Bacon requirements in this Farm Bill that's coming up.

We will not, and in fact, the Davis-Bacon scale drives the price up someplace between 8 and 35 percent of the cost of the project. I use 20 percent because that's the most common when you look at it. And I have worked in this all of my life. Nobody else in this Congress has the experience I have with the Davis-Bacon wage scale.

So 8 to 35 percent increase in the cost, averaging at 20 percent. That just tells you this: If you want to build five ethanol plants, strike the Davis-Bacon provision. If you only want to build four ethanol plants to save money, ride the thing out. If you want to build an apprenticeship program, a job skill that comes from within, something that emerges from companies that are training employees and building up this knowledge base, if you want to

build that, don't have Davis-Bacon in there. You have to have a merit shop to get that done.

If you want the knowledge base in the Midwest where the renewable energy is so when we build out all of our energy plants and we get that done, we can export that knowledge and go around the world, you've got to strike Davis-Bacon, Mr. Speaker. If you want the Midwest to be to renewable energy what Texas is today to the expertise on oil, you've got to strike Davis-Bacon. You can't have that provision in there.

We need to grow the size of the energy pie, Mr. Speaker, and we cannot suspend the laws of nature and nature's God. You can't suspend the laws of gravity. The sun comes up in the east around Maryland and the eastern shore. It doesn't come up around San Francisco, and if you believe otherwise, you're out there in Pe-la-la-losi-land.

The SPEAKER pro tempore. The Chair would remind Members to refrain from improper remarks concerning the Speaker.

Without objection, the 5-minute special order entered in favor of the gentleman from Maryland (Mr. GILCHREST) is vacated.

There was no objection.

## UNDERSTANDING THE MIDDLE EAST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Maryland (Mr. GILCHREST) is recognized for 60 minutes.

Mr. GILCHREST. Mr. Speaker, I would like to talk tonight about Iraq and the Middle East in general, but specifically about the present crisis in Iraq. And what I would like to do is to explain the present crisis based on recent history and from my perspective, Mr. Speaker, what is the way forward. Is there a solution to the war in Iraq.

And the other thing I would like to discuss is this: Do the American people have a role to play in the conflict? And to discuss this tonight, I would like to frame the picture of the present crisis in Iraq by a couple of quotes from a book called ''Human Options'' written about, oh, I would say 30 years ago by the former editor of the Saturday Evening Post, a man named Norman Cousins. Two extraordinary quotes in this book. One is, Knowledge is the solvent for danger. The other quote is, History is a vast early warning system.

And so what I will do tonight is attempt to convey to the Speaker, the Members, and the American people the importance of knowledge in a conflict to find a solution and a reconciliation to the warring factions.

The other is history's advanced early warning system. Many people will say that 20 years from now we'll have hindsight to the present crisis. Twenty years after the war in Vietnam ended, former Secretary of Defense Robert McNamara said, If I only knew then what I know now. Well, if the former Secretary of Defense Robert McNamara read history in the fifties and the early sixties, he would have had a better understanding of the conflict in Southeast Asia, Indochina, the conflict between the French and the Vietnamese who were trying to seek sovereignty and get rid of Colonial rule. In other words, Mr. McNamara would have understood, with hindsight, the conflict in the war in Indochina before it started if he had a better understanding of its history.

And what I'm going to try to do tonight is give a better frame of reference for the present crisis from the historical point of view so we don't have to worry 20 years from now whether this policy was a good policy or not. We can't let the troops fight that long if it is not necessary. And so a history of the region of the Middle East will give us a better sense of the conflict and how to resolve and reconcile the vast, intricate, violent conflicts that exist there now.

I also want to quote a British author, Rudyard Kipling, who had to face the tragedy of his son being killed in northern France during World War I. This literary giant at the time made this comment soon after his son's death, but he spoke to all the young men who were dying in Europe during that tragic event of World War I, and Rudyard Kipling said this: Why did young men die because old men lied?

□ 2200

I'd like to paraphrase that quote in the present crisis today. I'd like to paraphrase that quote for foreign policy for the 21st century. Old men should talk before they send young men to die or old people should talk before they send young people to die. A country does not become strong by filling up its cemeteries.

Our role as legislators, as policymakers and the role of the American people, what is it? What is our role? What is the role of the American people? How do we support the troops in the Middle East and Afghanistan and Iraq? How do policy-makers, how does the administration, and equally as important, how do the American people support the troops in Iraq?

First of all, we recognize their stunning competence. The soldiers in Iraq and Afghanistan and around the world from around the United States are stunningly competent. Why? Because they're well-trained. They're well-informed. They take the time to know what they're doing, to be competent at their job, to use technology, to be aware of the soldiers next to them. They work hard to be knowledgeable as soldiers.

Do we take the initiative to be informed and knowledgeable? The soldiers take the initiative. They volunteered. They go through boot camp. They go through very skillful training of the technology, of the weaponry, of troop movements, of how to protect each other, of how to move through villages at night, of how to find the enemy. The troops are competent because they take the initiative.

Now, do we take the initiative as legislators to be competent and informed about the conflict that we send them to? Do the American people take the initiative to become knowledgeable about all of the issues? Are we knowledgeable about the present crisis and past crises that have brought us to where we are today?

I want to tell you that I've been to many meetings around my district. I've talked to many, many people about the conflict. I've done my best to explain that the troops are competent, but in a certain measure, the policy is flawed.

And like many people, we often hear Americans say that we need to pray for the troops, for their safe return, for the end of the conflict. I will say that that's a very important thing to do, to pray for the troops.

I remember when I was in Vietnam in 1966 standing, what we called, lines where we were in bunkers and barbwire, and at night we had to stand the lines and make sure the enemy didn't sneak into the camp. And a chaplain came up and he would come up to the lines very often. His name was Chaplain Doffin, D-O-F-F-I-N. He's now a retired Baptist minister in Charleston, South Carolina. At the time, he was a young navy chaplain who often went on patrols with us.

And he came up to me while standing lines one night. We were having a wonderful conversation that became very philosophical. It was philosophical in 1966 about the present crisis at that time in Vietnam, and I asked the chaplain if he believed in prayer. And I asked the chaplain if he believed in prayer because we prayed mightily for the conflict to end as young soldiers, young Marines. We prayed mightily for the butchery to stop because that's what war is. It's brutal and it's tragic.

I said, ''Chaplain, do you believe in prayer?'' And he said, ''Yes, but when I cross the lines to go out on a patrol,'' which he would occasionally, ''I make sure I have my helmet, my flak jacket and my rifle.''

That means the soldier needs to be prepared. Believe in prayer, but that the soldier needed to be competent, the soldier needed to be informed, the soldier needed to be prepared.

Now, Mr. Speaker, what I'm going to do tonight is suggest to my colleagues and the American people that they should be prepared as the soldier is prepared. They should be knowledgeable and competent about this crisis. So I'm going to give you, Mr. Speaker, and the American people a reading list, and I want you to consider that this reading list is your helmet, your flak jacket and your rifle, and you are to stand shoulder-to-shoulder with the servicemen and -women who are now in harm's way. They are counting on you, like the soldiers when I went across the

line. When I went on patrol or operations, I was a squad leader, then a platoon sergeant, and the soldiers and the Marines standing right next to me wanted me to be prepared, wanted me to know what I was doing. They wanted me to be competent. They wanted to make sure I had my helmet, my flak jacket, my rifle, and I knew what I was doing.

So these soldiers in Iraq, they want us to stand shoulder-to-shoulder with them. They want us to be competent.

Now, the soldiers in Iraq are competent. They are sacrificing their time every day to serve this Nation. They don't watch television at night. They don't saunter around the malls looking for things. They don't pass their days idly. They pass their days with horrific, vicious, violent incidents. They serve this Nation. Are we willing to serve our Nation? Are we willing to serve those young men and women? And how can we do it? Well, by being competent.

I'm going to give a list of 10 books. I will say the 10 books at the end of this address as well.

The first is a very easy read, ''A Letter to America,'' just written by the former senator from Oklahoma, David Boren. ''A Letter to America.'' What should America be like in the 21st century? It's an extraordinary read. It's a view of how we would like America to be.

The second book is—you've heard it before—''The Iraq Study Group Report.'' Iraq Study Group. It's by James Baker and Lee Hamilton. And it has a strategy for dealing with the conflict that I think the American people should read and become informed of.

The third book is a book called ''Fiasco.'' It's a harsh word. It describes the present crisis in Iraq. ''Fiasco.'' If you want to know the problems we've seen in Iraq and what went wrong from the very beginning, read the book ''Fiasco'' by Thomas Ricks.

The fourth book is ''A Struggle For Peace,'' General Tony Zinni. Actually, I think it's called ''The Battle for Peace'' by Tony Zinni, and it's a book describing how we can find peace in the volatile areas of the world through dialogue, through consensus. We need a strong military, we need good intelligence, but the third thing Tony Zinni talks about is understanding the nature of the culture and having a dialogue.

The fifth book is ''Violent Politics'' by William Polk. He worked for President Kennedy and President Johnson. ''Violent Politics'' is a discussion from the American Revolution in which we were the insurgents, all the way to the present crisis in Iraq, and also talks, interestingly enough, about the 6-day war and how it was won between Israel and the Arab Nations. The war was won in 6 days, mission accomplished, but the horrific struggle continues. There is no end to the violence. ''Violent Politics'' is a discussion about insurgencies when diplomacy goes wrong.

Number six is called ''Treacherous Alliance'' by Trita Parsi. Interestingly enough, it's a relationship between the Israelis and the Iranians, or the Jews and the Persians from 1948, the inception of Israel, till today, the present crisis. But what it showed through most of the Cold War, Israel and Iran, who seem to be bitter enemies today, were quiet, secret allies from 1948 to 1991 because they had the same enemies. They were both bitter enemies of Russia, the Soviet Union. They were bitter enemies of Iraq and many of the Arab countries, especially Saddam Hussein. And so what the Iranians and the Israelis did was trade oil for technology. They were strong quiet allies.

Number 7 is ''All the Shah's Men'' by Stephen Kinzer, K-I-N-Z-E-R, ''All the Shah's Men.'' It showed a problem that we created, the United States, in our relationship with Iran, starting in 1953. We lit a slow fuse in 1953 because the United States, with the significant help of the grandson of Teddy Roosevelt, Kermit Roosevelt, planned in the American embassy in Tehran to violently overthrow the duly elected prime minister, Mohammed Mossadeq, of the Iranian people, with the help of the British. We kicked him out of office violently. Thousands of people were killed, and then we put in the person now known as the Shah, Mohammad Reza Pahlavi, who did not believe in democracy, who was a harsh, dictatorial monarch. And that slow fuse was lit in 1953, and it blew up in 1979.

Number eight, ''The Silence of the Rational Center'' by Messrs. Halper and Clark. Basically, what they say, there are many people around this country, universities, former diplomats, diplomats who have a better understanding of the cultural, religious, historic facts of many regions of the world, especially the Middle East, but what they say in this book is it's not just enough to know. You have to take the initiative, use your ingenuity and your intellect and your courage, and begin discussing with the American people, with the Congress, with the administration what is wrong with our policy in the Middle East.

Number nine is a historic book, interesting though. It's called ''Why Vietnam?'' by Archimedes Patti, who was in the OSS, the Office of Strategic Services, a forerunner of the CIA, who was with the first Americans to meet Ho Chi Minh in 1945, who found that Ho Chi Minh wanted to work with the Americans to get the wording right in his Declaration of Independence from French colonial rule and be sure that he used the words, ''We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.''

And Ho Chi Minh put that in his Declaration of Independence, those words, and Archimedes Patti, the author of this book, ''Why Vietnam?'' helped Ho Chi Minh do that.

The reason I suggest ''Why Vietnam?'' is because years later people had no historic understanding of Ho Chi Minh, that he, in fact, Ho Chi Minh, back in 1919 at the Treaty of Versailles in France at the end of World War I, was knocking at the door of America to ask for their help to gain his independence from the French. He didn't go to Russia to help gain his independence. He did not go to China to help gain his independence. He came to the United States, and because of not enough knowledge, not enough information, not enough inquiring politicians, did we have the war in Vietnam where 58,000 Americans died.

The last book, ''Human Options'' by Norman Cousins. ''Human Options.'' What are your options when you have a situation? What do you base your decision on, your opinion on? Is it good information? Is it a broad array of knowledge that you have or do you let somebody on the radio or the TV filter out and distort the information so you only get a small piece of it?

Knowledge makes you more informed, more competent and gives you hindsight in the present crisis. The military does it all the time. They're knowledgeable and they're competent and they're doing it now.

Mr. Speaker, what I would like to go through very briefly now is recent history that can help us in this war in Iraq to show what other leaders did in our recent past to resolve conflicts.

□ 2215

And I want to start with the Cold War, which ended at the end of World War II.

World War II was a war where you could bomb munition factories, you could bomb huge armies, you could bomb supply lines, you could bomb convoys. World War II was not an insurgency like we see in Iraq and Afghanistan. World War II is probably something of the past. We are now faced with an insurgency with violent politics, not a standing war.

And right after World War II, Winston Churchill coined the phrase ''An iron curtain has descended around eastern Europe and the Soviet Union.'' We were engaged in what was called the Cold War. We know that in the 1950s, Nikita Khrushchev said on a number of occasions, pointing to western diplomats in foreign countries and in the United Nations, he would say, ''We will bury you.'' ''We will bury you.'' And he had thousands of deployable nuclear weapons.

The point here, Mr. Speaker, is: What was President Eisenhower's response to that violent rhetoric? President Eisenhower's response was to invite Nikita Khrushchev to the United States to tour our cities, to tour our suburbs, and to travel through the beautiful farming regions of the United States. President Eisenhower's response to his violent rhetoric was dialogue. Let's sit down and discuss the issue.

1962, President Kennedy; what did he do when he found out there were

deployable nuclear weapons minutes away from the United States in Fidel Castro's Cuba? The military said we need to attack, we need to bomb, we need to get rid of those nuclear weapons. What was President Kennedy's response? Let's work through channels. Let's talk to Khrushchev. Let's have a dialogue. And the crisis passed.

Communist China said throughout the sixties that it would be worth half the population of China dying if the United States was wiped off the face of the Earth. And what was Richard Nixon's response to Mao Tse-tung's violent rhetoric? Richard Nixon's response? Dialogue. Nixon went to China.

Is China the flower of human rights today? Is there religious freedom in China? Is there freedom of thought, freedom of conscience? No. Are they better today than they were 30 years ago? They are, but they still do not have a country that is democratic. There is no democracy there. And there are human rights violations every day. But we have a dialogue with China. We don't have violent rhetoric about an evil empire. We have trade wars with China. China is better. Richard Nixon went to China.

I want to briefly mention Ho Chi Minh, Vietnam. Ho Chi Minh in 1945 wanted independence from the French. He wanted freedom for his people. In 1949, he would have never known that he was going to have to wait 30 years; it was 1975 before Vietnam was fully united and had complete independence. We did not have a dialogue with Ho Chi Minh during that same period of time that we were pursuing dialogue with Khrushchev, with Cuba, and with Red China. And as a result of not having dialogue, 58,000 Americans died, hundreds of thousands were wounded, and several million Vietnamese were dead.

Throughout that same period of time of the Cold War there was a wall dividing Berlin, east and west, and many people were killed trying to cross that wall. And Kennedy went to that wall and said, ''I am a Berliner,'' meaning there is freedom for the people in the city of Berlin because we believe in freedom. Ronald Reagan went to the Berlin Wall and said, Mr. Gorbachev, tear down that wall.

And when the wall was finally being torn down, there was a moment when no one knew what Gorbachev was going to do. Was Gorbachev going to bring in more Soviet troops and repair the wall and keep the Iron Curtain the way it was? Was it going to be like the Hungarian revolution in 1956, when the Hungarians revolted and wanted to be free, wanted their independence? What was going to happen? Was Gorbachev going to do the same thing that Khrushchev did in 1956? Well, what did President Bush do at that moment? He showed Mikhail Gorbachev that President Brezhnev signed the Helsinki Accords. And the Helsinki Accords talked about sovereignty, human dignity, and respect for international law.

President Bush, 1990, did not resort to violent rhetoric, threatening Mikhail Gorbachev. He quietly, deliberately, but effectively, showed Mr. Gorbachev that there was agreement with all European countries, including the Soviet Union, called the Helsinki Accords; that there was to be respect for human thought, human consciousness, freedom of religion, sovereignty, and international law. And what happened? The Berlin Wall came down, Eastern Europe became free.

Let's take a look at the same period of time, but concentrate just in the Middle East. Same period of time, 1948. The Cold War has basically just started. Israel becomes a nation, and it is, this week, celebrating its 60th anniversary, the independent country of Israel. It was carved out of an area known as Palestine in 1948. But when Israel was formed in 1948, it threw the entire region into what some people in the region said would be a 100-year war. That war between Israel, the Arabs and the Palestinians is now 60 years old. Must we wait 40 more years for peace?

I mentioned ''All the Shah's Men'' by Stephen Kinzer. 1953, the height of the Cold War, Kermit Roosevelt, the grandson of Teddy Roosevelt, unfortunately with the blessings of John Foster Dulles, the Secretary of State of the United States, staged a very violent coup in support of the British independent Anglo-Iranian Oil Company, today known as BP, because that Anglo-Iranian Oil Company, not a British company, but an independent oil company headquartered in Britain, wanted to extract as much oil as they could from Iran without sharing the proceeds, without sharing the profits.

And so Mohammad Mosaddeq came into power in 1950, and he nationalized the Iranian Oil Company because it was Iranian oil, and he wanted the Iranian people to have some of the benefits of that natural resource. And the British didn't like that. The British tried to get President Truman to stage a coup, and Truman refused to do it. Eisenhower, with much trepidation, allowed it to go forward. And what happened from 1953, when we staged the coup in Iran? In the embassy in Tehran we lit a slow fuse, and that slow fuse burned until 1979 when the Islamic Revolution was staged in Tehran in 1979 and our embassy was taken over.

The Soviet Union in the Middle East during the Cold War was like a roller coaster ride. Sometimes they were a friend of certain Arab countries and sometimes they were an enemy of certain Arab countries, depending on what the Soviet policy was.

Israel and Iran, we talked about that in the book ''Treacherous Alliance.'' They both shared a common interest. Neither country, Israel nor Iran, are Arab countries, obviously; the Israelis are Jews, the Iranians are Persians. The Israelis speak Hebrew, the Iranians speak Farsi. They had strategic interests that were similar. They had enemies that were similar. They had ideological differences, but they resolved those ideological differences and began quietly trading with each other. Those ideological differences were resolved because geopolitical realities trumped those ideological fantasies. Let me say that again. Israel and Iran, from 1948 to 1991, they had many ideological differences, but the geopolitical realities—that means, because of where they lived, because of the region—the geopolitical realities trumped their ideological fantasies, and they were quiet, but strong, allies.

We know during the period of the Cold War—the end of the Cold War anyway—in the Middle East there was a war between Russia and Afghanistan, 1979 to 1989. When that war was over, the Soviet Union declined precipitously as a super power. It lost significant influence in the Middle East and it limped home defeated by Islamic fundamentalists. Those same Islamic fundamentalists that we helped, the mujahidin, that we helped in the war against the Soviet Union, they then turned around and focused their attention on the western world.

But let me show you something that's interesting. During the war in Afghanistan, the Soviet Union, who was their enemy? The mujahidin was their enemy, but gradually turned into the Taliban and al Qaeda. Pakistan fought with the mujahidin. And who was the third ally against the Soviet Union? The United States. The United States, Pakistan, and the mujahidin fought with the Afghan and foreign fighters against the Soviet Union. Things are a little different today. Over one million deaths just in Afghanistan.

What happened at the same period of time in the Middle East just a few short years ago? Iraq and Iran went to war from 1980 to 1988. This was over border disputes, oil, and so on. 1,500,000 deaths. Not 1,500,000 casualties; 1,500,000 deaths. That's more deaths than all the Americans that died in World War I, World War II, Korea and Vietnam combined.

We are in a huge violent region today where these people, the Middle East people, are very used to violent politics and violent death. Can you resolve these conflicts with more violence? I think the answer is no.

What happened back in 1978 and 1979, a period of time when the Iranian Revolution took place, the Afghan war with Russia was about to take place, and the war between Iran and Iraq was about to take place, what happened when Jimmy Carter got Anwar Sadat and Menachem Begin together for a period of time in the United States? What happened? There was peace on the edge of conflict between Egypt and Israel. They reconciled their differences.

The last piece of conflict that I want to discuss in the Middle East during the Cold War, right at the end of the Cold War, was the Persian Gulf War when Iraq invaded Kuwait over border disputes. They felt that Kuwait was actually a part of Iraq historically.

When we went into the Persian Gulf War in 1991, there were very clear, defined objectives. And when those objectives were met, we came home. There was truly an international coalition; I mean, an international coalition that was so good the United States spent no money on the Persian Gulf War because those countries that did not contribute troops contributed large financial assistance. International financial assistance helped resolve that conflict. We had greater integrated diplomatic initiatives by the international community. And so the Persian Gulf War came, it was violent, and then it was resolved in a very short period of time.

The present crisis, Iraq, right now in the Middle East; what is it like in Iraq?

□ 2230

There are three great religions there, Judaism, Christianity, and Islam, that at times throughout history have had violent interactions. But there are also many, many examples over the centuries where these three great religions have lived together in peace. Faith is a very important part. Religion is a very important part of the Middle East.

Oil exports are vital to the economic viability of the region. Oil exports are very important.

The geopolitical balance of power in the Middle East today is fractured. There are no more super powers. There is not a conflict between the Soviet Union and the United States. Saddam Hussein, who was one of the more powerful dictatorial leaders in the region, is gone. Who will have more influence there? No one knows. The geopolitical balance of power is fractured. So what direction will the Middle East take, and how can we be a part of the solution?

The Shiites and the Sunnis, these are both Muslim. They are both of the Islamic faith. But there are differences. But their differences are much greater than the differences between the different denominations in the Christian church. They are much different from Catholicism and the Protestants. They're different from the Baptists and the Methodists and the Episcopalians and the Lutherans and so on. And one of the major differences between the Shiites and the Sunnis is who has authority over the religion of Islam. There was a shift, a break, between the descendants of Muhammad. So authority creates significant differences in how religion works. And there are differences between the hierarchy of Shiites and the Sunnis; hence we see sectarian violence and we see intrasectarian violence. But I can tell you the vast majority of Arabs who are Muslim, who are Sunni, and who are Shia, especially in Iraq, have lived peacefully for centuries, have intermarried for centuries. And for the most part, there is not sectarian violence between the two religious groups. There is not intrasectarian violence within the Shias or within the Sunnis. This conflict has separated the two. But more importantly, the differences between the Shias and the Sunnis can be reconciled.

But make no mistake, there is a difference, a fundamental difference, between an al Qaeda member and a Sunni or a Shia. There is a significant difference between someone who is a Taliban and someone who is a Shia and a Sunni. And it is the same difference, if we go back 30 some years, to a group of people called the Khmer Rouge in Thailand led by a fanatical maniac called Pol Pot. He was a Thai. He was Southeast Asian. But to compare Pol Pot with the Khmer Rouge with any average Buddhist in Thailand would be completely out of the question, completely false.

So trying to lump all the Muslims together into one picture is a stereotype. That's a big mistake. Al Qaeda are terrorists. They are the enemy. The Taliban are very strict, ancient, primitive. They have a very primitive, ancient interpretation of Islam. But if you're a Sunni or a Shia and you're living in Iraq, you want your country to be at peace and you want to be modernized. We need to understand this culture a little bit better.

The war in Iraq has now more than 34,000 casualties. What does that mean, 34,000 casualties? That means more than 4,000 Americans dead that will never come home. That means more than 30,000 Americans wounded, hospitalized, disabled that will never be the same; $600 billion and counting, about $12 billion a month; global dissent; soldiers on their third and fourth tour in Iraq and Afghanistan; posttraumatic syndrome.

Now let me say something about posttraumatic stress syndrome. It's when you have a violent incident in your life and it doesn't go away if you're a soldier from Iraq when you go home. You just can't put it aside. Posttraumatic stress syndrome is nothing more than remembering your past, a year ago, 10 years ago, 6 months ago. You remember these incidents. You remember what a land mine in the middle of the road did to your Humvee or your tank or your jeep or your buddy. You remember that. The violent incident that occurred does not get forgotten any more than you remember what you did in high school or what you did in a picnic last week or whom you spoke to in a church last week or a birthday party that you had. Posttraumatic stress syndrome is basically 100 percent for anyone who has been in combat, 100 percent. Now, some people are able to deal with it, they digest it, and they move on with their life, and they're normal and they're successful. But for some, depending on their physiological capacity, they cannot forget that incident where they saw children blown to pieces, where they may have pressed the barrel of their rifle against another man's chest and pulled the trigger. Do you forget that? Children burned with napalm, violent conflict, do you forget it? You don't. You deal with it. But posttraumatic stress is a problem.

The troops are stunningly competent. Are we policymakers informed enough to deal with these issues in a way that we can bring the conflict to an end?

Does that mean, then, because of these casualties, because of this conflict, that we should leave Iraq right away? Let's talk about that for a second. We left Mogadishu, Somalia. And what did we leave behind in the early 1990s? We left behind chaos. So we can't leave right away without any consequences. What happened to the Russians when they left Afghanistan? We wanted them to leave Afghanistan, but who took care to look at the diplomatic effort to build up Afghanistan? Nobody. And look what happened to Afghanistan after the Russians left. It turned into a haven for al Qaeda and the Taliban.

But how many troops should we leave behind or leave in Iraq? That's a consideration. If we go back to 1954, the French were leaving Vietnam, and they left a group of soldiers at Dien Bien Phu, and they were all killed or captured. So we don't want another Mogadishu. We don't want another Afghanistan. We don't want another Dien Bien Phu in Vietnam in 1954.

General Petraeus says there is no military solution. Under the present situation, it doesn't look like there is a political solution. So what do we do? Well, we look beyond Iraq. If we just look at Iraq alone, there is no political or military solution. But to understand the way forward, we need to frame a regional strategy. So what does it look like?

Right now the U.S. military is a skeletal structure upon which Iraqi society rests. You pull the military out, it may collapse. We are the skeletal structure. So we need to be strategic about what we're doing there now, and being strategic means we look at the region.

First, the Palestinian-Israeli issue, unsettled since 1948. What has that caused? It is the biggest advertising recruitment tool for violent, radical al Qaeda. We need to begin to seriously resolve that conflict between the Palestinians and the Israelis.

Saudi Arabia, they live in a fractured Middle East. Saudi Arabia fears, a natural fear, that Iraq will be an Iranian satellite; so we need to deal with the fears of Saudi Arabia.

Syria, a secular Islamic country, not a fundamentalist Islamic country, still has concerns about its role in Lebanon and the Golan Heights that were taken from them in the 1967 war. We need to engage the Syrians at the highest levels.

Iran, they have historic fears of Iraq and Russia, now China. They are Persian. They speak farsi. They are not Arab. We need to engage the Iranians with no preconditions. We didn't put conditions on Khrushchev when we engaged him. We didn't have any preconditions against Mao Se Tung when we engaged them.

Turkey, what of the Kurdish question? We need to bring Turkey into the process of reconciliation.

The problems of the Middle East are centuries old. It is an interconnected, integrated region that must be brought together. An integrated region needs to be brought together with an integrated set of diplomatic efforts.

And by the way, the countries that I just mentioned, Palestine, Israel, Saudi Arabia, Syria, Iran, Turkey, Iraq, those countries in and of themselves without U.S. aid could deal and take care of al Qaeda.

It would be wise to remember Eisenhower's words: A country like the United States needs a strong military, strong intelligence, but it also needs consensus and dialogue. The third leg of the three legged stool, consensus and dialogue, is also a part of America's arsenal. And it includes exquisite diplomacy, which means trading, education, science, technology, cultural, social, and religious exchanges. That's what the third leg of that stool does. That is what diplomacy is. Eisenhower spoke to Khrushchev. Kennedy spoke to Khrushchev. Nixon spoke to Mao Tsetung. Knowledge is the solvent for danger, said Norman Cousins. The troops know that. The troops know the smarter they are, the better prepared they are, the better their day is going to be. Do the policymakers know that? Do the policymakers know what their role is in this war? Standing shoulder to shoulder with the troops means more than just praying for the troops. It means you also wear a helmet, a flak jacket, and a rifle. And what is that helmet, flak jacket, and rifle? That's knowledge. That's knowing something about the issue.

History is a vast early warning system. The Arabs, the Persians, the Israelis know the history of the last centuries of the Middle East. Do we? Sam Rayburn, former Speaker of the House, said, ''Any mule can kick a barn door down, but it takes a carpenter to build one.'' We need carpenters. A lot of them. Remember what Rudyard Kipling said when his son tragically died in northern France during World War I: ''Why did young men die? Because old men lied.'' And to paraphrase that today, old people should talk before they send young people to die.

The landscape of human tragedy since the dawn of time, who has been our enemy? Ignorance, arrogance, dogma. It leads to monstrous certainty, monstrous dictators, monstrous violence. Ignorance, arrogance, dogma. What's the antidote? More violence? Filling up our cemeteries?

The answer is knowledge replaces ignorance, humility replaces arrogance, and tolerance replaces dogma. Consensus and dialogue. A diplomatic initiative with the region. A full diplomatic initiative with the region. That comes out of the intelligence and the ingenuity of our arsenal. Certainly we need a strong military. Certainly we need a strong intelligence community. But we need the other leg of that arsenal, a regional diplomacy policy.

An international support structure, do we have it in the middle East? Do we have it with the Palestinian and Israelis? Are we working with an international support structure in Iraq and Afghanistan? Not enough.

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Integrated security alliance. We had it with NATO. We had it with SEATO. We have it with OAS. The U.S. has it, and many countries want to join it. The integrated economic alliance. It is with the European Union. All of the Eastern European countries and the Balkans want to get into that integrated security alliance and that integrated economic alliance.

We can do that in the Middle East. We should continue the current military draw down strategically and responsibly, a reconciliation among the different factions to reduce the sectarian violence, an effort that is ongoing. And we should continue it.

Let's take a walk down Memory Lane going back to 1941 just at the very early stages of World War II. A number of countries signed what was called the Atlantic Charter. And the Atlantic Charter was to deal with sovereignty, freedom and independence. The Atlantic Charter led to the organization now known as NATO. That integrated security alliance kept the peace in Europe basically as a result of that from 1948 to the present.

I will say a little side remark. The Atlantic Charter, which talked about sovereignty and human rights, when Ho Chi Minh read it shortly after it was signed, he wondered if it would apply to Asians. That is what he said. And apparently it didn't for some time to come.

The Helsinki Accords, which we mentioned earlier, which President Bush reminded Mikhail Gorbachev of and so there was a peaceful solution to the tearing down of the Berlin Wall, the Helsinki Accords was signed in 1975 by a number of European countries, including the Soviet Union. And that Accord said the following, there should be territorial integrity, peaceful settlements of disputes, freedom of thought, conscience, religion and belief, equal rights and respect for international law. That is what the Helsinki Accord said.

The Helsinki Accord gave people under the Soviet domination courage to strive for a better life. Look at Eastern Europe and many of the former Soviet Republics. They read the Helsinki Accords. It gave them hope to put aside their fear and their despair and dream for a better life to come and then make it happen.

The Geneva Convention, 1949, talked about the treatment of prisoners, all prisoners, not just certain types, but that all prisoners should be treated humanely. And I would suggest that my colleagues and those who are listening read the Geneva Convention. It is only 59 pages. You ought to have some understanding of who is a prisoner of war, who is an enemy combatant, is there some kind of difference between someone that doesn't come from a state or a country or wear a uniform? Read the Geneva Convention. It's 59 pages.

Mr. Speaker, I want to conclude my remarks tonight with a quote from a book, that was not on the list, written by Jacob Bronowski. It's called ''The Ascent of Man.'' It is about 30 years old. It is an interesting book because it talks about the evolution of science in human civilization. But there is a chapter in this book about World War II and the Holocaust. The author of the book had most of his relatives die in Auschwitz. But here is what Bronowski says about war, which is still applicable in the present crisis: There are two parts to the human dilemma. One is the belief that the end justifies the means, that push-button philosophy, that deliberate deafness to suffering that has become the monster in the war machine. The other is the betrayal of the human spirit where a nation becomes a nation of ghosts, obedient ghosts or tortured ghosts.

Where do we fit into that equation?

Mr. Speaker, before I finish, I did tell the listeners that I would reread the list of books that I call your helmet, your flak jacket and your rifle. So now are you ready to cross the line to stand shoulder to shoulder with the troops who are knowledgable and competent about what they do? And so we as policy makers, are we knowledgable? And what is the role of the American people?

The first book is ''A Letter to America'' by David Boren.

''Iraq Study Group Report'' by James Baker and Lee Hamilton.

''Fiasco'' by Thomas Ricks.

''The Struggle for Peace'' by General Tony Zinni.

''Violent Politics'' by William Polk.

''Treacherous Alliance'' by Trita Parsi.

''All the Shah's Men'' by Stephen Kinzer.

''The Silence of the Rational Center'' by Stefan Halper and Jonathan Clarke.

''Why Viet Nam?'' by Archimedes Patti.

And the last book, number 10, ''Human Options'' by Norman Cousins.

One more quote from Norman Cousins and the book, ''Human Options.'' This is us. Man is not imprisoned by habit. Great changes in him can be wrought by crisis once that crisis can be recognized and understood. And so if we have recognized the present crisis, great changes can take place.

Thank you very much, Mr. Speaker.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. BONO MACK (at the request of Mr. BOEHNER) for today and the balance of the week on account of the death of her father.

Mr. GERLACH (at the request of Mr. BOEHNER) for today and the balance of the week on account of a serious family illness.

Mr. WELLER of Illinois (at the request of Mr. BOEHNER) for today on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of North Carolina, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, May 19 and 20.

Mr. JONES of North Carolina, for 5 minutes, May 19 and 20.

Mr. FLAKE, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today, May 14 and 15.

Mr. HULSHOF, for 5 minutes, May 14.

Mr. MORAN of Kansas, for 5 minutes, today and May 14.

Mr. DENT, for 5 minutes, May 14.

Mr. GILCHREST, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today, May 14 and 15.

Mr. BURGESS, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. ELLISON, for 5 minutes, today.

## SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:

S. 2929. To temporarily extend the programs under the Higher Education Act of 1965.

## ADJOURNMENT

Mr. GILCHREST. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 14, 2008, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6518. A letter from the Director, U.S. Census Bureau, Department of Commerce, transmitting a copy of two Bureau publications entitled, ''Consolidated Federal Funds for Fiscal Year 2006 (State and County Areas)'' and ''Federal Aid to States for Fiscal Year 2006''; to the Committee on Oversight and Government Reform.

6519. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, the Department's report on competitive sourcing efforts for FY 2007; to the Committee on Oversight and Government Reform.

6520. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6521. A letter from the Presidential Apppointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6522. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

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6530. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6531. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6532. A letter from the Human Resources Management Office, Federal Trade Commission, transmitting the Commission's report on the use of the Category Rating System for calendar year 2007, pursuant to 5 U.S.C. 3319(d); to the Committee on Oversight and Government Reform.

6533. A letter from the Administrator, Office of Management and Budget, transmitting the Office's report on competitive sourcing activities for FY 2007, in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, Fiscal Year 2004, Pub. L. 108-199; to the Committee on Oversight and Government Reform.

6534. A letter from the Senior Vice President and Chief Financial Officer, Potomac Electric Power Company, transmitting a copy of the Balance Sheet of Potomac Electric Power Company as of December 31, 2007, pursuant to D.C. Code section 43-513; to the Committee on Oversight and Government Reform.

6535. A letter from the Inspector General, Railroad Retirement Board, transmitting statement of concern regarding the effectiveness of oversight for the National Railroad Retirement Investment Trust; to the Committee on Oversight and Government Reform.

6536. A letter from the Director, U.S. Trade and Development Agency, transmitting the Agency's Federal Entity Annual Report for FY 2007, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

6537. A letter from the Chief of Police, United States Capitol Police, transmitting the semiannual report of receipts and expenditures of appropriations and other funds for the period October 1, 2007 through March 31, 2008, pursuant to Public Law 109-55, section 1005; (H. Doc. No. 110–111); to the Committee on House Administration and ordered to be printed.

6538. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting a designation pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

6539. A letter from the Chief Counsel, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule — Determination of Availability of Coastwise-Qualified Launch Barges [Docket No. MARAD-2005-XXXXX] (RIN: 2133-AB67) received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6540. A letter from the Assistant Chief Counsel for Hazardous Materials Safety, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments [Docket No. PHMSA-RSPA-2004-18730] (RIN: 2137-AE02) received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6541. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30597; Amdt. No. 3260] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6542. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30596; Amdt. No. 3259] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6543. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30594; Amdt.

No. 3257] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6544. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30591; Amdt. No. 3254] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6545. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30593; Amdt. No. 3256] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6546. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30587; Amdt. No. 3251] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6547. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30605; Amdt. 3267] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6548. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Using Agencies for Restricted Areas R-5303A, B, C; R-5304A, B, C; and R-5306A, C, D, E; NC [Docket No. FAA-2008-0050; Airspace Docket No. 07-ASO-28] (RIN: 2120-AA66) received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6549. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Lexington, OK [Docket No. FAA-2008-0003; Airspace Docket No. 08-ASW-1] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6550. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Rumford, ME. [Docket No. FAA-2008-0063; Airspace Docket No. 08-ANE-94] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6551. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Tucson, AZ [Docket No. FAA-2007-28529; Airspace Docket No. 07-ANM-12] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6552. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Farmington, ME [Docket No. FAA-2007-0243] Airspace Docket No. 07-ANE-93] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6553. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Przedsiebiorstwo Doswiadczalno-Produkcyjne Szybownictwa ''PZL-Bielsko'' Model SZD-50-3 ''Puchacz'' Gliders [Docket No. FAA-2008-0045; Directorate Identifier 2007-CE-100-AD; Amendment 39-15339; AD 2008-02-09] (RIN: 2120-AA64) received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6554. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Model AS 332 L2 Helicopters [Docket No. FAA-2008-0100; Directorate Identifier 2007-SW-41-AD; Amendment 39-15356; AD 2008-03-07] (RIN: 2120-AA64) received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6555. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30590; Amdt. No. 472] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6556. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30588; Amdt. No. 3252] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6557. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30589; Amdt. No. 3253] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6558. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30595; Amdt. No. 3258] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6559. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No. 30598; Amdt. No. 3261] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6560. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30599; Amdt. No. 473] received May 12, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6561. A letter from the Director of Legislative Affairs, Railroad Retirement Board, transmitting the Board's Congressional Justification of Budget Estimates for Fiscal Year 2009, pursuant to 45 U.S.C. 231f(f); jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

6562. A letter from the Director of Legislative Affairs, Railroad Retirement Board, transmitting the budget justification for the Office of Inspector General, Railroad Retirement Board, for fiscal year 2009, prepared in compliance with OMB Circular No. A-11; jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PETERSON of Minnesota; Committee of Conference. Conference report on H.R. 2419. A bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes (Rept. 110–627). Ordered to be printed.

Mr. BERMAN. Committee on Foreign Affairs. H.R. 5834. A bill to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, and for other purposes; with an amendment (Rept. 110–628). Referred to the Committee of the Whole House on the State of the Union.

Mr. CARDOZA: Committee on Rules. House Resolution 1189. Resolution providing for consideration of the conference report to accompany the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes (Rept. 110–629). Referred to the House Calendar.

Mr. McGOVERN: Committee on Rules. House Resolution 1190. Resolution providing for the adoption of the concurrent resolution (S. Con. Res. 70) setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013 (Rept. 110–630). Referred to the House Calendar.

Mr. RAHALL: Committee on Natural Resources. H.R. 3323. A bill to authorize the Secretary of the Interior to convey a water distribution system to the Goleta Water District, and for other purposes; with an amendment (Rept. 110–631). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 3930. A bill to provide for a land exchange involving State land and Bureau of Land Management land in Chavez and Dona Ana Counties, New Mexico, and to establish the Lesser Prairie Chicken National Habitat Preservation Area, and for other purposes; with an amendment (Rept. 110–632). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 4074. A bill to authorize the implementation of the San Joaquin River Restoration Settlement, and for other purposes (Rept. 110–633). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 2649. A bill to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992; with an amendment (Rept. 110–634). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 1771. A bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries and activities of which directly or indirectly affect cranes and the ecosystems of cranes; with an amendment (Rept. 110–635). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MCMORRIS RODGERS (for herself, Mr. CANTOR, Ms. GRANGER, Mr. MCKEON, Mr. FRANKS of Arizona, Mr. PAUL, Mrs. BONO MACK, Mr. KLINE of Minnesota, Mr. WILSON of South Carolina, Ms. PRYCE of Ohio, Mr. MCHENRY, and Mrs. BLACKBURN):

H.R. 6025. A bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Education and Labor.

By Mr. LEWIS of California (for himself, Mr. BOEHNER, Mr. BLUNT, Mr. SIMPSON, Mr. CULBERSON, Mr. WALSH of New York, Mr. CARTER, Ms. GRANGER, Mr. TIAHRT, Mr. LAHOOD, Mr. ROGERS of Kentucky, Mr. WAMP, Mr. BONNER, Mr. WOLF, Mrs. EMERSON, Mr. CRENSHAW, Mr. KINGSTON, Mr. YOUNG of Florida, Mr. ALEXANDER, Mr. KIRK, Mr. ADERHOLT, Mr. KNOLLENBERG, Mr. REGULA, Mr. LATHAM, Mr. GOODE, Mr. CALVERT, Mr. FRELINGHUYSEN, Mr. REHBERG, and Mr. WELDON of Florida):

H.R. 6026. A bill making emergency supplemental appropriations for the fiscal year ending September 30, 2008, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 6027. A bill to provide highest preference in the use of foreclosed housing acquired using Federal loan or grant funds made available under the Neighborhood Stabilization Act of 2008 for providing housing for disabled veterans and to prohibit the purchase or lease of such housing by any individual convicted under Federal or State law of a drug-dealing offense, a sex offense, or mortgage fraud; to the Committee on Financial Services.

By Mr. BERMAN (for himself, Mr. ENGEL, Mr. REYES, and Mr. CUELLAR):

H.R. 6028. A bill to authorize law enforcement and security assistance, and assistance to enhance the rule of law and strengthen civilian institutions, for Mexico and the countries of Central America, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. ELLISON, Mr. KILDEE, Mr. HASTINGS of Florida, Mrs. CAPPS, Ms. SCHAKOWSKY, Mr. LEWIS of Georgia, Mr. COHEN, Ms. MOORE of Wisconsin, Mr. GRIJALVA, Mrs. MALONEY of New York, Mr. FRANK of Massachusetts, Mr. WYNN, Mr. KUCINICH, and Mr. MCGOVERN):

H.R. 6029. A bill to amend the Family and Medical Leave Act of 1993 to eliminate an hours of service requirement for benefits under that Act; to the Committee on Education and Labor, and in addition to the Committees on Oversight and Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK (for himself, Mrs. BIGGERT, Mr. ROSKAM, and Mr. SHAYS):

H.R. 6030. A bill to amend the Internal Revenue Code of 1986 to allow employers a refundable credit against income tax for 50 percent of the employer's cost of providing tax-free transit passes to employees; to the Committee on Ways and Means.

By Mr. KIRK:

H.R. 6031. A bill to direct the Director of the United States Fish and Wildlife Service to conduct a study of the feasibility of a variety of approaches to eradicating Asian carp from the Great Lakes and their tributary and connecting waters; to the Committee on Natural Resources.

By Mr. FILNER:

H.R. 6032. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide wartime disability compensation for certain veterans with Parkinson's Disease; to the Committee on Veterans' Affairs.

By Ms. VELÁZQUEZ:

H.R. 6033. A bill to promote training and employment for public housing residents in home-based health services so such residents can provide Medicaid covered home-based health services to elderly and disabled persons receiving public housing assistance from the Department of Housing and Urban Development; to the Committee on Financial Services, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCGOVERN (for himself, Mr. MARKEY, Ms. BORDALLO, Mr. LEWIS of Georgia, Mr. DANIEL E. LUNGREN of California, Mr. MORAN of Virginia, Mr. SIRES, Mr. GRIJALVA, Mrs. NAPOLITANO, Mr. FATTAH, Mr. REYES, Mr. GENE GREEN of Texas, Mr. NADLER, Ms. SCHAKOWSKY, Mr. GONZALEZ, Mr. ABERCROMBIE, Mr. SERRANO, and Mr. UDALL of Colorado):

H.R. 6034. A bill to amend the Immigration and Nationality Act to provide for relief to surviving spouses and children; to the Committee on the Judiciary.

By Mr. COURTNEY:

H.R. 6035. A bill to authorize the Secretary of Energy to exchange light crude oil in the Strategic Petroleum Reserve for heavy crude oil, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EMANUEL (for himself and Mr. RAMSTAD):

H.R. 6036. A bill to amend the Internal Revenue Code of 1986 to establish lifelong learning accounts to provide an incentive to save for education; to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GIFFORDS (for herself, Ms. SHEA-PORTER, and Mr. JOHNSON of Georgia):

H.R. 6037. A bill to amend titles 10 and 37, United States Code, to create the position of Assistant Secretary of Defense for Irregular Warfare, Cultural Training, and Social Science Initiatives and to authorize a new skill incentive pay and proficiency bonus to encourage members of the Armed Forces to train in critical foreign languages and foreign cultural studies; to the Committee on Armed Services.

By Mr. GRAVES (for himself and Ms. NORTON):

H.R. 6038. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the President to modernize the integrated public alert and warning system of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. ZOE LOFGREN of California (for herself, Mr. CANNON, Mr. CONYERS, Mr. CARTER, Mr. GEORGE MILLER of California, Mr. SHADEGG, Mr. HONDA, Mr. TOM DAVIS of Virginia, Ms. ESHOO, Mr. GILCHREST, Mr. KENNEDY, Mr. REICHERT, Mr. CAPUANO, Mrs. MALONEY of New York, Mr. CROWLEY, Mrs. TAUSCHER, Mr. SMITH of Washington, Mr. MCDERMOTT, Ms. LORETTA SANCHEZ of California, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 6039. A bill to amend the Immigration and Nationality Act to authorize certain aliens who have earned a master's or higher degree from a United States institution of higher education in a field of science, technology, engineering, or mathematics to be admitted for permanent residence; to the Committee on the Judiciary.

By Mr. MICA (for himself and Mr. BOOZMAN):

H.R. 6040. A bill to amend the Water Resources Development Act of 2007 to clarify the authority of the Secretary of the Army to provide reimbursement for travel expenses incurred by members of the Committee on Levee Safety; to the Committee on Transportation and Infrastructure.

By Mr. REYES (for himself, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINOJOSA, Mr. CUELLAR, Mr. HALL of Texas, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, Mr. SMITH of Texas, Mr. GONZALEZ, Mr. GENE GREEN of Texas, Mr. DOGGETT, Mr. ORTIZ, Mr. CARTER, Mr. BRADY of Texas, Mr. SESSIONS, Mr. MARCHANT, Ms. GRANGER, Mr. AL GREEN of Texas, Mr. POE, Mr. CONAWAY, and Mr. SAM JOHNSON of Texas):

H.R. 6041. A bill to redesignate the Rio Grande American Canal in El Paso, Texas, as the ''Travis C. Johnson Canal''; to the Committee on Natural Resources.

By Mr. SAXTON:

H.R. 6042. A bill to mandate price stability as the primary goal of the monetary policy of the Board of Governors of the Federal Reserve System and the Federal Open Market Committee; to the Committee on Financial Services.

By Mr. SKELTON:

H.R. 6043. A bill to provide for an evaluation factor for defense contractors employing or subcontracting with recipients of certain special immigrant visas; to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS (for himself and Mr. WHITFIELD of Kentucky):

H.R. 6044. A bill to authorize appropriations for the Federal Trade Commission for certain international technical assistance activities; to the Committee on Energy and Commerce.

By Mr. VISCLOSKY (for himself, Mr. LOBIONDO, Mr. STUPAK, Mr. RAMSTAD, Mr. CRENSHAW, Mr. BACA, Mr. BISHOP of Georgia, Mr. UDALL of Colorado, Ms. JACKSON-LEE of Texas, Mr. BRADY of Pennsylvania, Mr. NEAL of Massachusetts, Mr. GONZALEZ, Ms. SUTTON, Mr. MORAN of Virginia, Ms. CORRINE BROWN of Florida, Mr. HOLDEN, Mr. HOLT, Mr. KILDEE, Mr. ACKERMAN, Mr. GERLACH, Mr. KING of New York, Mr. MCHUGH, Ms.

SCHWARTZ, Mr. ROTHMAN, Mr. MICHAUD, Mr. GRIJALVA, Mr. COSTELLO, Mrs. NAPOLITANO, Mr. ETHERIDGE, Mr. YOUNG of Alaska, Mr. SHAYS, Mr. HINOJOSA, Mr. FARR, Mr. ENGEL, Mr. HALL of Texas, Mr. NADLER, Mr. PASCRELL, Mr. ABERCROMBIE, Mr. ELLSWORTH, Mr. HILL, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. ALLEN, Mr. PRICE of North Carolina, Mr. MCINTYRE, Mr. DONNELLY, Mr. MCNULTY, Mr. GENE GREEN of Texas, Mr. UDALL of New Mexico, Mr. CARNEY, Mrs. LOWEY, Mr. LIPINSKI, Mr. SAXTON, Mr. PATRICK MURPHY of Pennsylvania, Mr. CARSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OBERSTAR, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. LARSEN of Washington, Mr. TURNER, Mr. HAYES, Ms. DELAURO, Mr. FILNER, Mr. DICKS, Mr. LANGEVIN, Mr. KUHL of New York, Mr. MICA, Mr. EDWARDS, Mr. CUELLAR, Mr. KUCINICH, Mr. RAHALL, Mr. JACKSON of Illinois, Mr. BUTTERFIELD, Mr. BILIRAKIS, Mr. LEWIS of Georgia, Mr. SIRES, Mrs. BOYDA of Kansas, Mr. BOSWELL, Ms. GIFFORDS, Mr. ORTIZ, Mr. EMANUEL, Mr. ALTMIRE, Mr. SNYDER, Ms. SHEA-PORTER, Ms. SCHAKOWSKY, Mr. HIGGINS, Mr. SESTAK, Mrs. CAPPS, Mr. OLVER, Mr. HINCHEY, Mr. TIAHRT, Mr. COBLE, Mr. DINGELL, Ms. MATSUI, Mr. WALZ of Minnesota, Mr. COURTNEY, Ms. ZOE LOFGREN of California, Mr. BERRY, Mr. LINCOLN DAVIS of Tennessee, Mr. MOORE of Kansas, Ms. MCCOLLUM of Minnesota, Mr. PALLONE, Mr. RYAN of Ohio, Mr. SCOTT of Virginia, Mr. FATTAH, and Mr. MITCHELL):

H.R. 6045. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2012; to the Committee on the Judiciary.

By Mrs. WILSON of New Mexico (for herself, Mr. SCHIFF, and Mrs. BOYDA of Kansas):

H.R. 6046. A bill to extend the authorization provided in the Act titled ''An Act to preserve the cultural resources of the Route 66 corridor and to authorize the Secretary of the Interior to provide assistance''; to the Committee on Natural Resources.

By Mr. DAVIS of Kentucky (for himself and Mr. HUNTER):

H. Con. Res. 348. Concurrent resolution urging the President to designate a National Airborne Day in recognition of persons who are serving or have served in the airborne forces of the Armed Services; to the Committee on Oversight and Government Reform.

By Mr. SHUSTER (for himself and Mr. ORTIZ):

H. Res. 1187. A resolution promoting global energy supply security through increased cooperation among the United States, Turkey, Azerbaijan, and Georgia, by diversifying sources of energy, and implementing certain oil and natural gas pipeline projects for the safe and secure transportation of Eurasian hydrocarbon resources to world markets; to the Committee on Foreign Affairs.

By Mr. MARKEY:

H. Res. 1188. A resolution encouraging recognition, and supporting the goals and ideals, of National Aphasia Awareness Month; to the Committee on Energy and Commerce.

By Ms. CASTOR (for herself and Mr. REICHERT):

H. Res. 1191. A resolution expressing support for designation of May as ''National Asthma and Allergy Awareness Month''; to the Committee on Energy and Commerce.

By Mr. HONDA (for himself, Ms. LEE, Mr. TOWNS, Mr. PAYNE, Mr. MCNULTY, and Mr. DENT):

H. Res. 1192. A resolution supporting the goals and ideals of World Hepatitis Awareness Month; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico:

H. Res. 1193. A resolution expressing the sense of the House of Representatives that there is a critical need to increase research, awareness, and education about cerebral cavernous malformations; to the Committee on Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 139: Mr. BURTON of Indiana and Mr. JONES of North Carolina.

H.R. 154: Ms. BERKLEY, Mr. DAVIS of Alabama, and Mr. BISHOP of New York.

H.R. 303: Mr. MCNERNEY.

H.R. 333: Mr. MCNERNEY.

H.R. 402: Mr. VAN HOLLEN.

H.R. 642: Mr. SHAYS.

H.R. 643: Mr. ROGERS of Alabama.

H.R. 697: Mr. HASTINGS of Washington.

H.R. 741: Mr. MICHAUD.

H.R. 826: Mrs. BLACKBURN.

H.R. 971: Mr. DONNELLY.

H.R. 992: Mr. GUTIERREZ.

H.R. 1014: Ms. RICHARDSON.

H.R. 1032: Mr. JACKSON of Illinois, Mr. JOHNSON of Georgia, Mr. ANDREWS, and Ms. CASTOR.

H.R. 1092: Mr. CLEAVER.

H.R. 1194: Mr. CANTOR.

H.R. 1228: Mr. WU.

H.R. 1279: Mr. SIRES.

H.R. 1395: Mr. BOOZMAN.

H.R. 1509: Ms. FOXX.

H.R. 1524: Mr. WALZ of Minnesota.

H.R. 1532: Mr. WELCH of Vermont.

H.R. 1540: Ms. BERKLEY.

H.R. 1553: Ms. DELAURO.

H.R. 1554: Mr. ADERHOLT and Mr. LAHOOD.

H.R. 1606: Mr. MCNERNEY.

H.R. 1619: Mr. CLEAVER and Mr. MCHUGH.

H.R. 1621: Ms. LEE.

H.R. 1665: Ms. SUTTON.

H.R. 1746: Mr. CONYERS.

H.R. 2049: Ms. BERKLEY.

H.R. 2131: Mr. ORTIZ.

H.R. 2188: Mr. MELANCON, Mr. SIRES, Mr. TAYLOR, Mr. JEFFERSON, Mr. SCOTT of Georgia, Mr. KANJORSKI, Mr. TIBERI, Ms. DEGETTE, and Mr. HILL.

H.R. 2236: Mr. STARK.

H.R. 2268: Mr. SPRATT, Mr. KANJORSKI, Mr. CARNEY, Mr. SMITH of Washington, Mr. SESTAK, Mr. OBERSTAR, Mr. ALLEN, Mr. DELAHUNT, and Mr. LINDER.

H.R. 2526: Mr. WEINER.

H.R. 2552: Mr. JEFFERSON.

H.R. 2580: Mr. ROYCE.

H.R. 2702: Ms. KAPTUR.

H.R. 2744: Mr. HILL.

H.R. 2832: Mr. TURNER.

H.R. 2914: Mr. KENNEDY.

H.R. 2915: Mr. GUTIERREZ.

H.R. 2933: Mr. DAVIS of Illinois.

H.R. 3014: Mr. LARSON of Connecticut.

H.R. 3098: Mr. FRANKS of Arizona.

H.R. 3167: Ms. BALDWIN.

H.R. 3186: Ms. WATERS, Mr. BOSWELL, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. SCOTT of Georgia.

H.R. 3234: Mr. FEENEY, Mr. BOUSTANY, Mr. RAMSTAD, Mr. LEWIS of Kentucky, and Mr. NUNES.

H.R. 3245: Mr. CARTER, Mr. HONDA, and Mr. DOYLE.

H.R. 3257: Mr. PASTOR and Mr. HINOJOSA.

H.R. 3314: Mr. THOMPSON of California.

H.R. 3329: Ms. WATERS, Mr. HODES, and Mr. CLAY.

H.R. 3402: Ms. TSONGAS.

H.R. 3457: Mr. ABERCROMBIE, Mr. BOYD of Florida, Mrs. MYRICK, and Mr. CARNEY.

H.R. 3544: Ms. SCHAKOWSKY, Mr. HARE, and Mr. MCNERNEY.

H.R. 3652: Mr. BOUCHER.

H.R. 3769: Mr. WITTMAN of Virginia.

H.R. 3770: Mr. PASCRELL and Mr. SAM JOHNSON of Texas.

H.R. 3819: Mr. VAN HOLLEN.

H.R. 3874: Mr. BUTTERFIELD.

H.R. 3944: Ms. SOLIS, Ms. LEE, and Mr. BACA.

H.R. 3980: Mr. STARK.

H.R. 4026: Ms. SOLIS and Ms. KILPATRICK.

H.R. 4044: Mr. GUTIERREZ.

H.R. 4048: Mr. SCOTT of Virginia.

H.R. 4061: Mr. ADERHOLT.

H.R. 4063: Mr. SERRANO.

H.R. 4105: Mr. SNYDER, Mr. DAVIS of Alabama, and Mr. FERGUSON.

H.R. 4173: Mr. AL GREEN of Texas.

H.R. 4206: Mr. MCGOVERN.

H.R. 4273: Mr. DINGELL and Mr. EHLERS.

H.R. 4318: Mr. ALTMIRE.

H.R. 4344: Ms. GRANGER.

H.R. 4449: Mrs. CHRISTENSEN.

H.R. 4450: Ms. NORTON, Mr. GENE GREEN of Texas, Mr. SESTAK, and Ms. SUTTON.

H.R. 4458: Mr. SHAYS.

H.R. 4544: Mr. HINCHEY and Mr. CONYERS.

H.R. 4611: Mr. STARK.

H.R. 4651: Mr. FATTAH.

H.R. 4884: Mr. LOBIONDO.

H.R. 4900: Mr. CALVERT and Mr. TURNER.

H.R. 4990: Ms. HERSETH SANDLIN.

H.R. 5056: Mr. DEFAZIO.

H.R. 5057: Mr. GRIJALVA.

H.R. 5109: Mr. CAMP of Michigan.

H.R. 5155: Mr. TIERNEY, Mr. HINCHEY, Mr. SESTAK, Mr. GRIJALVA, and Mr. KUCINICH.

H.R. 5180: Mr. ARCURI.

H.R. 5244: Mr. BACA, Mr. KANJORSKI, Mr. HINOJOSA, Mr. CLEAVER, and Mr. MCNERNEY.

H.R. 5401: Mr. CLEAVER.

H.R. 5437: Mr. SALI.

H.R. 5447: Ms. HIRONO.

H.R. 5467: Mr. PLATTS.

H.R. 5473: Mrs. MCCARTHY of New York, Mr. CHANDLER, Mr. BLUMENAUER, Mr. DEFAZIO, Mr. CLEAVER, Mrs. MALONEY of New York, Ms. CASTOR, Mr. CAPUANO, Mr. KUCINICH, Mr. UDALL of New Mexico, Mr. FARR, Mr. PLATTS, Mr. GEORGE MILLER of California, Mr. JONES of North Carolina, and Ms. SPEIER.

H.R. 5481: Mr. MCNERNEY.

H.R. 5488: Mr. COHEN, Mr. GRIJALVA, and Mr. CONYERS.

H.R. 5519: Mr. CARNAHAN.

H.R. 5534: Mr. CLEAVER.

H.R. 5546: Mr. GONZALEZ and Mr. MCNERNEY.

H.R. 5573: Ms. WASSERMAN SCHULTZ and Mr. WALZ of Minnesota.

H.R. 5591: Mr. SMITH of Nebraska.

H.R. 5596: Mr. MILLER of Florida.

H.R. 5602: Mr. DELAHUNT Mr. ALLEN, and Mr. MCNERNEY.

H.R. 5615: Mr. BRALEY of Iowa.

H.R. 5635: Mr. SMITH of Washington.

H.R. 5642: Mr. ISSA.

H.R. 5669: Ms. BEAN and Mr. RAHALL.

H.R. 5684: Mr. GOODLATTE.

H.R. 5689: Ms. SCHWARTZ.

H.R. 5696: Mr. BLUMENAUER.

H.R. 5722: Mr. FALEOMAVAEGA and Mr. BURTON of Indiana.

H.R. 5734: Mr. JEFFERSON, Ms. WASSERMAN SCHULTZ, Mrs. MALONEY of New York, and Mr. FILNER.

H.R. 5740: Mr. HALL of Texas.

H.R. 5761: Mr. WOLF.

H.R. 5785: Mr. WALZ of Minnesota and Mr. KAGEN.

H.R. 5791: Mr. KUHL of New York.

H.R. 5794: Mrs. MCMORRIS RODGERS.
H.R. 5798: Mr. WALZ of Minnesota and Mr. KAGEN.
H.R. 5823: Mr. HINCHEY, Mr. MEEKS of New York, and Mr. ARCURI.
H.R. 5825: Ms. MCCOLLUM of Minnesota and Mr. LEVIN.
H.R. 5833: Mr. POMEROY.
H.R. 5838: Mr. ENGEL and Mr. NADLER.
H.R. 5852: Mrs. MALONEY of New York.
H.R. 5854: Mr. EDWARDS and Mr. REYES.
H.R. 5869: Mr. DAVIS of Illinois and Mr. HONDA.
H.R. 5874: Mr. TERRY, Mr. PUTNAM, Mr. BOOZMAN, Mr. RAMSTAD, Mrs. EMERSON, and Mr. YOUNG of Florida.
H.R. 5875: Mr. SNYDER.
H.R. 5881: Ms. CLARKE.
H.R. 5882: Mr. CARTER, Mr. SHADEGG, Mr. GILCHREST, Mr. ABERCROMBIE, Mr. CAPUANO, Mr. HONDA, and Ms. JACKSON-LEE of Texas.
H.R. 5892: Mr. CROWLEY, Mr. SERRANO, Mr. MURTHA, Ms. SUTTON, Mr. GRIJALVA, Ms. HERSETH SANDLIN, and Mr. ALTMIRE.
H.R. 5894: Mr. MCDERMOTT.
H.R. 5898: Mr. BOOZMAN, Ms. WATSON, and Mr. MCCOTTER.
H.R. 5902: Mr. GRIJALVA.
H.R. 5917: Mr. SOUDER and Mrs. MYRICK.
H.R. 5921: Mr. CARTER, Mr. TOM DAVIS of Virginia, Mr. SHADEGG, Mr. GILCHREST, Mr. CAPUANO, Mr. HONDA, and Ms. JACKSON-LEE of Texas.
H.R. 5925: Mr. FARR and Ms. WATERS.
H.R. 5944: Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 5958: Mr. CAMPBELL of California.
H.R. 5960: Mr. FORTENBERRY, Mr. PLATTS, Mr. DOYLE, Mr. JONES of North Carolina, and Mr. BILIRAKIS.
H.R. 5961: Mr. FRANKS of Arizona.
H.R. 5971: Mr. JONES of North Carolina, Mrs. MYRICK, Mr. COBLE, Ms. GINNY BROWN-WAITE of Florida, and Mr. BOOZMAN.
H.R. 5974: Mrs. MUSGRAVE, Mr. DENT, Mr. CULBERSON, and Mr. GERLACH.
H.R. 5976: Mr. DUNCAN.
H.R. 5984: Mr. TERRY, Mrs. MUSGRAVE, and Mr. PAUL.
H.R. 5995: Mr. SHADEGG, Mr. MCCAUL of Texas, Mr. KLINE of Minnesota, Mr. JONES of North Carolina, and Mr. WILSON of South Carolina.
H.R. 6018: Mr. MCCOTTER and Mr. SESTAK.
H.R. 6022: Ms. ESHOO, Mr. HILL, Mr. STUPAK, Ms. SUTTON, Mr. FOSTER, Mr. ELLSWORTH, Mr. SHERMAN, Mr. HIGGINS, Ms. SHEA-PORTER, Mrs. MALONEY of New York, Mrs. MCCARTHY of New York, Mr. MURPHY of Connecticut, Mr. VAN HOLLEN, Mr. KILDEE, Mr. WU, Mr. KUCINICH, Mrs. TAUSCHER, Ms. GIFFORDS, Mr. GEORGE MILLER of California, Mr. SHULER, Ms. SPEIER, Mr. LANGEVIN, Mr. ALTMIRE, Mr. MORAN of Virginia, Mr. COURTNEY, Mr. DONNELLY, Mr. HALL of New York, Mr. LARSON of Connecticut, Mr. LEWIS of Georgia, Mr. OLVER, Mr. YARMUTH, Mr. DOGGETT, Mrs. CAPPS, Ms. SLAUGHTER, Mr. UDALL of Colorado, Mr. HINCHEY, Mr. ARCURI, Mr. MICHAUD, Mr. DOYLE, Mrs. BOYDA of Kansas, Mr. KENNEDY, Mr. HODES, Mr. EMANUEL, Mr. KIND, Ms. DELAURO, Mr. BARTLETT of Maryland, Mr. HOLT, Ms. SCHAKOWSKY, Mr. REYES, Mr. KAGEN, Ms. BALDWIN, Mr. BISHOP of New York, Mr. RYAN of Ohio, Mr. WALZ of Minnesota, Mr. ALLEN, Mr. JONES of North Carolina, Mr. SPACE, Mr. PERLMUTTER, Mr. RODRIGUEZ, Mr. JOHNSON of Georgia, and Mr. PLATTS.
H.J. Res. 39: Mr. KANJORSKI and Mr. SHAYS.
H.J. Res. 40: Ms. TSONGAS.
H.J. Res. 64: Mr. CONYERS.
H.J. Res. 80: Mr. GRIJALVA.
H. Con. Res. 134: Mr. SESTAK.
H. Con. Res. 223: Mrs. CUBIN.
H. Con. Res. 257: Ms. GIFFORDS and Mr. KLEIN of Florida.
H. Con. Res. 294: Mr. HARE.
H. Con. Res. 297: Mr. BRADY of Pennsylvania, Mr. HAYES, and Mr. JOHNSON of Georgia.
H. Con. Res. 299: Mr. BOREN.
H. Con. Res. 332: Mrs. LOWEY.
H. Con. Res. 334: Mr. GERLACH and Mr. WITTMAN of Virginia.
H. Con. Res. 336: Mr. REYES, Mr. DELAHUNT, Mr. TANNER, Mr. DAVID DAVIS of Tennessee, Mr. LEVIN, Mr. ROGERS of Alabama, and Mr. OBERSTAR.
H. Con. Res. 338: Mr. CLAY.
H. Res. 258: Ms. MCCOLLUM of Minnesota and Mr. LARSON of Connecticut.
H. Res. 373: Mr. DAVIS of Illinois and Mr. SCHIFF.
H. Res. 389: Mr. MCCOTTER and Mr. LEWIS of Georgia.
H. Res. 672: Mr. BISHOP of Georgia and Mr. ORTIZ.
H. Res. 757: Mr. DAVIS of Illinois, Mr. GRIJALVA, and Mr. GEORGE MILLER of California.
H. Res. 896: Mr. RUSH and Ms. HARMAN.
H. Res. 977: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WATT, Mr. BOREN, Mr. LYNCH, Mr. PETERSON of Minnesota, and Mr. GENE GREEN of Texas.
H. Res. 985: Mr. RAMSTAD.
H. Res. 1008: Mr. HINCHEY.
H. Res. 1017: Mr. BOYD of Florida, Ms. CLARKE, Ms. CORRINE BROWN of Florida, Mr. BRADY of Pennsylvania, and Mr. CHANDLER.
H. Res. 1019: Mr. CLAY and Mr. DEFAZIO.
H. Res. 1026: Mr. MANZULLO, Mr. FORTENBERRY, and Mr. LATTA.
H. Res. 1042: Mr. HILL and Mr. FORTENBERRY.
H. Res. 1076: Mrs. MCMORRIS RODGERS, Mr. ISSA, Mr. NUNES, Mr. RADANOVICH, and Mr. GALLEGLY.
H. Res. 1104: Ms. SPEIER.
H. Res. 1110: Mr. ROGERS of Michigan.
H. Res. 1131: Mr. MEEKS of New York.
H. Res. 1132: Mr. TERRY.
H. Res. 1133: Mrs. BOYDA of Kansas, Mr. COURTNEY, Ms. TSONGAS, Ms. SUTTON, Mr. RODRIGUEZ, Mr. MCCARTHY of California, Mr. HILL, Mr. BRALEY of Iowa, and Ms. HIRONO.
H. Res. 1134: Mr. PASTOR.
H. Res. 1135: Mr. YOUNG of Alaska and Mr. BURTON of Indiana.
H. Res. 1139: Mr. HAYES, Mr. SMITH of Washington, Mrs. BOYDA of Kansas, Ms. TSONGAS, and Mr. SMITH of New Jersey.
H. Res. 1140: Mr. BRADY of Pennsylvania.
H. Res. 1173: Mr. HONDA, Mr. ETHERIDGE, Mr. BISHOP of New York, Mr. INSLEE, Mr. MCINTYRE, Mr. BRALEY of Iowa, Mr. SERRANO, Mr. VAN HOLLEN, and Mrs. LOWEY.
H. Res. 1180: Mr. NEUGEBAUER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HALL of Texas, and Mr. MCNERNEY.
H. Res. 1181: Mr. SHERMAN, Ms. ESHOO, Ms. LEE, Ms. DELAURO, Mr. WOLF, Mr. SHAYS, Mr. ENGEL, Mr. AL GREEN of Texas, and Mr. WU.
H. Res. 1182: Mr. JONES of North Carolina.

## DELETION OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2054: Ms. WASSERMAN SCHULTZ.

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, SECOND SESSION

Vol. 154 WASHINGTON, TUESDAY, MAY 13, 2008 No. 78

# Senate

The Senate met at 10 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, the way, the truth, and the life, give our lawmakers growth of ethical vision that, with the passing of years, they may enter into the fullness of faith. Uphold them in their disappointments and make them patient, even amid the unsolved mysteries of life's seasons. Let such robust confidence in You shine through their lives with such persuasive beauty that it will dispel the darkness of fear and doubt. Lift their lives from the battle zone of combative words to a caring community, where leaders communicate esteem and respect to each other. Lord, help them to trust in Your unfailing love and to rejoice at the unfolding of Your merciful providence.

We pray in the Name of the Prince of Peace. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JON TESTER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 13, 2008.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. REID. Mr. President, following leader time, the Senate will resume consideration of S. 2284, the flood insurance legislation. There will be 60 minutes for debate equally divided and controlled in the usual form prior to a series of votes. Senators should expect votes to begin shortly after 11, maybe 11:10 or thereabouts, in relation to the following items: The McConnell amendment on energy with a 60-vote threshold; Reid amendment on energy with a 60-vote threshold; passage of S. 2284, the flood insurance legislation; cloture on the motion to proceed to H.R. 980, first responders collective bargaining. As a reminder, the Senate will recess from 12:30 until 2:15 today to allow the weekly caucus luncheons to meet.

## OBSTRUCTIONISM

Mr. REID. Mr. President, we have talked now for several months about the number of filibusters. Today, this will be raised to 71. Comments have been made by Republican leaders that it doesn't matter; we are just doing the people's business; we are only getting done what is important.

The American people know what is going on. It is obstructionism at its zenith, at its best. The American people are beginning clearly to see this issue. A story in newspapers all around the country today, based on an article by Jon Cowen and Dan Balz in the Washington Post, indicates that the American people are seeing what is going on.

In polling done by the Post, along with others, the political party in America best able to deal with the country's problems: Democrats, by a 21-point advantage. It is obvious why. We are trying to do something about the problems facing America today. We are trying to do something about the intractable civil war we are engaged in in Iraq. We have a situation where we have 50 million people with no health insurance. We have the Earth's temperature rising every day. Our Earth has a fever. We need to do something legislatively to try to bring down that fever. We have an education system that is in crumbles. We want to do something about educating the troops coming back from Iraq. We believe these troops are just as gallant and heroic as the troops who fought in World War II. When the World War II troops came home, they had the ability to go to school and were educated, and it happened. It changed America forever. We think America could be changed forever again in the new paradigm we now face with these men and women coming back by the tens of thousands and not being able to afford to go to school.

We know that the Presidential candidate of the Republicans, Senator MCCAIN, says it is too generous. Well, this piece of legislation, written by JIM WEBB, is generous, but it should be because these troops returning from Iraq deserve our generosity.

The Democratic advantage is going to be pronounced come election time. We have tried to work on a cooperative basis and have been denied that time after time after time. We know that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Bush's disapproval rating in some polls is around 70 percent. Think about that. We have had a number of stories written in just the last 10 days that the lowest approval rating of any President in history is the President we are now dealing with, a person who is a divider, not a uniter. The American people see this. Eighty-two percent of the American people feel our country is headed in the wrong direction. I would hope that during the next few months we have left in this legislative session, we can stop the increase in this number here and work to try to accomplish good results for the American people. We have so much that needs to be done. We want to work to get this done. If we are able to accomplish things, there is credit to go around for everyone, Democrats and Republicans. But, of course, the obstructionism we face has made it so that there is no credit to go around, period. The American people have identified this, and rightfully so.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

## ENERGY

Mr. MCCONNELL. Mr. President, later this morning we will vote on an amendment to increase production of American energy, which will help lower prices at the pump and create more American jobs. Last year, this Congress acted in a bipartisan way to reduce our demand for oil by increasing fuel economy standards for cars and trucks and by increasing our use of renewable fuels. But no matter how hard we might try, we cannot repeal the law of supply and demand. We know we also need to increase supply in order to lower gas prices, and that is what our amendment does.

In the short term, it places a 6-month moratorium on deposits to the Strategic Petroleum Reserve, which will immediately have an impact on domestic supply. It also increases production of American energy right here at home by opening a small portion of the Arctic National Wildlife Refuge for production and allowing coastal States to decide if they want to allow increased production on the Outer Continental Shelf. It repeals the moratorium on oil shale development that was included in last year's Omnibus appropriations bill, and it would encourage the development of coal to liquid, a very promising substitute for petroleum products that we can produce right here in America and specifically in Kentucky, my home State, with American workers. Our amendment would provide grants and loans to accelerate the development of advanced batteries that can be used to power the next generation of plug-in hybrid vehicles here in America. These measures, coupled with the conservation and biofuels measure we supported last year, will increase our energy independence and help to bring down gas prices in the long term.

Some say opening new areas for production won't do anything in the short term. But remember, if President Clinton had not vetoed legislation to open ANWR 13 years ago, more than a million barrels of oil would be flowing to American consumers every single day. I believe it makes more sense for us to produce these additional barrels here at home with American jobs rather than begging OPEC to produce more, as some on the other side have advocated.

I urge my colleagues to consider our long-term energy goals and our need for increased energy independence and vote in favor of this amendment.

We can't continue to ignore the No. 1 issue facing American families, and further delay is not an option that Americans can afford. Some of our friends on the other side of the aisle believe we need to ask OPEC to supply more oil, that we ought to be sending even more money and jobs to the nations of OPEC. But we take a different approach. Our amendment would increase the production right here at home in America. While some want to increase OPEC's control over oil supply by refusing an increase in American supply, our amendment increases American control through American energy and American jobs right here in the United States.

I yield the floor.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2284, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2284) to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

Pending:

Dodd/Shelby amendment No. 4707, in the nature of a substitute.

McConnell amendment No. 4720 (to the text of the bill proposed to be stricken by amendment No. 4707), of a perfecting nature.

Allard amendment No. 4721 (to amendment No. 4720), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour of debate equally divided between the two leaders or their designees.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I would like to speak to the amendment which we will vote on shortly. It relates to the cost of gasoline. I can't think of another issue that has been in the forefront across America for a longer period than the cost of gasoline. It goes beyond that, obviously, to diesel fuel and jet fuel costs. We see it every day. You drive down the road, and you watch prices going up at the gas station. People ask Senators and Congressmen: You are supposed to be the bigwigs here. You are supposed to be so influential. Why haven't you done something; the gas prices are killing us.

And they are. Whether it is a family member commuting back and forth to work in downstate Illinois, trying to get to the State capitol, whether it is a an over-the-road trucker spending almost $1,000 to fill up his rig with diesel fuel, whether it is the CEO of an airline who has seen the worst first-quarter losses in the history of that airline because of the rise in the cost of jet fuel, it is hitting everybody. I talked to a chiropractor over the weekend. She told me her practice was dying because people didn't want to drive 20 miles for her services. They said: We will see you every other week instead of every week. As you see, it is starting to reach into every single area.

So what response do we have from the Republican side? The response is predictable and ineffective. Here is what they say: You know what we ought to do. We ought to start drilling for oil in the Arctic National Wildlife Refuge and we ought to start drilling for oil off the coasts of America.

OK. How much oil is there?

Oh, there is a lot.

In the scheme of things, it is not a lot. All of the oil reserves within the control of the United States of America, all of them combined come to 3 percent of the world's total oil reserves. Each year, our Nation—a powerful, large economy—consumes 25 percent of all the oil produced in the world. We cannot drill our way out of this issue. We cannot drill our way to lower prices.

Here is something they fail to mention: If we gave approval today—which I think would be a bad idea—to the Republican approach, it would be years before the oil would start trickling in, meaning years of high prices.

So what can we do here and now? Two things: First, we can start dealing with the price gouging of consumers. Prices are going up dramatically at historically high rates. They are not justified by the barrel-of-oil prices. The spread between the cost of a barrel of oil and the cost of refined product keeps growing larger and larger, and the oil companies that are refining the crude oil keep making more and more money. Price gouging is going on. That is the first issue. Is there any mention of consumer price gouging in the Republican approach? Not one word. In the Democratic approach, we believe price gouging should be part of this.

Secondly, accountability of the oil companies. These oil companies, over the last 7 years when George Bush from oil country has been our President, have seen their profits quadruple—four

times the profits they were making just a few years ago. The cost of oil and diesel fuel has gone up 2½ times; the oil company profits, quadrupled. These companies are not only making more money than oil companies have ever made, they are making more money than any business in the history of America. That is a fact.

We have a windfall profits tax. We say there is a limit to how much these oil companies should be making as profits when it causes so much damage to American families and businesses and farmers and truckers and the economy. We have a windfall profits tax. The Republican approach: nothing—nothing to address the oil company profits. That is the reality.

Now, Senator REID, the Democratic majority leader, came to the floor a few minutes ago and told us what is going on with the Republican strategy. So far in this session of Congress—we have 2-year sessions of Congress—the Republicans have initiated 70 filibusters. Today, they will hit 71. You might say: So what. What does that mean? In the history of the Senate—over 200 years—the maximum number of filibusters in a 2-year period of time was 57. The Republicans have broken that record.

What is a filibuster? A filibuster is a way to delay, slow down, avoid, try to turn the page to another issue. Over and over and over again—70 times—the Republicans have now set a record for obstruction in stopping progress in the Senate, whether it is on issues of energy, whether it is on issues of health care, helping our schools, dealing with the war in Iraq—over and over and over again, Republican filibusters.

Today, we will have a vote. We are going to have a vote in a short period of time—at 12:15, maybe earlier; I am not sure. But in the course of that vote, we will have a choice on whether we at least will make one small step forward when it comes to dealing with gasoline prices. We cannot justify, in the current situation, continuing to take oil off the market where the Federal Government buys it and stores it. It is called the Strategic Petroleum Reserve. Currently, it is at about 97 percent of capacity. We are buying the most expensive crude oil in the history of the world, and storing it, taking it off the market, further putting an increase on gasoline prices.

We will offer an alternative to the Republican approach which will say that we will suspend filling the Strategic Petroleum Reserve. It might pass. Fifty-one Democratic Senators, incidentally, wrote a letter to the President on March 11 asking the President to suspend the filling of the Petroleum Reserve because gasoline prices were out of control. The President refused. Now we have to pass a law to force the President to do something about these gasoline prices.

I think suspending shipments to the Strategic Petroleum Reserve is the most sensible way for us to bring these prices down. I hope we can get the cooperation of the Republicans, beyond that, to deal with the price gouging of consumers and accountability for oil companies and not face another Republican filibuster when it comes to that important issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DURBIN. Mr. President, can I propound one unanimous consent request, please. I am sorry. If the Senator from New Mexico will allow me, I ask unanimous consent that the following Senators be allocated 5 minutes each from the majority's time after the Senator from New Mexico speaks: Senators KENNEDY, DORGAN, and BINGAMAN.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Mr. President, just a minute. Do you have time on each one of them?

Mr. DURBIN. We will alternate back and forth.

Mr. DOMENICI. I understand.

Mr. DURBIN. These Senators asked for 5 minutes each.

Mr. DOMENICI. I did not hear the ''5 minutes each.'' I am sorry. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, following mine, we would like Senators HUTCHISON, ENZI, VITTER, and CORNYN to be recognized for 5 minutes each, and 5 minutes for wrap-up for the Senator from New Mexico, with 10 minutes right now for the Senator from New Mexico, and alternating back and forth.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I just have so much to talk about. I wanted to follow my text I had prepared, but having heard the Democratic Senator discuss this issue, I have to tell the American people, one, their energy policy, if they are talking about today, is a policy that has to do with the filling of the Strategic Petroleum Reserve. The leader of that policy is the distinguished Senator DORGAN. He has led that cause, and he is going to win. But literally that cannot be an energy policy. It is 70,000 barrels a day that we are not going to buy and put in the reserve—70,000—and that is for the rest of this year.

Now, we use 21 million barrels of oil a day. So let's face up to it. If you do not think 1 million barrels a day from the Alaskan arctic wilderness—which would be American, and we could get that coming to America for maybe 50 years—if that is not better than 70,000 barrels for 7 or 8 months to not put in the Reserve but leave in the world market—I will leave that to anybody who is listening.

Price gouging is in their portfolio again. They talk about it. Last year, we gave authority to the Federal Trade Commission. They have not yet found any gouging. We hope they do.

Now, I would like to go on and talk about what we are trying to do.

Mr. President, I ask unanimous consent that I be added as a cosponsor to amendment No. 4737. It is now known as the Reid amendment, but it is actually Senator DORGAN's amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, earlier this year, I gave a detailed speech on the Senate floor about the perils of our Nation's growing dependence on foreign oil. At that time, I noted the Nation was ignoring policies that would increase our energy supply while the stranglehold of foreign oil was tightening. I spoke bluntly and warned of dark days ahead for our Nation's economy and foreign policy if we continued to send our money abroad to buy oil from unstable and hostile regions around the globe.

I stated that at the current price of oil, we are at a pace to send nearly a half trillion dollars overseas annually to purchase oil—a half trillion. When the driving season ends, and the price at the pump subsides a bit, naturally the volume of constituent letters and phone calls will decrease a bit. When the cameras fade and the focus of the day begins to turn elsewhere, we should stop and reflect on the debate we are having today.

Make no mistake, a growing and gathering storm is swirling around this Nation. It is threatening our economic strength, our national security, and our place in the world. That storm comes in the form of dependence upon foreign oil.

Last year, Congress passed a strong energy bill, built on advancing cellulosic ethanol and strengthening our fuel efficiency standards. We made great steps in setting up policies that will reduce our gasoline consumption. However, I said at the time, and say again today, last year's legislation had a glaring weakness, which is highlighted today. Last year's bill failed to include measures for domestic energy production.

When we tried to open the Virginia Outer Continental Shelf to natural gas leasing, the other side blocked that. When we tried to improve our Nation's refining capacity, the other side blocked that. And when we tried to advance domestic coal-derived fuels—a very major way for America to diminish its dependence on foreign oil—the other side blocked that. On conservation and efficiency and the pursuit of clean energy, this Chamber is in wide bipartisan agreement. But on producing more American oil and gas to reduce the price of gasoline at the pump, it will become clear from today's debate and vote that the vast majority on the other side opposes action.

When today's vote is over, regardless of the outcome, I will continue to return to the Senate floor and speak on this important issue of our growing dependence on foreign oil. I will continue to speak out against policies that increase the cost of energy, when the American people so clearly want us to provide relief from high gas prices.

I have listened intently to the increased debate over the past few weeks about our energy challenges. I have heard some on the other side plead with OPEC nations to increase production by one-quarter of the amount we provide for in America with this amendment—one-quarter the amount. I have heard ANWR opponents from a decade ago repeat their claim from a decade ago that ANWR oil will take a decade to produce. I never heard this argument when we were supporting increasing vehicle fuel economy standards that we know will take a decade to come to fruition. We passed a bill that everybody takes credit for. It will take 10 years for it to have an impact. Yet we praise ourselves for producing it.

Of course, all of this would be assuming the price of oil did not increase over $100 per barrel during the time that ANWR was being blocked. If President Clinton had not vetoed ANWR over 12 years ago, we would have this oil from Alaska on the market today. I have also heard my colleagues argue that 70,000 barrels of oil per day would make a significant difference in the price of oil—that is the SPR bill—while denying access to over 1 million barrels of oil per day from ANWR alone.

It is time to act, and what the other side has offered at this critical moment is talk of energy independence supported by more Government investigations and empty threats to OPEC combined with pleas for more OPEC production. If that were not enough, we are faced with the prospects of a windfall profits tax like the one that passed in April by the Chavez administration in Venezuela. We tried to implement such a tax in the 1980s. It did not work then, and it will not work now. We cannot produce more energy by taxing oil companies or taxing anyone.

According to the Congressional Research Service, the imposition of a windfall profits tax could have ''several adverse economic effects.'' And such a tax could be expected to ''reduce domestic oil production and increase the level of oil imports.'' The architect of this tax during the Carter administration recently called the windfall profits tax ''a terrible idea today.''

Today, we consider real solutions to our national problem. On May 1, I introduced the American Energy Production Act of 2008. Obviously, if we had Democratic support and help we could make it even better, but we had to do this with Republicans, to lay before the American people a fact: that there are ways to produce more American oil and natural gas without doing any real harm to the American environment. I am pleased to have 21 cosponsors on that bill, and I am pleased Senator MCCONNELL has offered this legislation as an amendment to the bill currently before us. Unfortunately, the other side has not allowed us to consider this proposal to address record-high gas prices.

Speaking of filibusters, on our bill they have insisted there be 60 votes. That is the equivalent of a filibuster. So you can chalk one up for us. They are filibustering the only Energy bill we have seen in a while that would produce energy for America.

I support the bipartisan amendment on the Strategic Petroleum Reserve, and I have already indicated to you that I do, and it needs no further explanation. I am confident, if enacted, the American Energy Production Act—the one we are talking about—will strengthen our Nation's security for decades to come. In this legislation, we open 2,000 of the 19 million acres of the Arctic National Wildlife Refuge. And I defy anyone with common sense to seriously contend that 2,000 acres out of 2 million will harm that wilderness. It can be done with a small footprint, and everyone knows it. We have just chosen sides, regardless of the real facts. Therefore, I assume the Democrats will defeat it again.

Taken together, these policies enable the production of 24 billion barrels of American oil, which would increase our domestic production by nearly 40 percent over the next three decades. Opening ANWR alone would create thousands of American jobs, provide $3 billion in revenues in the next 10 years to the Federal Treasury, and bring on line over 1 million barrels of oil per day. This amendment also spurs the commercialization of coal-derived fuels and oil shale resources. Advancement of these policies will be spoken of in more detail by other Senators but, clearly, they are things to look at. The American people ought to know about them. They are sources—huge sources—of energy that can be made in America by Americans for America. With emerging economies around the world increasing their thirst for oil, we face a new energy challenge in America.

The world demand for oil continues to grow. America's production of oil has fallen to its lowest levels in 60 years. That is because we haven't done anything new or significant to add to what we have produced for years. If we do not start producing more of our own energy resources, we will continue to rely on unstable foreign oil and continue to pay a high price. That is what is at stake with today's vote. We probably will not win, but we feel very comfortable giving the other side an opportunity to vote no again for the production of oil and gas that is American, by Americans, for America.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

EMPLOYER-EMPLOYEE COOPERATION ACT

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

We are going to be voting on some extremely important energy issues, and I have expressed my views on those before. I wished to take an opportunity to talk about another matter which we will be voting on later this morning, early this afternoon, and then will be the subject matter that will be before the Senate for the next few days. It is an extremely important matter. It deals with our national security; primarily homeland security. It deals with the challenges that our first responders are faced with. I am talking about our police officers, our firefighters, and our first responders. They are the ones who are on the cutting edge of our domestic national security.

We are seeing massive reorganizations of our various institutions that have dealt with homeland security. We have seen additional resources focused on homeland security. The legislation Senator GREGG and I offer will strengthen our national security by including those individuals who are on the frontline into the decisionmaking about what is helpful and useful in terms of the security of our communities, small cities, and large cities all across this Nation. It will give them a voice in making judgments and decisions so those decisions and judgments are not only going to be made by policymakers and bureaucrats but by men and women who are on the ground. The legislation is called our Public Safety Employer-Employee Cooperation Act. It is bipartisan in nature, and it can make an extraordinary difference.

We had the opportunity last evening to go over the essential elements of the legislation, sort of the dos and the don'ts. There are those who have misconstrued this legislation and have misrepresented the legislation. We have seen that sort of technique around here in the Senate when Members differ with the legislation. They distort it or misrepresent it and then differ with it. It is an old technique that is used around here.

We will have the chance this afternoon and tomorrow—and this is a notice we will welcome—Senator GREGG and I—will welcome amendments. This legislation has in one form or another been before the Senate previously. It had extraordinary bipartisan support in the House of Representatives. I believe 98 Republicans supported the legislation, which is an indication of the breadth of support it has.

So we will look forward—and we are going to urge our colleagues to help us move this legislation, which is of such great importance and consequence to the security of our people—we will ask them to help us move it forward. This week is Police Week. Police Week goes back actually to 1962, when it was named by President Kennedy. Since that time, police officers have gathered to pay tribute to those members of the force who have lost their lives over the period of the last year. It is a very impressive ceremony for those who have not gone to it. I have on a number of

different occasions. But we take time this week to pay tribute to those first responders, and we have welcomed their very strong support for this legislation.

This legislation will affect police officers and firefighters. Some 300,000 police officers in 24 States will benefit from this bill and are in strong support of the legislation. We also see support with regards to the firefighters: 134,000 firefighters in 24 different States will benefit. We have worked very closely with them. These are the various groups that support this legislation: The International Association of Firefighters; Fraternal Order of Police; the National Association of Police Organizations; the International Union of Police Associations; the American Federation of State, County, and Municipal Employees; and the International Brotherhood of Teamsters.

So as I say, we will be ready to deal with this right after the caucuses that we will have during the noon hour. This legislation will hopefully be before the Senate. We are hopeful now. This is a vote on the motion to proceed. We ought to at least have that opportunity to debate this issue, and we are hopeful we will receive the support from both sides of the aisle so we can move forward and debate the issue.

My time has expired and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise today to talk about the bill we are going to vote on starting at 11 o'clock. We have an amendment filed by the distinguished Republican leader. The Senator from New Mexico is the prime sponsor of this amendment. I commend Senator DOMENICI for his continuing leadership in the energy arena.

In January of 2007, when control of Congress changed hands, the price of gasoline was $2.33 a gallon. Today, it is $3.73 a gallon. That is a 60-percent increase, and it is going in that direction even further.

The reason for the record-high price is simple economics. The global demand for energy has soared, especially in fast-rising countries such as China and India. Meanwhile, the supply of energy has remained largely stagnant. This is a simple, classic economic principle: The law of supply and demand. When the demand goes up and the supply stays the same, the price goes up. Knowing that, the best way for Congress to reduce the price of energy is to increase the supply of energy. We need more American oil, more American natural gas, more American clean coal, and we need more American nuclear power. That is why I joined the ranking member of the Energy Committee to introduce the bill today that would do exactly that.

First, the Strategic Petroleum Reserve. Two weeks ago, I wrote a letter to the President, signed by 13 Republican Senators. I noticed it was announced by the majority leader that 51 Senators on his side had signed the same type of letter in March. I ask unanimous consent that the letter be printed in the RECORD with the signatures of the 13 Senators.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, April 29, 2008.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: We write today to request that the U.S. Department of Energy (DoE) immediately halt deposits of domestic crude oil into the U.S. Strategic Petroleum Reserve (SPR). As we enter the busiest driving season of the year. the price of a barrel of West Texas Intermediate crude oil hovers around a record $120.

The SPR was established in 1975 to provide a supply of crude oil during times of severe supply disruptions. Today. The SPR contains more than 701 million barrels of oil, exceeding our International Energy Program commitments to maintain at least 90 days of oil stocks in reserve.

High energy prices are having a ripple effect throughout the U.S. economy and exacerbating recessionary pressures. The Energy Information Agency reports that supplies and inventories of crude oil and refined products are above 2007 inventories while our demand for gasoline is down. Yet, the price of crude oil has skyrocketed 100% from last year's levels which were just above $63 a barrel in April 2007. Despite these economic realities, the DoE recently solicited contracts to exchange up to 13 million barrels of royalty oil from Federal leases in the Gulf of Mexico for deposits in the SPR.

Some analysts blame geopolitical instability and disruption in production for the rapid price increases; however, these factors alone do not explain the extraordinary increase in oil prices compared to previous years, when these same challenges were present. Temporarily halting deposits to the reserve can provide some relief because the increased supply of oil available for refinement will send the right signal to all markets that the U.S. Government will take measures necessary to address exorbitant crude oil prices that negatively affect the global economy. We believe, in light of the dramatic increase in oil prices, a temporary halt to deposits into the SPR should be considered until the economy stabilizes.

I appreciate your attention to this matter and look forward to hearing back from you.

Sincerely,

Kay Bailey Hutchison, John Barrasso, Kit Bond, John E. Sununu, Johnny Isakson, Orrin G. Hatch, Jeff Sessions, Saxby Chambliss, Judd Gregg, John Cornyn, Lisa Murkowski, Elizabeth Dole, Sam Brownback, Susan Collins.

Mrs. HUTCHISON. Mr. President, what we are asking the President to do is temporarily halt deposits of oil into the SPR. Today, the SPR holds 118 days—almost 4 months—of reserve for an emergency in this country.

I wish to stop now to ask unanimous consent to be added as a cosponsor of the Dorgan amendment No. 4737.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. Because what the Dorgan amendment does—and what is also included in our bill—is to ask for a temporary halt on any more oil going into the SPR. Halting the daily deposits of 76,000 barrels a day into the SPR would allow 3 million additional gallons of gasoline to be available on the market. If we halted the 13 million barrels of oil the Department of Energy has sought contracts for to go into SPR, it would be more than the total February 2008 imports from Libya, Syria, Kuwait, United Arab Emirates, Egypt, Azerbaijan, and China combined.

The amendment offered today would halt additional contributions to the SPR for 180 days and ensure that these resources could be utilized immediately in the marketplace. In addition, we would open the grassy plains of ANWR, which is unavailable for drilling today. The U.S. Geological Survey estimates there could be as much as 10 billion barrels of oil in ANWR. This would be almost enough oil to replace what we import from Saudi Arabia every day. What would be drilled in ANWR isn't near a forest or a stream. It is a grassy plain. It is 2,000 acres, about the size of National Airport, in an area of ANWR which is the size of the State of South Carolina. So drilling in this grassy plain would be environmentally safe, and it would make America much more independent, much more reliant on ourselves and our resources for our energy needs—a place we need to go.

Another area, the Outer Continental Shelf, could contain as much as 115 billion barrels of oil.

Mr. President, I ask unanimous consent that I have 3 more minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HUTCHISON. There could be 115 billion barrels of oil in the Outer Continental Shelf. That is more than Venezuela's proven reserves of 80 billion barrels.

We need more refinement capacity. This amendment encourages refinement expansion to alleviate supply concerns with refined petroleum, which is gasoline.

This amendment we are voting on today would not do much to bring down the demand because, in fact, we can't control what China and India are demanding in oil and natural gas resources, but it can affect supply. That is what Congress has turned a blind eye to doing.

All they talk about is a windfall profits tax on oil companies. We tried that once before and what happened? Jobs went overseas. We had to import more from overseas, so we became more dependent on foreign sources and we lost jobs for our country. The price would not go down. It would just come from foreign sources instead of ourselves. So let's don't talk about things that will not help; let's talk about supply, which we can help by working together to increase our utilization of our own natural resources.

This year we will spend about $500 billion to import oil. All those dollars

could stay in America, creating good jobs in America and making us self-reliant. If there is anything America stands for, it is the spirit of self-reliance, of knowing that if we are running into a crisis, if our economy is down, that we would be dependent on ourselves because we have the resources to meet this demand. We have the resources. Now we need the willpower. We need the good old American spirit to say we can prevail. We can reduce prices. We can help the American family get over the hump. We can do something by relying on ourselves. That is what the amendment we are voting on will do.

I hope the American people will look at these votes. Do they want political rhetoric, windfall profits taxes that send jobs overseas or do they want real solutions short term, by not putting any oil in SPR right now and putting it on the market to start bringing that price down and to let those who are hedging on commodities know America is going to act. The best we can do for America to show those hedgers we are going to act is to say we are going to take the long-term steps. We are going to drill in our own areas that we control. We are going to put jobs in America. We are going to help the States get their royalties if they want to drill offshore. We are going to stand up and say: This is America, and we will take care of ourselves with our own natural resources. That is the vote today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I am not going to speak so much about what divides us. Today I wish to talk about what would unify us with respect to the two energy plans. We are going to vote on an amendment that is a bill I offered back in February of this year that would stop putting oil underground. Some say that doesn't mean very much in terms of energy prices or that it would not accomplish a lot.

We had testimony before the Senate Energy Committee by economists and an energy expert. Dr. Verleger testified that what's coming from the Gulf of Mexico is sweet light crude, the most valuable subset of oil. Despite the fact that it is a small percentage of the oil usage, it could have as much as a 10-percent impact on the price of sweet light crude. I don't think we should underestimate the significance of this proposal. At a time when oil prices are bouncing up in record highs, with oil prices at $120, $124, and $126 a barrel, we have speculators playing their fiddle. The oil prices dance up into the stratosphere; the economy is damaged; consumers get injured; and industries are going belly up.

The question at this time is, what unites us here? I will tell you one thing we can agree on. There are at least 80 Senators who have expressed themselves, including all three Presidential candidates. They have said let's stop putting oil underground. Is it a reasonable thing to do to set oil aside underground? We have something called the Strategic Petroleum Reserve. Let me show you what it is. This is what it looks like. Instead of oil going into the pipeline so you can convert gasoline to your automobile, it is going underground. This is what the SPR looks like. Here is where the SPR is being stored—at Bryan Mound, Big Hill, West Hackberry, and Bayou Choctaw.

The SPR is 97 percent full. The question is this: With oil at $126 a barrel and gasoline around $4 a gallon or more, and with the American consumer being burned at the stake, why should its Government be carrying the wood? Why should we be putting oil underground at a time of record-high prices? Who thinks it is smart to go out into the marketplace and take oil that is that valuable and stick it underground when it is having an impact of upward pressure on oil prices? That makes no sense at all.

As I said, all three Presidential candidates have said we ought to stop at this time. Eighty Senators have agreed with this decision. Somehow, the President and Vice President are insistent that we continue to fill the SPR.

Look, there are a lot of other things happening. Number 1, we need more production. I was one of four Senators who introduced the legislation, with Senator DOMENICI, that led to opening Lease Sale 181 in the Gulf of Mexico. That is additional production, and I am proud that became law. It should have been broader, but it got narrowed through the legislative process. I have a bill in to expand production in the Gulf of Mexico.

Yes, we need additional production, conservation, efficiency, and renewables. We need all those things. We have made progress in some of them. Last year, we finally passed reformed CAFE. We increased CAFE standards 10 miles per gallon in 10 years. That is a historic achievement after 32 long years in this Congress. We set us on a course toward renewables.

There are short-term, intermediate, and long-term solutions. John Maynard Keynes says that in the long run we are all dead. How about the short term? How about today? I know where there is 70,000 barrels of oil, including sweet light crude, that could go into the gas pumps and into cars and put downward pressure on gas prices. I know how we can take action and so do my colleagues. At least we can agree on that piece of legislation today.

Here is another point. There is unbelievable speculation in the commodities market. It is interesting. Let me give you a couple of charts that show this. The senior vice president of ExxonMobil said last month:

> The price of oil should be about $50 or $55 per barrel.

Mr. Cazalot, the CEO of Marathon, said:

> $100 oil isn't justified by the physical demand in the marketplace.

A man who testified before the Energy Committee, Mr. Gheit, a senior energy analyst with Oppenheimer, said:

> There is absolutely no shortage of oil, and I am absolutely convinced that oil prices should not be a dime above $55 a barrel. I call it the world's largest gambling hall. It is open 24/7.

The fact is, we have speculators, hedge funds, and investment banks that have never been in the futures market before and are in neck deep. They are driving up prices that have very little to do with the fundamentals of supply and demand. Should we ignore that and say that is OK?

Mr. President, I think I have consumed 5 minutes. I ask unanimous consent for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Should we say that is OK, let's talk about other subjects? I don't think so. If you want to purchase stock on margin, you have to put up 50 percent of the money. If you want to control $100,000 worth of oil, the subject of such speculation, all you need now is a margin requirement between $5,000 and $7,000. It seems to me that the margin requirement ought to be increased to the point of wringing speculators out of the system. We need a futures market for legitimate hedging and for liquidity.

There are times when speculative bubbles develop. In this case, the bubble driving up the price of oil and gasoline at the pumps is damaging our economy. A lot of industries are suffering, including truckers and the airlines. It is hurting a lot of American families, and we can do something about it.

We have a couple different plans. Let's take the one common part of both plans, which is the amendment I offered as a bill in February, and pass that today because that will make a difference. Is it a giant step? Not at all. Is it a step that is finally at long last in the right direction? It is. So instead of getting the worst, let's try to get the best of both sides and say this we agree on, this we can do.

My hope is that at the end of today, at least this Congress will have said to the President and Vice President: Stop doing what you are doing. The last thing in the world we ought to do is put upward pressure on gas and oil prices. We ought to put downward pressure on that, and we can do that today with one single vote.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I say to my friend, Senator DORGAN, I have changed my mind about the SPR bill. I think he knows that. People wonder about changing your mind. A lot of people change their mind. I changed mine because of the real price of oil and because I do believe we are not going to harm our strategic reserve by

this one event. I wish to make the record clear. America needs the Strategic Petroleum Reserve. We must have it, and we should not grow accustomed to thinking the Strategic Petroleum Reserve is going to solve our energy supply problem. Senator DORGAN has never said that. But it would not. I will answer some of the remaining questions when I wrap up.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, last weekend, when I traveled around Wyoming, it was clear that high energy prices were on everyone's mind. It is a trend I have noticed each and every summer for the past several years. Each year, our constituents ask us to do something to address energy prices. While we talk and talk about what we are doing, rarely do we take any meaningful action.

It is a little different this year because Americans are seeing record prices at the pump. Those voices saying ''get to work on this problem'' are more numerous. They are louder. Will the anguished calls for help make it through the thick and, thus far, shut doors of Congress? Americans are caught in a tight spot. Some are asking: How can I put food on the table when I cannot afford the gas it takes me to get to work? On top of that, the food is more expensive because of the fuel it takes to produce and ship it.

No one in this Chamber has all the answers. No, but we can do something. We can act. We can help. The question for me and my colleagues in the Senate is, will we? We have the opportunity to do so today. We have the opportunity to vote for an amendment that provides short-term relief and, at the same time, helps address the long-term issues that got us into this situation. I am a cosponsor of the McConnell-Domenici amendment, known as the American Energy Production Act of 2008, because it is a responsible way to address the need to produce more domestic energy and to reduce energy prices.

The energy situation we are in has been a long time in the making, and we are not going to fix it overnight. We don't have enough domestic energy to meet our Nation's energy demands, but the American Energy Production Act would help change that. It opens an important sliver of the Arctic National Wildlife Refuge, ANWR, to environmentally conscious leasing and allows for more production from the Outer Continental Shelf, with consent of the State. Doing so will help the United States produce more of its own energy. Instead of sitting at the trough of foreign oil barons with our hands out begging, Americans will produce more American energy.

Later today, I expect to see support for the Dorgan amendment to suspend filling of the Strategic Petroleum Reserve. If you are worried about roughly 70,000 barrels a day staying off the market for this reserve fill, then you should be outraged that 1 million barrels a day from ANWR is kept off the market because it was vetoed by President Clinton more than 10 years ago. That is a million barrels we would not need to purchase from South American dictators, or a million barrels from countries who are friendly to those who wish to destroy the United States.

What will Americans say about this vote 10 years from now? Will they say: Better late than never, because we passed the American Energy Production Act, or will they say: You just didn't get it and now look at us suffer for it. The American Energy Production Act recognizes also that coal is our Nation's most abundant energy source. It recognizes American ingenuity. It recognizes that coal has been turned into diesel fuel for half a century, and it encourages the building of coal-to-diesel facilities in the United States. The United States is the ''Saudi Arabia of coal.'' Wyoming is the leading coal producer in the United States. It makes sense that we use America's most abundant energy source at a time when we all agree we are too dependent upon foreign energy sources.

The amendment also includes a number of important provisions that will help Wyoming and the Nation. The amendment repeals the mineral royalty theft that was included in the fiscal year 2008 Omnibus appropriations bill. It allows development of oil shale to move forward.

I support the idea of developing more alternative energy, the use of wind energy, and the development of better solar energy technologies. As my constituents can tell you, Wyoming is an especially good State for wind, and we have high solar potential as well. While we need to develop these technologies for the long term, we need all the energy we can get.

We need more domestically produced oil, more wind energy, more domestic natural gas, more solar energy, more nuclear energy, and we definitely will need more clean coal energy.

Our Nation's energy policy is haphazard, broken, and it threatens to break our country. We need to make meaningful changes to that policy, and voting in favor of the American Energy Production Act is the first step in the right direction. I hope my colleagues will recognize the need to take this step and support the McConnell-Domenici amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me take up to 5 minutes at this point. If the Chair will advise me when that 5 minutes has been used, I would appreciate it.

We have two votes coming up related to energy. The first is on the McConnell amendment, which is a compilation of various provisions that relate to energy but, I argue, do not hold out much promise for affecting the price of oil or gas. Following that, we have the vote on the proposal that is put forward by the majority leader, Senator REID, with regard to suspending the filling of the Strategic Petroleum Reserve for the balance of this year.

I will be voting against the first amendment and voting for the second amendment. I hope my colleagues will do so as well. Let me give the reasons why I think we should vote against the Republican leader's amendment.

First, the Republican leader's amendment doesn't do anything to deal with the issue of speculation in oil markets. We have had testimony repeatedly before our Senate Energy Committee that speculation in these markets is a significant factor contributing to the $126-per-barrel price of oil we are seeing today. So if someone is concerned—as all of us are—about energy, consumers, and the burden that is being place upon them, then dampening speculation in these markets should be high on our list of work to be done. It is not in the Republican leader's amendment.

Of course, the amendment he proposes also doesn't do anything with regard to the weakening of the U.S. dollar, anything with our fiscal policies. Yesterday, I went into a discussion about how that is contributing to the increase in the price of oil. I think most economists would agree with that.

The second reason I would oppose the Republican leader's amendment is that it misses the boat on how to promote more supply. The argument being used is the assumption within the amendment that the way to promote more supply is we need to open more areas for drilling. And particularly we need to open the east coast of the United States for drilling offshore on the Outer Continental Shelf, we need to open the west coast offshore on the Outer Continental Shelf, and we need to open a portion of ANWR, the Arctic National Wildlife Refuge.

As I say, I think it misses the key issue in that we are opening additional areas for drilling at a pretty rapid rate in the onshore areas of the United States where oil and gas production occurs and in the offshore areas. But additional leases by themselves are not going to make a difference to consumers either in the near term or the medium term. What we need to be focused on is how we can promote more diligent development. Nearly three-quarters of what we have leased domestically onshore is not now being produced. A little over three-quarters of what we have leased offshore is not being produced, and that is what we should be concentrating on—how do we build in incentives for actual production in areas we have, in fact, leased.

Finally, with respect to future lease sales, the Republican leader's amendment leaves out the most promising

area, and that is the area in the gulf coast, particularly the area we have still not opened in the original lease sale 181 area of the gulf coast. This is something we clearly should be addressing as well.

As I say, the second vote is going to be on the proposal to suspend the filling of the Strategic Petroleum Reserve. A version of that is in the Republican leader's amendment, as well as being proposed by Senator REID. I hope we will get a very strong bipartisan vote for that provision.

I do think it is prudent to turn down this compilation of various energy-related provisions that has been put forward by the Republican leader with the claim that it is going to bring down the price of gas. It simply will not.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise today in strong support of the McConnell-Domenici amendment because it does what we need to do to address this real crisis in our country—crippling energy prices, rising energy prices that hit the pocketbook of every Louisiana family I represent and every American family, that is causing grave concern about our economic future.

I am afraid what we heard from the distinguished Senator from New Mexico just now is more of the same excuses we have heard for a couple of years now: why we can't do this, can't do that, and can't act in general. What has that inaction, that paralysis, those excuses all led to? I will tell you what it has led to. It has led to soaring energy prices. In January 2007, when this Democratic Congress took office, the average price of a gallon of gas was $2.33 at the pump. Today, it is $3.72—a 60-percent increase. That is what those excuses, that is what that inaction has led to.

We need to do a number of things across the board on the demand side and on the supply side. This Domenici-McConnell amendment includes all of those. Does it include every one of them? No. No single proposal is ever going to include every good idea out there that we probably need to act on, but it includes a lot on which we need to act.

I want to focus on one part of the amendment in particular of which I am very supportive, and that is opening more of our Outer Continental Shelf to exploration and production.

I believe one of the most important things in energy policy that we have done since the short time I have been in the Senate is to open new parts of the Gulf of Mexico with revenue sharing. This provision in the Domenici-McConnell amendment will expand on that precedent. It would say we can open areas of the Atlantic and the Pacific, but with two very important caveats, both of which are great policy. First of all, the host State, the State off which the activity would occur, has to want the activity, has to agree to it. The Governor has to say: Yes, we want this activity off our waters. And secondly, that host State in return would get significant revenue sharing, exactly the same revenue sharing we passed a few years ago, 37.5 percent to go to the host State to meet its environmental or educational or highway or other needs. That is sound policy. We passed that policy for new areas of the gulf that were opening. We need to expand on that policy to dramatically increase our domestic energy production, and we can do that safely and in an environmentally friendly way.

There is much the McConnell-Domenici amendment does that is needed as well, but I wanted to highlight that point because it is so absolutely crucial and important. It builds on good policy we set a few years ago. It expands on that precedent, and I believe expanding on that precedent can significantly increase our domestic energy resources in this country.

Do we need to do other things? Absolutely. Do we need to act on the demand side further? Absolutely. This isn't brain surgery. Economics 101 tells us that price has to do with two lines on a graph: the demand line and the supply line. We need to mitigate, bring down demand, and we need to increase supply. I am for any reasonable policy that does those two things. On the demand side, conservation, greater efficiency, new sources and forms of energy—absolutely.

I am going to agree with Senator DORGAN and vote for his amendment regarding the Strategic Petroleum Reserve. Like Senator DOMENICI, I have changed my mind on that issue because the increases in price at the pump have gotten so dramatic and so outrageous. So that can mitigate demand increases as well.

But as we make all of those efforts on the demand side—and we need to do more—we cannot constantly ignore the supply side, particularly the domestic supply side. That is exactly what this Congress has done for the last 2 years. Mr. President, $2.33 price at the pump then; $3.72 price at the pump today. Let's act, and let's act now.

I yield the floor.

Ms. COLLINS. Mr. President, I wish today to support the amendment offered by the Senator from Nevada, Mr. REID. It embodies a policy change that I have advocated for many months. In January, I wrote to the Secretary of Energy and urged the administration to stop filling the SPR while oil prices are so high. The Reid amendment would suspend acquisition for the Strategic Petroleum Reserve, SPR, until the end of the year or until the price of a barrel of oil goes below $75.

The SPR is an emergency stockpile and an essential safeguard against major disruptions in global oil markets. However, the SPR already contains nearly 700 million barrels of oil, 97 percent of its current storage capacity. This is more than sufficient to meet a crisis.

Mr. President, our Nation faces record-high energy prices affecting almost every aspect of daily life. The prices of gasoline, home heating oil, and diesel are creating tremendous hardships for American families, truckers, and small businesses. High energy prices are a major cause of the economic downturn. Last week, crude oil was trading at over $120 per barrel.

The administration's decision to fill the SPR when oil prices are so high defies common sense. In 2005, the Senator from Michigan, Mr. LEVIN, and I joined forces on a bipartisan amendment directing the Department of Energy to better manage the Reserve by requiring the Department to avoid purchases when prices are high so as not to drive up prices further by taking oil off the market. I don't believe the Department of Energy is abiding by this law. If it were, the Department would not be making purchases while prices are so high.

It simply does not make sense for the Department of Energy to be purchasing oil for the Reserve at a time when oil prices exceed $120 per barrel. The Federal Government is taking oil off the market and thus driving up prices at a time when consumers are struggling to pay their fuel bills.

If the administration stopped purchasing oil for the SPR, the Energy Information Administration has estimated that the impact on gas prices would be between 4 and 5 cents a gallon. Other experts believe it is considerably higher. At a hearing before the Permanent Subcommittee on Investigations in December, one energy expert, Philip Verleger, said, ''DOE's actions added between 5 and 20 percent to the price of oil.'' It is a bad deal for taxpayers for the Department of Energy to be purchasing oil when prices are so high.

There are other short-term steps we must take to address the energy crisis—for example, regulating energy futures markets and repealing tax breaks for major oil companies—but suspending filling the SPR is a key step that I hope we approve tomorrow.

In the long term, our challenge to address energy prices is, of course, to reduce our reliance on imported oil. We need to pursue the goal of energy independence just as fervently as the Nation embraced President Kennedy's goal in 1961 of putting a man on the Moon. Energy independence, stable energy costs, and environmental stewardship are goals that are within our reach. I urge my colleagues to get us started on the effort by supporting this proposal to suspend filling the Strategic Petroleum Reserve.

Mr. DORGAN. Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. The majority has 6 minutes 18 seconds. The Senator has 7 minutes remaining.

Mr. DOMENICI. Mr. President, as I understand it, the other side is going to have only one speaker to use their

time. I am trying to find the Senator from Texas. He wanted to speak. Let me take a couple of minutes. If he gets here, I will yield the floor as soon as he arrives.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I wish to say that my good friend, my fellow Senator from New Mexico spoke about speculation in this oil market. There may be some. We heard testimony there may be. So everybody knows, there is nothing before the Senate that the Democrats propose regarding speculation. They just have a one-shot bill, and it is pretty good, but it is not an energy policy. Probably most of us are going to vote for it. That is what Senator DORGAN proposed.

As I indicated, I changed my mind. If people are wondering about that, I was reading about economic history, and I read where John Maynard Keynes, the great economist, was asked: Why did you change your mind? He said: When the facts change, I change my mind. That is what happened here with reference to SPR. The facts changed, and I changed my mind.

The good Senator from New Mexico, my colleague, also said we have a big problem with the weakening of the dollar. I hope he doesn't intend to imply by that, when we find we can strengthen the dollar, then we will solve the energy problem. I don't know that we know how to do that one any quicker than we do the energy crisis. I don't think that would accomplish anything.

We have a lot going on in the gulf, so we said let's let those continue. That is what the Domenici bill says. But we say the rest of the offshore around America—and incidentally, there is probably more than any of us know in offshore America. We probably would send such a big signal to the world if we decided to move on that. That alone would have a positive impact.

In addition, the bill before the Senate does a lot in a number of areas that have not been talked about very much. It would cause the world to take another look and to say: America is serious, they are really going to do something about their energy problems.

Mr. President, I now yield the remainder of the time to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Mr. President, I am required by our leadership to object because they want to get the vote off on the time predetermined. I apologize for that, but that is what I am required to do.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CORNYN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Four minutes.

Mr. CORNYN. Mr. President, one thing has been accomplished by the debate leading up to this morning's vote; that is, Congress finally—finally—has acknowledged the existence of the law of supply and demand. If we look at these two votes we are going to have this morning, first is the McConnell-Domenici amendment, of which I am proud to be a cosponsor, which would produce, if implemented, potentially up to 3 million additional barrels of oil a day from the United States of America—3 million—making us less dependent on imported oil from some of our Nation's enemies, countries such as Iran and Venezuela that are part of OPEC, the Organization of Petroleum Exporting Countries.

Alternatively, our friends on the other side of the aisle have proposed—and I will vote for it—a temporary suspension of putting oil into the Strategic Petroleum Reserve. But how much does that represent? It represents 70,000 barrels of oil that would not be put in the Strategic Petroleum Reserve and would be available on the open market as an additional supply of oil, which is then available to be refined into gasoline. I suspect it will have some modest impact on the price of gasoline at the pump, maybe 3 to 5 cents a gallon. But if we think 70,000 barrels of additional oil into the open market will be beneficial in terms of bringing down the price of gasoline, how much more beneficial would it be to have 3 million additional barrels of oil produced from our country out on the open market available for refining into gasoline to help bring down the price of gas at the pump?

I am pleased that our colleagues have recognized the importance of the law of supply and demand, something Congress has turned a blind eye to for lo these many years as we put so much of America's natural resources out of bounds when it comes to developing those resources, and, of course, we know what the consequences of that have been, with $3.71 average price for gasoline in America today and the price of oil on the spot market bouncing up around $125 a barrel.

I don't know whether this amendment, of which I am proud to be a cosponsor, could produce ultimately 3 million new barrels of American oil each day. I don't know whether it will get the requisite 60 votes. But if it does not, when gasoline is $3.71 a gallon and oil is $125 a barrel, I wonder if the same vote, if we have it again when gasoline is $4 a gallon and oil is $150 a barrel or when gasoline is $4.50 a gallon and the price of oil is even higher, at what point the Congress, the Senate is going to listen to the American people and say: We need some help; we need some relief.

Now that Congress has acknowledged the importance of additional supply in terms of bringing down the price at the pump, ultimately it is my hope our colleagues will vote, at least 60 of us, for the Domenici-McConnell amendment. I think the American consumers would be the beneficiary of that. I urge my colleagues to vote for the amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Time has expired.

The Senator from North Dakota has 6 minutes remaining.

Mr. DORGAN. Mr. President, let me conclude with a couple of thoughts. First of all, my colleague from New Mexico described the issues of speculation a bit. We do, in fact, in our larger proposal that we announced last week, have a provision dealing with speculation. And it is important that we do that because speculation is part of what is driving these prices. I showed comments from executives of some of the largest oil companies in this country that said there is no justification for the current price given supply and demand.

They said the price of oil should not be much above $50, $60, $70 a barrel. So what is happening? Well, let me come to that in a moment. Let me say, first of all, my hope is that today, here on the floor of the Senate, we will decide to do some good things.

Now, how do you do good things? You try to find areas of common interest and legislate moving ahead where you can. That is what Senator REID has suggested in the underlying amendment that we will vote on dealing with stopping and halting the putting of oil underground in the Strategic Petroleum Reserve. This is something I introduced in the Senate back in February.

Now, as I said before, when the American consumer is being burned at the stake by high gas prices, its Government ought not be carrying the wood. I mean, it is that simple. We can do something about this.

We are talking about 70,000 barrels a day, 70,000 barrels every single day of sweet light crude that we are taking off the market. Dr. Philip Verleger, an economist and energy analyst, testified before the Energy Committee on the effects of such a move. He said although it is only three-tenths of a percent of usage, because it is sweet light crude, the most valuable subset of oil, it could have up to as much as a 10-percent effect on the price of oil.

So it seems to me what we do is, do what the Republicans and Democrats have now generally come together to say we should do, and say to the President: Look, you cannot put 70,000 barrels of oil underground every day. You cannot do that. The Strategic Petroleum Reserve is 97 percent filled, 97 percent.

Now, oil is $120, $126 a barrel; gas is going to $4 a gallon. Let me describe the situation we all understand that we face on this planet of ours. We stick straws in the planet and suck oil out. We suck out 85 million barrels every day. We are required to use one-fourth of that in this little spot of geography on the planet called the United States of America.

Let me say that again. We take 85 million barrels a day, and we need one-fourth of it to be used in the United States. Now, 60 percent of that which we use comes from outside of our country. That holds us hostage to others. And 70 percent of the oil we use in this country is used to fuel vehicles. So vehicles are an important part of this issue. I am proud to say this Congress, with this majority and some minority help, has passed for the first time in 32 years an increase of 10 miles per gallon in the next 10 years of CAFE standards. This will lead to better automobile efficiency and better gas mileage.

We made some progress in other areas. We opened production in Lease 181 in the Gulf of Mexico where there are substantial reserves. We made progress in the biofuels ethanol standards and renewable fuels standards. We have made some progress on all of those issues, but we have people coming to the floor today to say: Well, gas is $4 a gallon. Let's open ANWR. That means we get oil in 10 years.

As John Maynard Keynes said, in the long run we are all dead. What can we do in the short term? At least today, on Tuesday, we can at least do what we both believe—that is, what the minority and majority believe is appropriate—and that is stop putting oil underground and put some downward pressure on gas prices and oil prices. Give the consumer an opportunity to see some decent prices.

This speculation in the futures market is speculation that is driving up prices. We want to do something about that as well. But at least today we have one common theme; we can increase supply by 70,000 barrels a day of sweet light crude. Instead of it going into the supply that comes through the pump into the cars, which puts downward pressure on gasoline, it is now going underground, underground in the Strategic Petroleum Reserve. It makes no sense at all.

So I am saying: Let's stop doing bad things and let's start doing good things. We can start by taking the first step in doing that today.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There remains 1 minute 20 seconds.

Mr. DORGAN. Let me make one additional point, if I can. It does not relate specifically to this amendment, but this issue of the free market. You have an OPEC cartel behind closed doors. You have oil companies that are bigger through mergers. You have a futures market that is now rife with speculation. There is no free market. So the American people deserve, it seems to me, a Congress that will stand up and take some steps to put some downward pressure on gasoline prices.

That is a step we can take today. It is a step that is not a giant step, but it is a step in the right direction that will put downward pressure on gas prices. It will help this country. My hope is, following this vote, we will see that both parties can contribute to something when we agree on it. I think this will be a good day to put downward pressure on gas prices.

AMENDMENT NO. 4737

Mr. President, I call up amendment No. 4737.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

Mr. DOMENICI. Do we not have 1 minute left on each side? The amendment is not in order while time remains.

The ACTING PRESIDENT pro tempore. The amendment is simply being reported. We will have 2 minutes equally divided.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mr. REID, for himself and Mr. DORGAN, Mr. BINGAMAN, Mrs. BOXER, Mr. LEVIN, Ms. STABENOW, Mr. LEAHY, Mr. SCHUMER, Mr. BROWN, Mr. SANDERS, Mr. DURBIN, Mr. KERRY, Mr. MENENDEZ, Mr. SALAZAR, Ms. LANDRIEU, Mr. CARPER, Mr. INOUYE, Mr. LAUTENBERG, Mr. REED, Mr. HARKIN, Mr. DOMENICI, and Mrs. HUTCHISON, proposes an amendment numbered 4737 to amendment No. 4707.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve)

At the appropriate place, insert the following:

**SEC. ____. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(c) EXISTING CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

AMENDMENT NO. 4720

The ACTING PRESIDENT pro tempore. There now will be 2 minutes of debate equally divided prior to a vote on amendment No. 4720.

Mr. DOMENICI. That means 1 minute each?

The ACTING PRESIDENT pro tempore. Correct.

Mr. DOMENICI. On behalf of the amendment, I wish to say whoever is interested in what is going on today should know that Democrats speak of doing other things to bring the price down, but the only thing we are really doing is the amendment of the Senator from North Dakota on SPR. We all agree with that.

That is a temporary 7-month deferral of purchases. Clearly, if it does anything, it will be extremely temporary. All of the other things that are spoken about, none of them are in this bill, whether it has to do with fraud, speculation, or whatever.

On our side we have at least said: Let's start coal to liquid, a great American resource. Let's start offshore around America. Let's start on ANWR. Let's start moving on oil shale. Let's accelerate battery research, which will move us toward automobiles that can plug in, which will be a big American boon.

So there are lots of pluses. There is a lot of rhetoric. And there is one amendment that the Democrats offer that we agree upon. I believe those people interested in production should vote for the Domenici amendment and tell the American people the truth: We can produce in America and put pressure on the world markets and reduce the price of oil.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I urge Senators to vote against the McConnell amendment. It is a compilation of various proposals. The main thrust of it is to try to lease more Federal land. People should understand that we have been leasing a great deal of Federal land onshore. That pie chart on the left is offshore, and the Outer Continental Shelf, that is the pie chart on the right.

We currently have 31 million acres of land that is leased and is not producing. What we need to do is to get diligent in the development of these areas that are already leased.

Offshore, the same thing; the Outer Continental Shelf has 33 million acres that are not producing. So this amendment is a compilation of energy-related provisions that are put into the McConnell amendment. It is not going to bring down the price of gas at the pump.

I urge Senators to oppose it and then to support the second vote on the proposal to suspend the filling of the Strategic Petroleum Reserve.

I yield the floor.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 4720.

Mr. BINGAMAN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—42

| | | |
|---|---|---|
| Alexander | Crapo | Lugar |
| Allard | DeMint | McConnell |
| Barrasso | Domenici | Murkowski |
| Bennett | Ensign | Roberts |
| Bond | Enzi | Sessions |
| Brownback | Graham | Shelby |
| Bunning | Grassley | Specter |
| Burr | Gregg | Stevens |
| Chambliss | Hagel | Sununu |
| Coburn | Hatch | Thune |
| Cochran | Hutchison | Vitter |
| Corker | Isakson | Voinovich |
| Cornyn | Kyl | Warner |
| Craig | Landrieu | Wicker |

NAYS—56

| | | |
|---|---|---|
| Akaka | Durbin | Murray |
| Baucus | Feingold | Nelson (FL) |
| Bayh | Feinstein | Nelson (NE) |
| Biden | Harkin | Obama |
| Bingaman | Inouye | Pryor |
| Boxer | Johnson | Reed |
| Brown | Kennedy | Reid |
| Byrd | Kerry | Rockefeller |
| Cantwell | Klobuchar | Salazar |
| Cardin | Kohl | Sanders |
| Carper | Lautenberg | Schumer |
| Casey | Leahy | Smith |
| Clinton | Levin | Snowe |
| Coleman | Lieberman | Stabenow |
| Collins | Lincoln | Tester |
| Conrad | Martinez | Webb |
| Dodd | McCaskill | Whitehouse |
| Dole | Menendez | Wyden |
| Dorgan | Mikulski | |

NOT VOTING—2

| | |
|---|---|
| Inhofe | McCain |

The ACTING PRESIDENT pro tempore. Under the previous order, requiring 60 votes for adoption of this amendment, the amendment is withdrawn.

AMENDMENT NO. 4737

There are now 2 minutes, equally divided, prior to a vote on the Reid amendment.

Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me take the 1 minute.

This is a piece of legislation I introduced in February of this year. The Strategic Petroleum Reserve is 97 percent filled. We have oil and gas prices going through the roof in this country. We are putting 70,000 barrels of oil underground every day. It is a subset of the most valuable kind of oil: Sweet light crude, coming from the Gulf of Mexico.

We heard testimony before the Senate Energy Committee that even though it is a small part of our oil usage, this subset of oil—the 70,000 barrels a day put underground—could have an impact of up to 10 percent of the price of oil. I am not suggesting this does everything, but it is a step in the right direction.

As I said earlier, when the American consumer is being burned at the stake by energy prices, the Government ought not be carrying the wood. Sticking oil underground is wrong at this point in time, and this amendment simply says: Stop it. Halt it.

Mr. LEVIN. Mr. President, I support the amendment to stop deliveries of oil into the Strategic Petroleum Reserve, SPR.

Crude oil prices reached a record high recently of $126 per barrel, leading to record highs in the price of other fuels produced from crude oil, including gasoline, heating oil, diesel fuel, and jet fuel. With prices going through the roof, it is the wrong time for the Department of Energy, DOE, to take millions of barrels of high-priced oil off the market and put it into the SPR. Instead of reducing supplies by taking oil off the market and increasing the price of oil, the DOE should be looking for ways to decrease the price of oil. One step is a moratorium on filling the SPR until oil prices are lower.

Unfortunately, the DOE is contributing to the current price spike by filling the SPR regardless of the cost of crude oil or the petroleum products that are refined from crude oil.

There are three major problems with the DOE's insistence on putting high-priced oil into the SPR. First, by placing oil into the SPR the DOE is reducing the supply of crude oil and putting upward pressure on the price of oil. Second, by placing very expensive crude oil into the SPR, the DOE is significantly increasing the cost of the SPR program to the taxpayers. Third, the DOE's approach runs counter to the direction provided by the Congress in the Energy Policy Act of 2005, which requires the DOE to fill in the SPR in a manner that minimizes the impact upon prices and the costs to the taxpayers.

The DOE is currently taking about 70,000 barrels per day of crude oil off the market and putting it into the SPR. For the first half of 2008, this will total to about 10 million barrels of crude oil. This is reducing our inventories of crude oil and refined products, such as gasoline, just at a time when our refineries need to be running at maximum to make gasoline for the spring and summer driving seasons. The DOE also has asked for bids for another 6-month program to fill the SPR, beginning later this year. If the DOE is permitted to continue with this program, it will take millions more barrels of oil off the market beginning sometime later this year.

Under the basic economic principle of supply and demand, reducing the supply of crude oil available to U.S. refineries will increase the price of oil and gasoline. Even the DOE agrees with this basic economic principle. Mr. Guy Caruso, the head of the DOE's Energy Information Administration, testified to the Congress earlier this year that an SPR fill of 100,000 barrels per day would add about $2 per barrel to the price of oil. Last December, Dr. Philip Verleger testified that the SPR fill was adding about $10 per barrel to the price of crude oil. Economists may disagree on the amount of the increase, but now there should be no doubt that the DOE is increasing the price of oil by filling the SPR at this time. The DOE acknowledges this. The DOE should be working to lower oil prices, not helping to boost them to record highs.

DOE says the amount of oil it is putting into the SPR is insignificant compared to total global supply. This is the wrong comparison. The amount of oil DOE is putting into the SPR represents a significant marginal increase in the demand for oil. When supply and demand are closely balanced, a marginal increase in demand can have a very large impact on price. This is precisely the situation we are in today. Supply and demand are very closely balanced. Adding a demand of millions of barrels of oil over a period of several months can have a very significant impact on the amount of oil on the market or in inventories. In a tight market, taking millions of barrels off the market can indeed have a major impact upon oil prices.

When the DOE fills the SPR it does not have to actually purchase any crude oil. Instead, the DOE takes oil that is paid to the Federal Government as royalties for oil produced by private oil companies on offshore oil leases in the Gulf of Mexico and trades it back to private oil companies for oil that is then placed into the SPR. Thus, the DOE's program to acquire oil for the SPR does not require any Federal appropriations. But that doesn't mean the program doesn't cost the taxpayers any money. In fact, the opposite is true—the SPR program costs the taxpayers a lot of money. The higher the price of oil, the more it costs the taxpayers. This is because instead of selling the royalty oil on the open market at whatever the market price of oil is, recently as much as $126 a barrel, the DOE is taking that oil off the market, trading it for oil that meets the specifications of oil for the SPR, and leaving taxpayers without the revenue that would be created by selling tens of millions of barrels of oil. In essence, the taxpayers are paying the market price of oil for each barrel of oil placed into the SPR.

A moratorium on filling the SPR until prices are lower would save the taxpayers money. If the DOE were to acquire SPR oil at $75 per barrel instead of $125 per barrel, it would save $50 per barrel. For 10 million barrels, that would add up to $500 million. Delaying the filling of the SPR would not affect or harm our national security or our energy security. The SPR is currently about 97 percent full, with

slightly more than 700 million barrels of oil. This amount of oil is large enough to ensure that we are prepared for any contingencies that the SPR is designed to cover.

To date, over the entire life of the SPR the largest withdrawal of oil from the SPR has been for about 30 million barrels. The amount of oil in the SPR today already is far more than has ever been needed to cover market disruptions.

The DOE's policy to fill the SPR at the same rate regardless of the effect on oil prices or taxpayer costs runs counter to the intent of Congress in section 301 of the Energy Policy Act of 2005, which directs DOE to consider and minimize the effects on oil prices and costs to the taxpayers when acquiring oil for the SPR. I sponsored the amendment, along with Senator COLLINS, that became this provision in the law. We did not intend this to simply be a formality, whereby in every case DOE would simply conclude that the effect on price was insignificant. Yet that seems to be how DOE is applying this provision.

In 2003, the Permanent Subcommittee on Investigations, which I chair, completed a detailed investigation of the SPR fill program. The subcommittee's 2003 report is titled ''U.S. Strategic Petroleum Reserve: Recent Policy Has Increased Costs to Consumers But Not Overall U.S. Energy Security.'' It can be found on the Subcommittee's Web site. The investigation found that in 2002 the Bush administration changed the DOE's policy on how it would fill the SPR, and that this change in policy increased the price of oil but not our overall energy security.

Before the Bush administration changed the DOE's policy on filling the SPR, the DOE sought to put more crude oil into the SPR when supplies were plentiful and prices low and less crude oil into the SPR when supplies were scarce and prices high. The DOE also would allow oil companies to defer deliveries for up to a year when supplies were tight, provided that the oil companies would deposit more oil into the SPR at the end of the deferral period. Through this deferral policy, the DOE was able to obtain additional SPR oil for no additional cost to the taxpayer. This policy made good sense.

As my subcommittee's report documented, in 2002 the White House directed DOE to change its policy. Instead of allowing the DOE to continue with its sensible policy, the White House directed the DOE to fill the SPR at the same rate, regardless of market conditions. The new policy also prohibited the DOE from accepting any deferrals, regardless of market conditions. The career DOE staff vigorously protested the changes ordered by the White House. The career staff pointed out that filling the SPR in times of tight supplies and high prices would push prices up and that not allowing any deferrals would cost the taxpayers more money. The career staff also argued that the old policy followed good business judgment and the new policy would be difficult to defend under sound business principles. These memos are included as exhibits to the subcommittee's 2003 report. The DOE career staff's recommendations were rejected, however, and the current policy was adopted.

Following the issuance of this report, in early 2003, I asked the Department of Energy to suspend its filling of the SPR until prices had abated and supplies were more plentiful. The DOE refused to change course and continued the SPR fill without regard to market supplies or prices. In response, I offered a bipartisan amendment, with Senator COLLINS, to the Interior appropriations bill—which provides funding for the Strategic Petroleum Reserve program—to require the DOE to minimize the costs to the taxpayers and market impacts when placing oil into the SPR. The Senate unanimously adopted our amendment, but it was dropped from the conference report due to the Bush administration's continued opposition.

The next spring, I offered another bipartisan amendment, also with Senator COLLINS, to the budget resolution expressing the sense of the Senate that the administration should postpone deliveries into the SPR and use the savings from the postponement to increase funding for national security programs. The amendment passed the Senate by a vote of 52 to 43. That fall, we attempted to attach a similar amendment to the Homeland Security appropriations bill that would have postponed the SPR fill and used the savings for homeland security programs, but the amendment was defeated by a procedural vote, even though the majority of Senators voted in favor of the amendment, 48 to 47.

The next year, the Senate passed the Levin-Collins amendment to the Energy Policy Act of 2005 to require the DOE to consider price impacts and minimize the costs to the taxpayers and market impacts when placing oil into the SPR. The Levin-Collins amendment was agreed to by the conferees and signed into law as section 301 of the Energy Policy Act of 2005.

But, unfortunately, passage of this provision has had no effect upon the DOE's actions. The DOE continues to fill the SPR regardless of the market effects of buying oil, thereby taking oil off the market and reducing supply by placing it into the SPR. In the past year, no matter what the price of oil or market conditions, the DOE has consistently said that the market effects are negligible and claimed that there is no reason to delay filling the SPR, effectively ignoring the section 301 requirements of the Energy Policy Act. The result is that we have the current contradiction of DOE depositing oil into the SPR at the same time the President is urging OPEC to put more oil on to the market.

Now is not the time to be filling the SPR. When oil prices are at record highs, we should be looking for ways to increase oil supplies and reduce prices. The Department of Energy is doing just the opposite. It is taking oil off the market and increasing prices, doing so at great costs to taxpayers and despite enacted law requiring that they do otherwise. There is now a strong bipartisan consensus to put a halt to the administration's misguided SPR policy. I urge my colleagues to vote for this amendment to postpone the filling of the SPR until oil prices have fallen to lower levels.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want the Republicans to know I have changed my mind over the past 3 or 4 weeks, and it is simply because the price of oil is now up to $125 a barrel—perhaps in real dollars $110. I think for 7 months to stop filling SPR could have a chance of reducing the price by a small amount.

Make no bones about it now, this is no big energy policy. This is one little thing we can do, and I think we ought to go ahead and do it. I know there are some who take the fact that we need a big reserve very seriously, and they think we ought to continue to fill it even more than we are, and I respect those views. But with reference to this amendment, by Senator DORGAN, I think we ought to support it and at least do one positive thing. It was in our bill, incidentally, as one of a number of positive things we would do, including Alaska, which is complained so much about. It would produce a million barrels permanently, more or less. This is 70,000 barrels one time—so we understand.

I yield the floor.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. All time has expired.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—97

| | | |
|---|---|---|
| Akaka | Cantwell | DeMint |
| Alexander | Cardin | Dodd |
| Barrasso | Carper | Dole |
| Baucus | Casey | Domenici |
| Bayh | Chambliss | Dorgan |
| Bennett | Clinton | Durbin |
| Biden | Coburn | Ensign |
| Bingaman | Cochran | Enzi |
| Bond | Coleman | Feingold |
| Boxer | Collins | Feinstein |
| Brown | Conrad | Graham |
| Brownback | Corker | Grassley |
| Bunning | Cornyn | Gregg |
| Burr | Craig | Hagel |
| Byrd | Crapo | Harkin |

Hatch
Hutchison
Inouye
Isakson
Johnson
Kennedy
Kerry
Klobuchar
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McCaskill
McConnell
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Sanders
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Tester
Thune
Vitter
Voinovich
Warner
Webb
Whitehouse
Wicker
Wyden

NAYS—1

Allard

NOT VOTING—2

Inhofe
McCain

The ACTING PRESIDENT pro tempore. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

The amendment (No. 4737) was agreed to.

Mr. REID. Mr. President, first I move to reconsider that vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I am going to ask unanimous consent, if everyone would be kind enough to listen to me—we just passed an amendment by 97 votes, I think I heard the Chair announce. I would therefore ask, as a result of that vote, that the Senate—the one we just concluded—I now ask unanimous consent that the Senate proceed to a bill, which is at the desk, which encompasses the text of this SPR amendment which the Senate just adopted; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, and that there be no intervening action or debate.

Mr. DOMENICI. I object.

Mr. REID. Mr. President, we could have this out of here today. The House could take care of it either tonight or tomorrow and be on the President's desk on Wednesday. I have been told by my distinguished friend, Senator DOMENICI, that there is going to be an objection on the other side. I think it is really unfortunate. That is one reason people are a little concerned about our conduct here. We just passed something by almost 100 votes, and someone now is objecting to taking this up as a bill. I think that doesn't make a lot of sense. I am terribly disappointed that we have more of this stalling and obstructionism that has gone on this entire Congress.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I did object, and I object now.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, I now ask unanimous consent that the previous order with respect to S. 2284 be further modified to provide that following third reading of S. 2284, the Banking Committee be discharged from further consideration of H.R. 3121, the House companion, and the Senate then proceed to its consideration; that all after the enacting clause be stricken, and the text of S. 2284, as amended, be inserted in lieu thereof; that the bill be read a third time, and the Senate then vote on passage of H.R. 3121; that upon passage of H.R. 3121, S. 2284 be returned to the calendar, with the remaining provisions of the previous order remaining in effect, and without further intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, I do not object, of course, but might I observe that I understood the objection to the previous unanimous consent request. My hope would be that in the coming hours today we might have some discussions between the leadership of the minority and majority so that we can proceed on the SPR amendment. I understand the objection was raised, but there has been an overwhelming amount of support by the Senate. I hope we could have those discussions this afternoon and perhaps proceed on the basis that Senator REID has suggested.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Under the previous order, the substitute amendment, as amended, is agreed to.

The amendment (No. 4707), as amended, was agreed to.

Mr. DODD. Mr. President, last week, the Senate had a fruitful debate on, and today the Senate will vote on passage of the Flood Insurance Reform and Modernization Act. This bill extends the flood insurance program for 5 years, while making commonsense reforms so that flood insurance remains available to millions of Americans who live in flood-prone areas.

Though many people think of floods as confined to coastal areas, I want to let my colleagues know that in the last year, there have been flood claims in all 50 States. Every State has at-risk areas, and in the absence of private insurance, the National Flood Insurance Program is the only way for home and business owners to ensure they can rebuild after the waters recede.

The bill we are considering makes some tough choices, as I talked about last week.

In order to assure the continuation and availability of flood insurance, this bill essentially restarts the flood program. It forgives the $17 billion of program debt so that all policyholders will not face steep premium increases. All 5.5 million policyholders would have to double their premium payments just to pay the interest on this debt. To make a dent in the principal, premiums would have to increase many times over. Increases of this magnitude would drive untold numbers of people to drop flood insurance—at a time when we ought to be encouraging more people to purchase this critical coverage.

In an effort to avoid these steep premium increases, the bill forgives the debt. In addition, it reforms the premium structure so rates are actuarially based. Yes, this reform will result in some policyholders paying more for flood coverage, but the premium increases are much less than they would be if this bill were not to pass. If we do nothing, FEMA's $17 billion debt hangs over the entire program.

Last week, we accepted 11 amendments. We were able to accommodate Senators on both sides of the aisle—specifically Senators MENENDEZ, COBURN, MCCASKILL, DEMINT, DOLE, THUNE, DURBIN, and LANDRIEU. Their amendments help to strengthen this bill and the flood insurance program. These amendments include provisions to ensure that FEMA does outreach when mapping changes occur, to make policy exclusions clear to home and business owners, and to strengthen the flood insurance advocate created in the committee-passed bill.

I want to thank Senator SHELBY and his staff for working so closely with us on this bipartisan bill. I also want to thank the majority and minority leaders for agreeing to move to this bill, and for supporting our efforts last week to accommodate debate and amendments.

I especially thank the staff who have worked on this legislation. In particular I want to thank Lula Davis, Tim Mitchell, Tricia Engle, and Mark Wetjen on Leader REID'S staff, and I want to thank Rohit Kumar and Dave Schiappa on minority leader MCCONNELL's staff.

Senator SHELBY's staff have been invaluable, and I want to recognize the work of Bill Duhnke, Mark Oesterle, Mark Calabria and Jim Johnson. I also want to acknowledge the hard work of my own staff, including Shawn Maher, Jennifer Fogel-Bublick, and Sarah Kline.

As I have said, this is a strong bill that ensures flood insurance will be available for many years to come. I urge my colleagues to support this bill so that families can rebuild their homes and their lives after a flood.

Mr. DURBIN. Mr. President, I rise in support of the Flood Insurance Reform and Modernization Act of 2007.

After Hurricane Katrina, I had a chance to meet some of the survivors who were displaced by the storm and ended up in Illinois. Many had lost their homes, their jobs, their communities, everything. Nearly 3 years later, some are still picking up the pieces of a former life.

We can't stop every disaster from happening. But we can be prepared, so what happened after Katrina never happens again.

Katrina taught us the importance of being prepared. We need to understand the risks of disaster, prepare homes

and communities to withstand disaster, and make sure that once disaster strikes, communities can get back on their feet as quickly as possible.

The national flood insurance program is one of the best ways we do this. It allows people who live near rivers or other flood-prone areas to insure themselves at an affordable rate against the risk of a flood. If the worst happens, it covers some of the costs of recovery.

This program is critically important to Illinois.

Illinois has the largest inland system of rivers, lakes, and streams in the Nation. Floods are 98 percent of Illinois' declared disasters. That is why only three other States have more communities participating in the flood insurance program than Illinois.

The bill before us today renews the flood insurance program, which expires this September, and strengthens the program in several important ways.

It puts the program on sound financial footing. It forgives the $17 billion debt from Katrina and other storm-related losses, a debt the program could never repay. But the bill also requires FEMA to establish a reserve fund so we are in better shape to cover future losses.

It encourages more people to buy flood insurance.

It provides more funding to update old flood maps, so communities know where the hazards are and can plan accordingly.

And I am pleased that this legislation also contains an amendment I offered to make sure that the costs of flood insurance are shared fairly between Illinois and Missouri down near St. Louis.

Floods are among the most common and costly natural disasters. Passing this bill will strengthen our ability to prepare for what we know is coming and to return to our lives as soon as possible once the flood waters recede. This bill helps ensure that when the next Katrina-like disaster hits, we won't see a Katrina-like aftermath.

I thank Senators DODD and SHELBY for their hard work on this bill and urge my colleagues to support it.

Mr. SPECTER. Mr. President, I seek recognition to express my views about the pending energy amendment aimed at increasing domestic oil and gas production. In recognizing that this is a symbolic vote aimed at stimulating debate on the Nation's energy situation, I am voting for this amendment today because I want to affirm the principle of taking decisive action on the Nation's energy issues. I do, however, have reservations about some of the provisions contained within this measure.

While I fully support measures contained in the package which would further the development of alternative fuels for the transportation sector and for electric-powered vehicles; set goals for the use of coal-derived fuels; suspend filling the Strategic Petroleum Reserve; and streamline the permitting process for new oil refineries, I believe further debate is necessary on some other provisions.

Specifically, when these energy issues are revisited, there should be further discussion of opening additional areas of the Outer Continental Shelf to drilling as well as further discussion on the moratorium on commercial leasing of oil shale in the Western United States. I understand the need to develop our domestic resources due to growing global demand for oil, but we must ensure these steps are taken with the utmost environmental sensitivity.

Mr. LEVIN. Mr. President, I will vote for the Flood Insurance Reform and Modernization Act because it would help place the National Flood Insurance Program, NFIP, back on solid financial footing. It is not a perfect bill, but I hope that some of my concerns can be addressed in the House Senate conference process.

When Congress established the NFIP in 1968, flood insurance was not available at an affordable price, resulting in frequent and costly Federal disaster aid payments. The new program created a method to share the risk of flood losses through a national insurance program and required preventive and protective measures to mitigate the risk. Currently, Michigan has over 27,000 flood insurance policies, and since the program's inception, over $42.6 million in flood claims have been paid to Michigan policyholders. This bipartisan reform bill extends this important program through 2013, and enhances the long-term viability of the program, helping to provide self-sustaining, critical insurance coverage for millions of home and business owners throughout the country.

Historically, the flood insurance program has covered most claims through the premiums it has collected. However, recent losses from the 2004 floods and 2005 catastrophic hurricanes have left the program over $17 billion in debt to the U.S. Treasury. This reform bill takes the painful but necessary step of forgiving that debt. At the same time, this legislation makes changes to the program to help ensure its continued long-term financial solvency. The aim is to ensure that each time a hurricane, deluge or other natural disaster hits, flood claims can be paid without relying on taxpayer funds from across the country.

There are a number of measures in this bill aimed at restoring the program's financial stability. These include requiring certain at-risk properties to pay phased-in actuarial rates, extending the Severe Repetitive Loss Mitigation program to mitigate losses on the most at-risk properties, and requiring the program to build up reserves. These and other new requirements reflect difficult choices because they are not without cost to property owners, many of whom are already stretched by staggering gas and grocery prices, falling home values and a dismal economy. This bill attempts to recognize that reality by maintaining some subsidized rates for Federal flood insurance where buildings were built before the existence of a federal flood map, and phasing-in new actuarial rates.

The bill also expands and encourages the purchase of flood insurance for properties in areas with flood risks. Property owners in a 500-year floodplain would be notified about the risks they face, but would not be required to purchase flood insurance. To better define areas of flood risk, the bill would require FEMA to establish an ongoing map modernization program using the most accurate data and consistent standards for mapping. These changes will help generate the necessary premium income for the program while striving to maintain affordability for homeowners.

The bill also expands and encourages the purchase of flood insurance for properties in areas located behind levees, dams, and other man-made structures, recognizing that these structures could be breached. While recent history has shown us that levees can and do fail and that no properties are entirely risk-free, I am concerned that imposing this mandatory requirement in a uniform fashion may not accurately reflect the risks these communities face. Michigan has 2,500 dams and numerous levees scattered across the State; properties behind these structures would be required to purchase federal flood insurance regardless of the risks they face. We need to better understand the implications of requiring mandatory insurance for all of these areas before we impose a blanket requirement on all of them. For this reason, I voted in support of an amendment offered by Senator LANDRIEU that would have lifted this new mandatory requirement and would have instead required a study to be conducted to assess the impact, effectiveness, and feasibility of extending mandatory flood coverage to these areas. I believe Senator LANDRIEU's more thoughtful approach is warranted. Unfortunately, the amendment failed 30–62.

While I recognize that making the NFIP more financially sound requires making some tough decisions, I believe some of the choices reflected in this bill lead to unfair results. For example, I am concerned about what will happen to property owners currently not mapped into a floodplain should a new map require them to purchase flood insurance. Currently, these property owners would receive subsidized policies, because the buildings were built before the flood risk was known. However, this bill removes the subsidized rate for properties that get remapped into a floodplain. While the bill provides a 2-year phase-in for these unsubsidized rates, it is not fair to demand higher rates from those who, through no fault of their own, had no idea they had exposure to flood damage, especially at a time when so many families are struggling to meet their monthly expenses. This inequity is one that I hope can be addressed when this bill is conferenced with the House version passed last year.

There are also inequities in existing approaches of FEMA's mapping of flood risk which need to be corrected in conference. For instance, revised flood

maps are being developed by FEMA for the city of Grand Rapids in such a way that does not incorporate the existing flood protection provided by the city's recently completed $12.4 million floodwall improvement project. The revised flood maps would put over 6,000 additional properties into the 100-year floodplain, at a cost of over $6 million per year. This is an area that has not flooded at that level since 1905, and that occurred when the city did not have structural flood protection. FEMA's action appears arbitrary, ignores the participation of its State partner, and would likely decrease property values and the tax base of the community, hampers economic development, and imposes unfair costs on thousands of people in the city of Grand Rapids. FEMA should more thoroughly and accurately reassess flood risks using a risk-based analysis to account for local conditions and incorporate protection by the city's improved floodwalls, rather than ignoring their presence. I am hopeful that the managers will work with us in conference to address this unconscionable and unnecessary burden the city of Grand Rapids and its citizens are facing.

I wish that no American had to worry about suffering damage from a natural disaster, but it is a fact of nature that such damage can happen. That is why it is important to do what we can to help property owners have adequate insurance. The goals of the National Flood Insurance Program are important, and reauthorizing and revamping this program is necessary. This bill represents a necessary step to ensure that more at-risk property owners are protected while the cost of disaster relief and adequate insurance is less of a burden to the average taxpayer. Flooding is a risk that many communities face, and the availability of flood insurance is important for ensuring that our citizens can recover from any losses suffered. However, this must be done in a way that does not unduly and unfairly burden our communities. I will continue to work to strengthen the National Flood Insurance Program in a fair and responsible manner as it proceeds to conference.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 3121, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3121) to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, all after the enacting clause is stricken and the text of S. 2284, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

Mr. DODD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—92

| | | |
|---|---|---|
| Akaka | Dodd | McConnell |
| Alexander | Dole | Menendez |
| Allard | Domenici | Mikulski |
| Barrasso | Dorgan | Murkowski |
| Baucus | Durbin | Murray |
| Bayh | Ensign | Nelson (NE) |
| Bennett | Enzi | Obama |
| Biden | Feingold | Reed |
| Bingaman | Feinstein | Reid |
| Bond | Graham | Roberts |
| Boxer | Grassley | Rockefeller |
| Brown | Gregg | Salazar |
| Brownback | Hagel | Sanders |
| Bunning | Harkin | Schumer |
| Burr | Hatch | Sessions |
| Byrd | Hutchison | Shelby |
| Cantwell | Inouye | Smith |
| Cardin | Isakson | Snowe |
| Carper | Johnson | Specter |
| Casey | Kennedy | Stabenow |
| Chambliss | Kerry | Stevens |
| Clinton | Klobuchar | Sununu |
| Cochran | Kohl | Tester |
| Coleman | Kyl | Thune |
| Collins | Lautenberg | Voinovich |
| Conrad | Leahy | Warner |
| Corker | Levin | Webb |
| Cornyn | Lieberman | Whitehouse |
| Craig | Lugar | Wicker |
| Crapo | Martinez | Wyden |
| DeMint | McCaskill | |

NAYS—6

| | | |
|---|---|---|
| Coburn | Lincoln | Pryor |
| Landrieu | Nelson (FL) | Vitter |

NOT VOTING—2

| | |
|---|---|
| Inhofe | McCain |

The bill (H.R. 3121), as amended, was passed, as follows:

H.R. 3121

*Resolved,* That the bill from the House of Representatives (H.R. 3121) entitled ''An Act to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. TABLE OF CONTENTS.***

*The table of contents for this Act is as follows:*

*Sec. 1. Table of contents.*

*TITLE I—FLOOD INSURANCE REFORM AND MODERNIZATION*

*Sec. 101. Short title.*
*Sec. 102. Findings.*
*Sec. 103. Definitions.*
*Sec. 104. Extension of National Flood Insurance Program.*
*Sec. 105. Availability of insurance for multi-family properties.*
*Sec. 106. Reform of premium rate structure.*
*Sec. 107. Mandatory coverage areas.*
*Sec. 108. Premium adjustment.*
*Sec. 109. State chartered financial institutions.*
*Sec. 110. Enforcement.*
*Sec. 111. Escrow of flood insurance payments.*
*Sec. 112. Borrowing authority debt forgiveness.*
*Sec. 113. Minimum deductibles for claims under the National Flood Insurance Program.*
*Sec. 114. Considerations in determining chargeable premium rates.*
*Sec. 115. Reserve fund.*
*Sec. 116. Repayment plan for borrowing authority.*
*Sec. 117. Payment of condominium claims.*
*Sec. 118. Technical Mapping Advisory Council.*
*Sec. 119. National Flood Mapping Program.*
*Sec. 120. Removal of limitation on State contributions for updating flood maps.*
*Sec. 121. Coordination.*
*Sec. 122. Interagency coordination study.*
*Sec. 123. Nonmandatory participation.*
*Sec. 124. Notice of flood insurance availability under RESPA.*
*Sec. 125. Testing of new flood proofing technologies.*
*Sec. 126. Participation in State disaster claims mediation programs.*
*Sec. 127. Reiteration of FEMA responsibilities under the 2004 Reform Act.*
*Sec. 128. Additional authority of FEMA to collect information on claims payments.*
*Sec. 129. Expense reimbursements of insurance companies.*
*Sec. 130. Extension of pilot program for mitigation of severe repetitive loss properties.*
*Sec. 131. Flood insurance advocate.*
*Sec. 132. Studies and Reports.*
*Sec. 133. Feasibility study on private reinsurance.*
*Sec. 134. Policy disclosures.*
*Sec. 135. Report on inclusion of building codes in floodplain management criteria.*

*TITLE II—COMMISSION ON NATURAL CATASTROPHE RISK MANAGEMENT AND INSURANCE*

*Sec. 201. Short title.*
*Sec. 202. Findings.*
*Sec. 203. Establishment.*
*Sec. 204. Membership.*
*Sec. 205. Duties of the Commission.*
*Sec. 206. Report.*
*Sec. 207. Powers of the Commission.*
*Sec. 208. Commission personnel matters.*
*Sec. 209. Termination.*
*Sec. 210. Authorization of appropriations.*

*TITLE III—MISCELLANEOUS*

*Sec. 301. Big Sioux River and Skunk Creek, Sioux Falls, South Dakota.*
*Sec. 302. Suspension of petroleum acquisition for Strategic Petroleum Reserve.*

## *TITLE I—FLOOD INSURANCE REFORM AND MODERNIZATION*

***SEC. 101. SHORT TITLE.***

*This title may be cited as the ''Flood Insurance Reform and Modernization Act of 2008''.*

***SEC. 102. FINDINGS.***

*Congress finds that—*

*(1) the flood insurance claims resulting from the hurricane season of 2005 will likely exceed all previous claims paid by the National Flood Insurance Program;*

*(2) in order to pay the legitimate claims of policyholders from the hurricane season of 2005, the Federal Emergency Management Agency has borrowed over $20,000,000,000 from the Treasury;*

*(3) the interest alone on this debt, is almost $1,000,000,000 annually, and that the Federal Emergency Management Agency has indicated that it will be unable to pay back this debt;*

*(4) the flood insurance program must be strengthened to ensure it can pay future claims;*

*(5) while flood insurance is mandatory in the 100-year floodplain, substantial flooding occurs outside of existing special flood hazard areas;*

*(6) recent events throughout the country involving areas behind man-made structures, known as ''residual risk'' areas, have produced catastrophic losses;*

*(7) although such man-made structures produce an added element of safety and therefore lessen the probability that a disaster will occur, they are nevertheless susceptible to catastrophic loss, even though such areas at one time were not included within the 100-year floodplain; and*

*(8) voluntary participation in the National Flood Insurance Program has been minimal and many families residing outside the 100-year floodplain remain unaware of the potential risk to their lives and property.*

***SEC. 103. DEFINITIONS.***

*(a) IN GENERAL.—In this title, the following definitions shall apply:*

*(1) DIRECTOR.—The term ''Director'' means the Administrator of the Federal Emergency Management Agency.*

*(2) NATIONAL FLOOD INSURANCE PROGRAM.—The term ''National Flood Insurance Program'' means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).*

*(3) 100-YEAR FLOODPLAIN.—The term ''100-year floodplain'' means that area which is subject to inundation from a flood having a 1 percent chance of being equaled or exceeded in any given year.*

*(4) 500-YEAR FLOODPLAIN.—The term ''500-year floodplain'' means that area which is subject to inundation from a flood having a 0.2 percent chance of being equaled or exceeded in any given year.*

*(5) WRITE YOUR OWN.—The term ''Write Your Own'' means the cooperative undertaking between the insurance industry and the Flood Insurance Administration which allows participating property and casualty insurance companies to write and service standard flood insurance policies.*

*(b) COMMON TERMINOLOGY.—Except as otherwise provided in this title, any terms used in this title shall have the meaning given to such terms under section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121).*

***SEC. 104. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.***

*Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026), is amended by striking ''2008'' and inserting ''2013.''.*

***SEC. 105. AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.***

*Section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012) is amended by adding at the end the following:*

*''(d) AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.—*

*''(1) IN GENERAL.—The Director shall make flood insurance available to cover residential properties of more than 4 units. Notwithstanding any other provision of law, the maximum coverage amount that the Director may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.*

*''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of more than 4 units to obtain insurance for the contents and personal articles located in such residences.''.*

***SEC. 106. REFORM OF PREMIUM RATE STRUCTURE.***

*(a) TO EXCLUDE CERTAIN PROPERTIES FROM RECEIVING SUBSIDIZED PREMIUM RATES.—*

*(1) IN GENERAL.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—*

*(A) in subsection (a)—*

*(i) in paragraph (2), by striking ''; and'' and inserting a semicolon;*

*(ii) in paragraph (3), by striking the period at the end and inserting ''; and''; and*

*(iii) by adding at the end the following:*

*''(4) the exclusion of prospective insureds from purchasing flood insurance at rates less than those estimated under paragraph (1), as required by paragraph (2), for certain properties, including for—*

*''(A) any property which is not the primary residence of an individual;*

*''(B) any severe repetitive loss property, as defined in section 1361A(b);*

*''(C) any property that has incurred flood-related damage in which the cumulative amounts of payments under this title equaled or exceeded the fair market value of such property;*

*''(D) any business property; and*

*''(E) any property which on or after the date of enactment of the Flood Insurance Reform and Modernization Act of 2008 has experienced or sustained—*

*''(i) substantial damage exceeding 50 percent of the fair market value of such property; or*

*''(ii) substantial improvement exceeding 30 percent of the fair market value of such property.''; and*

*(B) by adding at the end the following:*

*''(g) NO EXTENSION OF SUBSIDY TO NEW POLICIES OR LAPSED POLICIES.—The Director shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—*

*''(1) any property not insured by the flood insurance program as of the date of enactment of the Flood Insurance Reform and Modernization Act of 2008;*

*''(2) any policy under the flood insurance program that has lapsed in coverage, as a result of the deliberate choice of the holder of such policy; and*

*''(3) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—*

*''(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or*

*''(B) in connection with—*

*''(i) a repetitive loss property; or*

*''(ii) a severe repetitive loss property, as that term is defined under section 1361A.''.*

*(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective 90 days after the date of the enactment of this title.*

*(b) INCREASE IN ANNUAL LIMITATION ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended—*

*(1) by striking ''under this title for any properties within any single'' and inserting the following: ''under this title for any properties—*

*''(1) within any single''; and*

*(2) by striking ''10 percent'' and inserting ''15 percent''; and*

*(3) by striking the period at the end and inserting the following: ''; and*

*''(2) described in section 1307(a)(4) shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1).''.*

***SEC. 107. MANDATORY COVERAGE AREAS.***

*(a) SPECIAL FLOOD HAZARD AREAS.—Not later than 90 days after the date of enactment of this title, the Director shall issue final regulations establishing a revised definition of areas of special flood hazards for purposes of the National Flood Insurance Program.*

*(b) RESIDUAL RISK AREAS.—The regulations required by subsection (a) shall—*

*(1) include any area previously identified by the Director as an area having special flood hazards under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a); and*

*(2) require the expansion of areas of special flood hazards to include areas of residual risk, including areas that are located behind levees, dams, and other man-made structures.*

*(c) MANDATORY PARTICIPATION IN NATIONAL FLOOD INSURANCE PROGRAM.—*

*(1) IN GENERAL.—Any area described in subsection (b) shall be subject to the mandatory purchase requirements of sections 102 and 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a, 4106).*

*(2) LIMITATION.—The mandatory purchase requirement under paragraph (1) shall have no force or effect until the mapping of all residual risk areas in the United States that the Director determines essential in order to administer the National Flood Insurance Program, as required under section 119, are in the maintenance phase.*

*(3) ACCURATE PRICING.—In carrying out the mandatory purchase requirement under paragraph (1), the Director shall ensure that the price of flood insurance policies in areas of residual risk accurately reflects the level of flood protection provided by any levee, dam, or other the man-made structure in such area.*

*(d) DECERTIFICATION.—Upon decertification of any levee, dam, or man-made structure under the jurisdiction of the Army Corp of Engineers, the Corp shall immediately provide notice to the Director of the National Flood Insurance Program.*

***SEC. 108. PREMIUM ADJUSTMENT.***

*Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:*

*''(g) PREMIUM ADJUSTMENT TO REFLECT CURRENT RISK OF FLOOD.—Notwithstanding subsection (f), and upon completion of the updating of any flood insurance rate map under this Act, the Flood Disaster Protection Act of 1973, or the Flood Insurance Reform and Modernization Act of 2008, any property located in an area that is participating in the national flood insurance program shall have the risk premium rate charged for flood insurance on such property adjusted to accurately reflect the current risk of flood to such property, subject to any other provision of this Act. Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the date of completion of such updating or remapping that is a result of such updating or remapping shall be phased in over a 2-year period at the rate of 50 percent per year.*

*''(h) USE OF MAPS TO ESTABLISH RATES FOR CERTAIN COUNTIES.—*

*''(1) IN GENERAL.—Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Director shall not—*

*''(A) adjust the chargeable premium rate for flood insurance under this title for any type or class of property located in an area in that District; and*

*''(B) require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map.*

*''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, the term 'area' does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance*

*program under this title as of the date of enactment of this subsection.''.*

**SEC. 109. STATE CHARTERED FINANCIAL INSTITUTIONS.**

*Section 1305(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4012(c)) is amended—*

*(1) in paragraph (1), by striking ''; and'' and inserting a semicolon;*

*(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(3) given satisfactory assurance that by December 31, 2008, lending institutions chartered by a State, and not insured by the Federal Deposit Insurance Corporation, shall be subject to regulations by that State that are consistent with the requirements of section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a).''.*

**SEC. 110. ENFORCEMENT.**

*Section 102(f)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)) is amended—*

*(1) in the first sentence, by striking ''$350'' and inserting ''$2,000''; and*

*(2) by striking the second sentence.*

**SEC. 111. ESCROW OF FLOOD INSURANCE PAYMENTS.**

*(a) IN GENERAL.—Section 102(d) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)) is amended—*

*(1) by amending paragraph (1) to read as follows:*

*''(1) REGULATED LENDING INSTITUTIONS.—*

*''(A) FEDERAL ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that any premiums and fees for flood insurance under the National Flood Insurance Act of 1968, on any property for which a loan has been made for acquisition or construction purposes, shall be paid to the mortgage lender, with the same frequency as payments on the loan are made, for the duration of the loan. Upon receipt of any premiums or fees, the lender shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from the Director or the provider of the flood insurance that insurance premiums are due, the remaining balance of an escrow account shall be paid to the provider of the flood insurance.*

*''(B) STATE ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.—In order to continue to participate in the flood insurance program, each State shall direct that its entity or agency with primary responsibility for the supervision of lending institutions in that State require that premiums and fees for flood insurance under the National Flood Insurance Act of 1968, on any property for which a loan has been made for acquisition or construction purposes shall be paid to the mortgage lender, with the same frequency as payments on the loan are made, for the duration of the loan. Upon receipt of any premiums or fees, the lender shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from such State entity or agency, the Director, or the provider of the flood insurance that insurance premiums are due, the remaining balance of an escrow account shall be paid to the provider of the flood insurance.''; and*

*(2) by adding at the end the following:*

*''(6) NOTICE UPON LOAN TERMINATION.—Upon final payment of the mortgage, a regulated lending institution shall provide notice to the policyholder that insurance coverage may cease with such final payment. The regulated lending institution shall also provide direction as to how the homeowner may continue flood insurance coverage after the life of the loan.''.*

*(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall apply to any mortgage outstanding or entered into on or after the expiration of the 2-year period beginning on the date of enactment of this title.*

**SEC. 112. BORROWING AUTHORITY DEBT FORGIVENESS.**

*(a) IN GENERAL.—The Secretary of the Treasury relinquishes the right to any repayment of amounts due from the Director in connection with the exercise of the authority vested to the Director to borrow such sums under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016), to the extent such borrowed sums were used to fund the payment of flood insurance claims under the National Flood Insurance Program for any damage to or loss of property resulting from the hurricanes of 2005.*

*(b) CERTIFICATION.—The debt forgiveness described under subsection (a) shall only take effect if the Director certifies to the Secretary of Treasury that all authorized resources or funds available to the Director to operate the National Flood Insurance Program—*

*(1) have been otherwise obligated to pay claims under the National Flood Insurance Program; and*

*(2) are not otherwise available to make payments to the Secretary on any outstanding notes or obligations issued by the Director and held by the Secretary.*

*(c) DECREASE IN BORROWING AUTHORITY.—The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking ''; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting '$20,775,000,000' for '$1,500,000,000' ''.*

**SEC. 113. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.**

*Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended—*

*(1) by striking ''The Director is'' and inserting the following:*

*''(a) IN GENERAL.—The Director is''; and*

*(2) by adding at the end the following:*

*''(b) MINIMUM ANNUAL DEDUCTIBLE.—*

*''(1) PRE-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—*

*''(A) $1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than $100,000; and*

*''(B) $2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than $100,000.*

*''(2) POST-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—*

*''(A) $750, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than $100,000; and*

*''(B) $1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than $100,000.''.*

**SEC. 114. CONSIDERATIONS IN DETERMINING CHARGEABLE PREMIUM RATES.**

*Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)) is amended—*

*(1) in subsection (a), by striking '', after consultation with'' and all that follows through ''by regulation'' and inserting ''prescribe, after providing notice'';*

*(2) in subsection (b)—*

*(A) in paragraph (1), by striking the period at the end and inserting a semicolon;*

*(B) in paragraph (2), by striking the comma at the end and inserting a semicolon;*

*(C) in paragraph (3), by striking '', and'' and inserting a semicolon;*

*(D) in paragraph (4), by striking the period and inserting ''; and''; and*

*(E) by adding at the end the following:*

*''(5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.''; and*

*(3) by adding at the end the following:*

*''(h) RULE OF CONSTRUCTION.—For purposes of this section, the calculation of an 'average historical loss year'—*

*''(1) includes catastrophic loss years; and*

*''(2) shall be computed in accordance with generally accepted actuarial principles.''.*

**SEC. 115. RESERVE FUND.**

*Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1310 the following:*

**''SEC. 1310A. RESERVE FUND.**

*''(a) ESTABLISHMENT OF RESERVE FUND.—In carrying out the flood insurance program authorized by this chapter, the Director shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the 'Reserve Fund') which shall—*

*''(1) be an account separate from any other accounts or funds available to the Director; and*

*''(2) be available for meeting the expected future obligations of the flood insurance program.*

*''(b) RESERVE RATIO.—Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—*

*''(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or*

*''(2) such higher percentage as the Director determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.*

*''(c) MAINTENANCE OF RESERVE RATIO.—*

*''(1) IN GENERAL.—The Director shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—*

*''(A) to maintain the reserve ratio required under subsection (b); and*

*''(B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).*

*''(2) CONSIDERATIONS.—In exercising the authority granted under paragraph (1), the Director shall consider—*

*''(A) the expected operating expenses of the Reserve Fund;*

*''(B) the insurance loss expenditures under the flood insurance program;*

*''(C) any investment income generated under the flood insurance program; and*

*''(D) any other factor that the Director determines appropriate.*

*''(3) LIMITATIONS.—In exercising the authority granted under paragraph (1), the Director shall be subject to all other provisions of this Act, including any provisions relating to chargeable premium rates or annual increases of such rates.*

*''(d) PHASE-IN REQUIREMENTS.—The phase-in requirements under this subsection are as follows:*

*''(1) IN GENERAL.—Beginning in fiscal year 2008 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Director shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).*

''(2) AMOUNT SATISFIED.—As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Director shall not be required to set aside any amounts for the Reserve Fund.

''(3) EXCEPTION.—If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Director shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

''(e) LIMITATION ON RESERVE RATIO.—In any given fiscal year, if the Director determines that the reserve ratio required under subsection (b) cannot be achieved, the Director shall submit a report to Congress that—

''(1) describes and details the specific concerns of the Director regarding such consequences;

''(2) demonstrates how such consequences would harm the long-term financial soundness of the flood insurance program; and

''(3) indicates the maximum attainable reserve ratio for that particular fiscal year.''.

**SEC. 116. REPAYMENT PLAN FOR BORROWING AUTHORITY.**

Section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016) is amended by adding at the end the following:

''(c) Any funds borrowed by the Director under the authority established in subsection (a) shall include a schedule for repayment of such amounts which shall be transmitted to the—

''(1) Secretary of the Treasury;

''(2) Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(3) Committee on Financial Services of the House of Representatives.

''(d) In addition to the requirement under subsection (c), in connection with any funds borrowed by the Director under the authority established in subsection (a), the Director, beginning 6 months after the date on which such borrowed funds are issued, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to the—

''(1) Secretary of the Treasury;

''(2) Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(3) Committee on Financial Services of the House of Representatives.''.

**SEC. 117. PAYMENT OF CONDOMINIUM CLAIMS.**

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019), as amended by section 113, is further amended by adding at the end the following:

''(c) PAYMENT OF CLAIMS TO CONDOMINIUM OWNERS.—The Director may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based, solely or in any part, on the flood insurance coverage of the condominium association or others on the overall property owned by the condominium association. Notwithstanding any regulations, rules, or restrictions established by the Director relating to appeals and filing deadlines, the Director shall ensure that the requirements of this subsection are met with respect to any claims for damages resulting from flooding in 2005 and 2006.''.

**SEC. 118. TECHNICAL MAPPING ADVISORY COUNCIL.**

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the ''Council'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director, or the designee thereof, and 12 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or the designee thereof);

(B) a member of a recognized professional surveying association or organization

(C) a member of a recognized professional mapping association or organization;

(D) a member of a recognized professional engineering association or organization;

(E) a member of a recognized professional association or organization representing flood hazard determination firms;

(F) a representative of the United States Geological Survey;

(G) a representative of a recognized professional association or organization representing State geographic information;

(H) a representative of State national flood insurance coordination offices;

(I) a representative of the Corps of Engineers;

(J) the Secretary of the Interior (or the designee thereof);

(K) the Secretary of Agriculture (or the designee thereof);

(L) a member of a recognized regional flood and storm water management organization;

(M) a representative of a State agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps; and

(N) a representative of a local government agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) recommend to the Director how to improve in a cost-effective manner the—

(A) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and

(B) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States;

(2) recommend to the Director mapping standards and guidelines for—

(A) flood insurance rate maps; and

(B) data accuracy, data quality, data currency, and data eligibility;

(3) recommend to the Director how to maintain on an ongoing basis flood insurance rate maps and flood risk identification;

(4) recommend procedures for delegating mapping activities to State and local mapping partners;

(5) recommend to the Director and other Federal agencies participating in the Council—

(A) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and

(B) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies; and

(6) submit an annual report to the Director that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as required under section 119; and

(C) a summary of recommendations made by the Council to the Director.

(d) FUTURE CONDITIONS RISK ASSESSMENT AND MODELING REPORT.—

(1) IN GENERAL.—The Council shall consult with scientists and technical experts, other Federal agencies, States, and local communities to—

(A) develop recommendations on how to—

(i) ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks; and

(ii) ensure that the Federal Emergency Management Agency uses the best available methodology to consider the impact of—

(I) the rise in the sea level; and

(II) future development on flood risk; and

(B) not later than 1 year after the date of enactment of this title, prepare written recommendations in a future conditions risk assessment and modeling report and to submit such recommendations to the Director.

(2) RESPONSIBILITY OF THE DIRECTOR.—The Director, as part of the ongoing program to review and update National Flood Insurance Program rate maps under section 119, shall incorporate any future risk assessment submitted under paragraph (1)(B) in any such revision or update.

(e) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the ''Chairperson'').

(f) COORDINATION.—To ensure that the Council's recommendations are consistent, to the maximum extent practicable, with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to OMB Circular A–16).

(g) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(h) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less frequently than twice each year at the request of the Chairperson or a majority of its members, and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(i) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(j) STAFF.—

(1) STAFF OF FEMA.—Upon the request of the Chairperson, the Director may detail, on a non-reimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) STAFF OF OTHER FEDERAL AGENCIES.—Upon request of the Chairperson, any other Federal agency that is a member of the Council may detail, on a non-reimbursable basis, personnel to assist the Council in carrying out its duties.

(k) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research, as it considers appropriate.

(l) REPORT TO CONGRESS.—The Director, on an annual basis, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Office of Management and Budget on the—

(1) recommendations made by the Council; and

(2) actions taken by the Federal Emergency Management Agency to address such recommendations to improve flood insurance rate maps and flood risk data.

**SEC. 119. NATIONAL FLOOD MAPPING PROGRAM.**

(a) REVIEWING, UPDATING, AND MAINTAINING MAPS.—The Director, in coordination with the Technical Mapping Advisory Council established under section 118, shall establish an ongoing program under which the Director shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) MAPPING.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Director shall—

(A) identify, review, update, maintain, and publish National Flood Insurance Program rate maps with respect to—

*(i) all areas located within the 100-year floodplain;*

*(ii) all areas located within the 500-year floodplain;*

*(iii) areas of residual risk that have not previously been identified, including areas that are protected levees, dams, and other man-made structures; and*

*(iv) areas that could be inundated as a result of the failure of a levee, dam, or other man-made structure;*

*(v) the level of protection provided by man-made structures.*

*(B) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each such area; and*

*(C) use, in identifying, reviewing, updating, maintaining, or publishing any National Flood Insurance Program rate map required under this section or under the National Flood Insurance Act of 1968, the most accurate topography and elevation data available.*

*(2) MAPPING ELEMENTS.—Each map updated under this section shall:*

*(A) GROUND ELEVATION DATA.—Assess the accuracy of current ground elevation data used for hydrologic and hydraulic modeling of flooding sources and mapping of the flood hazard and wherever necessary acquire new ground elevation data utilizing the most up-to-date geospatial technologies in accordance with the existing guidelines and specifications of the Federal Emergency Management Agency.*

*(B) DATA ON A WATERSHED BASIS.—Develop National Flood Insurance Program flood data on a watershed basis—*

*(i) to provide the most technically effective and efficient studies and hydrologic and hydraulic modeling; and*

*(ii) to eliminate, to the maximum extent possible, discrepancies in base flood elevations between adjacent political subdivisions.*

*(3) OTHER INCLUSIONS.—In updating maps under this section, the Director shall include—*

*(A) any relevant information on coastal inundation from—*

*(i) an applicable inundation map of the Corps of Engineers; and*

*(ii) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;*

*(B) any relevant information of the United States Geological Survey on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Director;*

*(C) any relevant information on land subsidence, coastal erosion areas, and other floor-related hazards;*

*(D) any relevant information or data of the National Oceanic and Atmospheric Administration and the United States Geological Survey relating to the best available climate science and the potential for future inundation from sea level rise, increased precipitation, and increased intensity of hurricanes due to global warming; and*

*(E) any other relevant information as may be recommended by the Technical Mapping Advisory Committee.*

*(c) STANDARDS.—In updating and maintaining maps under this section, the Director shall—*

*(1) establish standards to—*

*(A) ensure that maps are adequate for—*

*(i) flood risk determinations; and*

*(ii) use by State and local governments in managing development to reduce the risk of flooding; and*

*(B) facilitate identification and use of consistent methods of data collection and analysis by the Director, in conjunction with State and local governments, in developing maps for communities with similar flood risks, as determined by the Director; and*

*(2) publish maps in a format that is—*

*(A) digital geospatial data compliant;*

*(B) compliant with the open publishing and data exchange standards established by the Open Geospatial Consortium; and*

*(C) compliant with the North American Vertical Datum of 1998 for New Hydrologic and Hydraulic Engineering.*

*(d) COMMUNICATION AND OUTREACH.—*

*(1) IN GENERAL.—The Director shall—*

*(A) work to enhance communication and outreach to States, local communities, and property owners about the effects of—*

*(i) any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and*

*(ii) that any such changes may have on flood insurance purchase requirements; and*

*(B) engage with local communities to enhance communication and outreach to the residents of such communities on the matters described under subparagraph (A).*

*(2) REQUIRED ACTIVITIES.—The communication and outreach activities required under paragraph (1) shall include—*

*(A) notifying property owners when their properties become included in, or when they are excluded from, an area having special flood hazards and the effect of such inclusion or exclusion on the applicability of the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to such properties;*

*(B) educating property owners regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;*

*(C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;*

*(D) educating property owners about flood map revisions and the process available such owners to appeal proposed changes in flood elevations through their community; and*

*(E) encouraging property owners to maintain or acquire flood insurance coverage.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director to carry out this section $400,000,000 for each of fiscal years 2008 through 2013.*

***SEC. 120. REMOVAL OF LIMITATION ON STATE CONTRIBUTIONS FOR UPDATING FLOOD MAPS.***

*Section 1360(f)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by striking '', but which may not exceed 50 percent of the cost of carrying out the requested revision or update''.*

***SEC. 121. COORDINATION.***

*(a) INTERAGENCY BUDGET CROSSCUT REPORT.—*

*(1) IN GENERAL.—The Secretary of Homeland Security, the Director, the Director of the Office of Management and Budget, and the heads of each Federal department or agency carrying out activities under sections 118 and 119 shall work together to ensure that flood risk determination data and geospatial data are shared among Federal agencies in order to coordinate the efforts of the Nation to reduce its vulnerability to flooding hazards.*

*(2) REPORT.—Not later than 30 days after the submission of the budget of the United States Government by the President to Congress, the Director of the Office of Management and Budget, in coordination with the Federal Emergency Management Agency, the United States Geological Survey, the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other Federal agencies, as appropriate, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report, certified by the Secretary or head of each such agency, an interagency budget crosscut report that displays the budget proposed for each of the Federal agencies working on flood risk determination data and digital elevation models, including any planned interagency or intraagency transfers.*

*(b) DUTIES OF THE DIRECTOR.—In carrying out sections 118 and 119, the Director shall—*

*(1) participate, pursuant to section 216 of Public Law 107–347 (116 Stat. 2945), in the establishment of such standards and common protocols as are necessary to assure the interoperability of geospatial data for all users of such information;*

*(2) coordinate with, seek assistance and cooperation of, and provide liaison to the Federal Geographic Data Committee pursuant to Office of Management and Budget Circular A–16 and Executive Order 12906 for the implementation of and compliance with such standards;*

*(3) integrate with, leverage, and coordinate funding of, to the maximum extent practicable, the current flood mapping activities of each unit of State and local government;*

*(4) integrate with, leverage, and coordinate, to the maximum extent practicable, the current geospatial activities of other Federal agencies and units of State and local government; and*

*(5) develop a funding strategy to leverage and coordinate budgets and expenditures, and to establish joint funding mechanisms with other Federal agencies and units of State and local government to share the collection and utilization of geospatial data among all governmental users.*

***SEC. 122. INTERAGENCY COORDINATION STUDY.***

*(a) IN GENERAL.—The Director shall enter into a contract with the National Academy of Public Administration to conduct a study on how the Federal Emergency Management Agency—*

*(1) should improve interagency and intergovernmental coordination on flood mapping, including a funding strategy to leverage and coordinate budgets and expenditures; and*

*(2) can establish joint funding mechanisms with other Federal agencies and units of State and local government to share the collection and utilization of data among all governmental users.*

*(b) TIMING.—Not later than 180 days after the date of enactment of this title, the National Academy of Public Administration shall report the findings of the study required under subsection (a) to the—*

*(1) Committee on Banking, Housing, and Urban Affairs of the Senate;*

*(2) Committee on Financial Services of the House of Representatives;*

*(3) Committee on Appropriations of the Senate; and*

*(4) Committee on Appropriations of the House of Representatives.*

***SEC. 123. NONMANDATORY PARTICIPATION.***

*(a) NONMANDATORY PARTICIPATION IN NATIONAL FLOOD INSURANCE PROGRAM FOR 500-YEAR FLOODPLAIN.—Any area located within the 500-year floodplain shall not be subject to the mandatory purchase requirements of sections 102 or 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a, 4106).*

*(b) NOTICE.—*

*(1) BY DIRECTOR.—In carrying out the National Flood Insurance Program, the Director shall provide notice to any community located in an area within the 500-year floodplain.*

*(2) TIMING OF NOTICE.—The notice required under paragraph (1) shall be made not later than 6 months after the date of completion of the initial mapping of the 500-year floodplain, as required under section 118.*

*(3) LENDER REQUIRED NOTICE.—*

*(A) REGULATED LENDING INSTITUTIONS.—Each Federal or State entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by property located in an area within the*

*500-year floodplain, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan that such property is located in an area within the 500-year floodplain, in a manner that is consistent with and substantially identical to the notice required under section 1364(a)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a(a)(1)).*

*(B) FEDERAL OR STATE AGENCY LENDERS.—Each Federal or State agency lender shall, by regulation, require notification in the same manner as provided under subparagraph (A) with respect to any loan that is made by a Federal or State agency lender and secured by property located in an area within the 500-year floodplain.*

*(C) PENALTY FOR NONCOMPLIANCE.—Any regulated lending institution or Federal or State agency lender that fails to comply with the notice requirements established by this paragraph shall be subject to the penalties prescribed under section 102(f)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)).*

***SEC. 124. NOTICE OF FLOOD INSURANCE AVAILABILITY UNDER RESPA.***

*Section 5(b) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(b)) is amended—*

*(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;*

*(2) in paragraph (5), by striking the period and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(6) an explanation of flood insurance and the availability of flood insurance under the National Flood Insurance Program, whether or not the real estate is located in an area having special flood hazards.''.*

***SEC. 125. TESTING OF NEW FLOODPROOFING TECHNOLOGIES.***

*(a) PERMISSIBLE TESTING.—A temporary residential structure built for the purpose of testing a new flood proofing technology, as described in subsection (b), in any State or community that receives mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) may not be construed to be in violation of any flood risk mitigation plan developed by that State or community and approved by the Director of the Federal Emergency Management Agency.*

*(b) CONDITIONS ON TESTING.—Testing permitted under subsection (a) shall—*

*(1) be performed on an uninhabited residential structure;*

*(2) require dismantling of the structure at the conclusion of such testing; and*

*(3) require that all costs associated with such testing and dismantling be covered by the individual or entity conducting the testing, or on whose behalf the testing is conducted.*

*(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter, limit, or extend the availability of flood insurance to any structure that may employ, utilize, or apply any technology tested under subsection (b).*

***SEC. 126. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.***

*Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1313 the following:*

***''SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.***

*''(a) REQUIREMENT TO PARTICIPATE.—In the case of the occurrence of a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) that may have resulted in flood damage under the flood insurance program established under this chapter and other personal lines residential property insurance coverage offered by a State regulated insurer, upon request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Director in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a major disaster, the Director shall cause representatives of the flood insurance program to participate in such a State program where claims under the flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.*

*''(b) EXTENT OF PARTICIPATION.—In satisfying the requirements of subsection (a), the Director shall require that each representative of the Director—*

*''(1) be certified for purposes of the flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;*

*''(2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State;*

*''(3) participate in good faith negotiations toward the settlement of such claims with policyholders of coverage made available under the flood insurance program; and*

*''(4) finalize the settlement of such claims on behalf of the flood insurance program with such policyholders.*

*''(c) COORDINATION.—Representatives of the Director shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purposes of consolidating and expediting settlement of claims under the national flood insurance program resulting from such disaster.*

*''(d) QUALIFICATIONS OF MEDIATORS.—Each State mediator participating in State-sponsored mediation under this section shall be—*

*''(1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and*

*''(B) an active member of such bar for at least 1 year prior to the year in which such mediator's participation is sought; or*

*''(2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator's participation is sought.*

*''(e) MEDIATION PROCEEDINGS AND DOCUMENTS PRIVILEGED.—As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Director shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.*

*''(f) LIABILITY, RIGHTS, OR OBLIGATIONS NOT AFFECTED.—Participation in State-sponsored mediation, as described in this section does not—*

*''(1) affect or expand the liability of any party in contract or in tort; or*

*''(2) affect the rights or obligations of the parties, as established—*

*''(A) in any regulation issued by the Director, including any regulation relating to a standard flood insurance policy;*

*''(B) under this Act; and*

*''(C) under any other provision of Federal law.*

*''(g) EXCLUSIVE FEDERAL JURISDICTION.—Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this Act.*

*''(h) COST LIMITATION.—Nothing in this section shall be construed to require the Director or a representative of the Director to pay additional mediation fees relating to flood insurance claims associated with a State-sponsored mediation program in which such representative of the Director participates.*

*''(i) EXCEPTION.—In the case of the occurrence of a major disaster that results in flood damage claims under the national flood insurance program and that does not result in any loss covered by a personal lines residential property insurance policy—*

*''(1) this section shall not apply; and*

*''(2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumen-auer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.*

*''(j) REPRESENTATIVES OF THE DIRECTOR.—For purposes of this section, the term 'representatives of the Director' means representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).''.*

***SEC. 127. REITERATION OF FEMA RESPONSIBILITIES UNDER THE 2004 REFORM ACT.***

*(a) MINIMUM TRAINING AND EDUCATION REQUIREMENTS.—The Director shall continue to work with the insurance industry, State insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies, as such standards were determined by the Director in the notice published in the Federal Register on September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).*

*(b) REPORT ON THE OVERALL IMPLEMENTATION OF THE REFORM ACT OF 2004.—Not later than 3 months after the date of the enactment of this title, the Director shall submit a report to Congress—*

*(1) describing the implementation of each provision of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264; 118 Stat. 712);*

*(2) identifying each regulation, order, notice, and other material issued by the Director in implementing each provision of that Act;*

*(3) explaining any statutory or implied deadlines that have not been met; and*

*(4) providing an estimate of when the requirements of such missed deadlines will be fulfilled.*

***SEC. 128. ADDITIONAL AUTHORITY OF FEMA TO COLLECT INFORMATION ON CLAIMS PAYMENTS.***

*(a) IN GENERAL.—The Director shall collect, from property and casualty insurance companies that are authorized by the Director to participate in the Write Your Own program any information and data needed to determine the accuracy of the resolution of flood claims filed on any property insured with a standard flood insurance policy obtained under the program that was subject to a flood.*

*(b) TYPE OF INFORMATION TO BE COLLECTED.—The information and data to be collected under subsection (a) may include—*

*(1) any adjuster estimates made as a result of flood damage, and if the insurance company also insures the property for wind damage—*

*(A) any adjuster estimates for both wind and flood damage;*

*(B) the amount paid to the property owner for wind and flood claims;*

*(C) the total amount paid to the policyholder for damages as a result of the event that caused the flooding and other losses;*

*(2) any amounts paid to the policyholder by the insurance company for damages to the insured property other than flood damages; and*

*(3) the total amount paid to the policyholder by the insurance company for all damages incurred to the insured property as a result of the flood.*

***SEC. 129. EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES.***

*(a) SUBMISSION OF BIENNIAL REPORTS.—*

*(1) TO THE DIRECTOR.—Not later than 20 days after the date of enactment of this title, each*

*property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program shall submit to the Director any biennial report prepared in the prior 5 years by such company.*

*(2) TO GAO.—Not later than 10 days after the submission of the biennial reports under paragraph (1), the Director shall submit all such reports to the Comptroller General of the United States.*

*(3) NOTICE TO CONGRESS OF FAILURE TO COMPLY.—The Director shall notify and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on any property and casualty insurance company participating in the Write Your Own program that failed to submit its biennial reports as required under paragraph (1).*

*(4) FAILURE TO COMPLY.—A property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount equal to $1,000 per day for each day that the company remains in noncompliance with either such requirement.*

*(b) FEMA RULEMAKING ON EXPENSES OF WYO PROGRAM.—Not later than 180 days after the date of enactment of this title, the Director shall conduct a rulemaking proceeding to devise a data collection methodology to allow the Federal Emergency Management Agency to collect consistent information on the expenses (including the operating and administrative expenses for adjustment of claims) of property and casualty insurance companies participating in the Write Your Own program for selling, writing, and servicing, standard flood insurance policies.*

*(c) SUBMISSION OF EXPENSE REPORTS.—Not later than 60 days after the effective date of the final rule established pursuant to subsection (b), each property and casualty insurance company participating in the Write Your Own program shall submit a report to the Director that details for the prior 5 years the expense levels of each such company for selling, writing, and servicing standard flood insurance policies based on the methodologies established under subsection (b).*

*(d) FEMA RULEMAKING ON REIMBURSEMENT OF EXPENSES UNDER THE WYO PROGRAM.—Not later than 15 months after the date of enactment of this title, the Director shall conduct a rulemaking proceeding to formulate revised expense reimbursements to property and casualty insurance companies participating in the Write Your Own program for their expenses (including their operating and administrative expenses for adjustment of claims) in selling, writing, and servicing standard flood insurance policies, including how such companies shall be reimbursed in both catastrophic and non-catastrophic years. Such reimbursements shall be structured to ensure reimbursements track the actual expenses, including standard business costs and operating expenses, of such companies as close as practicably possible.*

*(e) REPORT OF THE DIRECTOR.—Not later than 60 days after the effective date of any final rule established pursuant to subsection (b) or subsection (d), the Director shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—*

*(1) the specific rationale and purposes of such rule;*

*(2) the reasons for the adoption of the policies contained in such rule; and*

*(3) the degree to which such rule accurately represents the true operating costs and expenses of property and casualty insurance companies participating in the Write Your Own program.*

*(f) GAO STUDY AND REPORT ON EXPENSES OF WYO PROGRAM.—*

*(1) STUDY.—Not later than 180 days after the effective date of the final rule established pursuant to subsection (d), the Comptroller General of the United States shall—*

*(A) conduct a study on the efficacy, adequacy, and sufficiency of the final rules established pursuant to subsections (b) and (d); and*

*(B) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the findings of the study conducted under subparagraph (A).*

*(2) GAO AUTHORITY.—In conducting the study and report required under paragraph (1), the Comptroller General—*

*(A) may use any previous findings, studies, or reports that the Comptroller General previously completed on the Write Your Own program;*

*(B) shall determine if—*

*(i) the final rules established pursuant to subsections (b) and (d) allow the Federal Emergency Management Agency to access adequate information regarding the actual expenses of property and casualty insurance companies participating in the Write Your Own program; and*

*(ii) the actual reimbursements paid out under the final rule established in subsection (d) accurately reflect the expenses reported by property and casualty insurance companies participating in the Write Your Own program, including the standard business costs and operating expenses of such companies; and*

*(C) shall analyze the effect of such rules on the level of participation of property and casualty insurers in the Write Your Own program.*

***SEC. 130. EXTENSION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.***

*(a) IN GENERAL.—Section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a) is amended—*

*(1) in subsection (k)(1)—*

*(A) in the first sentence, by striking ''in each of fiscal years 2005, 2006, 2007, 2008, and 2009'' and inserting ''in each fiscal year through fiscal year 2013''; and*

*(B) by adding at the end the following new sentence: ''For fiscal years 2008 through the 2013, the total amount that the Director may use to provide assistance under this section shall not exceed $240,000,000.''; and*

*(2) by striking subsection (l).*

*(b) REPORT TO CONGRESS ON IMPLEMENTATION STATUS.—Not later than 6 months after the date of enactment of this title, the Director shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the implementation of the pilot program for severe repetitive loss properties authorized under section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a).*

*(c) RULEMAKING.—No later than 90 days after the date of enactment of this title, the Director shall issue final rules to carry out the severe repetitive loss pilot program authorized under section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a).*

***SEC. 131. FLOOD INSURANCE ADVOCATE.***

*Chapter II of the National Flood Insurance Act of 1968 is amended by inserting after section 1330 (42 U.S.C. 4041) the following new section:*

***''SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVOCATE.***

*''(a) ESTABLISHMENT OF POSITION.—*

*''(1) IN GENERAL.—There shall be in the Federal Emergency Management Agency an Office of the Flood Insurance Advocate which shall be headed by the National Flood Insurance Advocate. The National Flood Insurance Advocate shall—*

*''(A) to the extent amounts are provided pursuant to subsection (n), be compensated at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Director so determines, at a rate fixed under section 9503 of such title;*

*''(B) be appointed by the Director without regard to political affiliation;*

*''(C) report to and be under the general supervision of the Director, but shall not report to, or be subject to supervision by, any other officer of the Federal Emergency Management Agency; and*

*''(D) consult with the Assistant Administrator for Mitigation or any successor thereto, but shall not report to, or be subject to the general supervision by, the Assistant Administrator for Mitigation or any successor thereto.*

*''(2) QUALIFICATIONS.—An individual appointed under paragraph (1)(B) shall have a background in customer service, or experience representing insureds, as well as experience in investigations or audits.*

*''(3) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Flood Insurance Advocate only if such individual was not an officer or employee of the Federal Emergency Management Agency with duties relating to the national flood insurance program during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Federal Emergency Management Agency for at least 2 years after ceasing to be the National Flood Insurance Advocate. Service as an employee of the National Flood Insurance Advocate shall not be taken into account in applying this paragraph.*

*''(4) STAFF.—To the extent amounts are provided pursuant to subsection (n), the National Flood Insurance Advocate may employ such personnel as may be necessary to carry out the duties of the Office.*

*''(5) INDEPENDENCE.—The Director shall not prevent or prohibit the National Flood Insurance Advocate from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena or summons during the course of any audit or investigation.*

*''(6) REMOVAL.—The President and the Director shall have the power to remove, discharge, or dismiss the National Flood Insurance Advocate. Not later than 15 days after the removal, discharge, or dismissal of the Advocate, the President or the Director shall report to the Committee on Banking of the Senate and the Committee on Financial Services of the House of Representatives on the basis for such removal, discharge, or dismissal.*

*''(b) FUNCTIONS OF OFFICE.—It shall be the function of the Office of the Flood Insurance Advocate to—*

*''(1) assist injure under the national flood insurance program in resolving problems with the Federal Emergency Management Agency relating to such program;*

*''(2) identify areas in which such injure have problems in dealings with the Federal Emergency Management Agency relating to such program;*

*''(3) propose changes in the administrative practices of the Federal Emergency Management Agency to mitigate problems identified under paragraph (2);*

*''(4) identify potential legislative, administrative, or regulatory changes which may be appropriate to mitigate such problems;*

*''(5) conduct, supervise, and coordinate—*

*''(A) systematic and random audits and investigations of insurance companies and associated entities that sell or offer policies under the National Flood Insurance Program to determine whether such insurance companies or associated entities are allocating only flood losses under such insurance policies to the National Flood Insurance Program; and*

*''(B) audits and investigations to determine if an insurance company or associated entity described under subparagraph (A) is negotiating on behalf of the National Flood Insurance Program with third parties in good faith;*

*''(6) conduct, supervise, and coordinate investigations into the operations of the national flood insurance program for the purpose of—*

''(A) promoting economy and efficiency in the administration of such program;

''(B) preventing and detecting fraud and abuse in the program; and

''(C) identifying, and referring to the Attorney General for prosecution, any participant in such fraud or abuse; and

''(7) identify and investigate conflicts of interest that undermine the economy and efficiency of the national flood insurance program.

''(c) AUTHORITY OF THE NATIONAL FLOOD INSURANCE ADVOCATE.—The National Flood Insurance Advocate may—

''(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Director which relate to administration or operation of the national flood insurance program with respect to which the National Flood Insurance Advocate has responsibilities under this section, including information submitted pursuant to Section 128 of this Act;

''(2) undertake such investigations and reports relating to the administration or operation of the national flood insurance program as are, in the judgment of the National Flood Insurance Advocate, necessary or desirable;

''(3) request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

''(4) request the production of information, documents, reports, answers, records (including phone records), accounts, papers, emails, hard drives, backup tapes, software, audio or visual aides, and any other data and documentary evidence necessary in the performance of the functions assigned to the National Flood Insurance Advocate by this section;

''(5) request the testimony of any person in the employ of any insurance company or associated entity participating in the National Flood Insurance Program, described under subsection (b)(5)(A), or any successor to such company or entity, including any member of the board of such company or entity, any trustee of such company or entity, any partner in such company or entity, or any agent or representative of such company or entity;

''(6) select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

''(7) obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for the rate of basic pay for a position at level IV of the Executive Schedule; and

''(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

''(d) ADDITIONAL DUTIES OF THE NFIA.—The National Flood Insurance Advocate shall—

''(1) monitor the coverage and geographic allocation of regional offices of flood insurance advocates;

''(2) develop guidance to be distributed to all Federal Emergency Management Agency officers and employees having duties with respect to the national flood insurance program, outlining the criteria for referral of inquiries by insureds under such program to regional offices of flood insurance advocates;

''(3) ensure that the local telephone number for each regional office of the flood insurance advocate is published and available to such insureds served by the office; and

''(4) establish temporary State or local offices where necessary to meet the needs of qualified insureds following a flood event.

''(e) OTHER RESPONSIBILITIES.—

''(1) ADDITIONAL REQUIREMENTS RELATING TO CERTAIN AUDITS.—Prior to conducting any audit or investigation relating to the allocation of flood losses under subsection (b)(5)(A), the National Flood Insurance Advocate may—

''(A) consult with appropriate subject-matter experts to identify the data necessary to determine whether flood claims paid by insurance companies or associated entities on behalf the national flood insurance program reflect damages caused by flooding;

''(B) collect or compile the data identified in subparagraph (A), utilizing existing data sources to the maximum extent practicable; and

''(C) establish policies, procedures, and guidelines for application of such data in all audits and investigations authorized under this section.

''(2) ANNUAL REPORTS.—

''(A) ACTIVITIES.—Not later than December 31 of each calendar year, the National Flood Insurance Advocate shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the activities of the Office of the Flood Insurance Advocate during the fiscal year ending during such calendar year. Any such report shall contain a full and substantive analysis of such activities, in addition to statistical information, and shall—

''(i) identify the initiatives the Office of the Flood Insurance Advocate has taken on improving services for insureds under the national flood insurance program and responsiveness of the Federal Emergency Management Agency with respect to such initiatives;

''(ii) describe the nature of recommendations made to the Director under subsection (i);

''(iii) contain a summary of the most serious problems encountered by such insureds, including a description of the nature of such problems;

''(iv) contain an inventory of any items described in clauses (i), (ii), and (iii) for which action has been taken and the result of such action;

''(v) contain an inventory of any items described in clauses (i), (ii), and (iii) for which action remains to be completed and the period during which each item has remained on such inventory;

''(vi) contain an inventory of any items described in clauses (i), (ii), and (iii) for which no action has been taken, the period during which each item has remained on such inventory and the reasons for the inaction;

''(vii) identify any Flood Insurance Assistance Recommendation which was not responded to by the Director in a timely manner or was not followed, as specified under subsection (i);

''(viii) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by such insureds;

''(ix) identify areas of the law or regulations relating to the national flood insurance program that impose significant compliance burdens on such insureds or the Federal Emergency Management Agency, including specific recommendations for remedying these problems;

''(x) identify the most litigated issues for each category of such insureds, including recommendations for mitigating such disputes;

''(xi) identify ways to promote the economy, efficiency, and effectiveness in the administration of the national flood insurance program;

''(xii) identify fraud and abuse in the national flood insurance program; and

''(xiii) include such other information as the National Flood Insurance Advocate may deem advisable.

''(B) DIRECT SUBMISSION OF REPORT.—Each report required under this paragraph shall be provided directly to the committees identified in subparagraph (A) without any prior review or comment from the Director, the Secretary of Homeland Security, or any other officer or employee of the Federal Emergency Management Agency or the Department of Homeland Security, or the Office of Management and Budget.

''(3) INFORMATION AND ASSISTANCE FROM OTHER AGENCIES.—

''(A) IN GENERAL.—Upon request of the National Flood Insurance Advocate for information or assistance under this section, the head of any Federal agency shall, insofar as is practicable and not in contravention of any statutory restriction or regulation of the Federal agency from which the information is requested, furnish to the National Flood Insurance Advocate, or to an authorized designee of the National Flood Insurance Advocate, such information or assistance.

''(B) REFUSAL TO COMPLY.—Whenever information or assistance requested under this subsection is, in the judgment of the National Flood Insurance Advocate, unreasonably refused or not provided, the National Flood Insurance Advocate shall report the circumstances to the Director without delay.

''(f) COMPLIANCE WITH GAO STANDARDS.—In carrying out the responsibilities established under this section, the National Flood Insurance Advocate shall—

''(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

''(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors;

''(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1); and

''(4) take the necessary steps to minimize the publication of proprietary and trade secrets information.

''(g) PERSONNEL ACTIONS.—

''(1) IN GENERAL.—The National Flood Insurance Advocate shall have the responsibility and authority to—

''(A) appoint regional flood insurance advocates in a manner that will provide appropriate coverage based upon regional flood insurance program participation; and

''(B) hire, evaluate, and take personnel actions (including dismissal) with respect to any employee of any regional office of a flood insurance advocate described in subparagraph (A).

''(2) CONSULTATION.—The National Flood Insurance Advocate may consult with the appropriate supervisory personnel of the Federal Emergency Management Agency in carrying out the National Flood Insurance Advocate's responsibilities under this subsection.

''(h) OPERATION OF REGIONAL OFFICES.—

''(1) IN GENERAL.—Each regional flood insurance advocate appointed pursuant to subsection (d)—

''(A) shall report to the National Flood Insurance Advocate or delegate thereof;

''(B) may consult with the appropriate supervisory personnel of the Federal Emergency Management Agency regarding the daily operation of the regional office of the flood insurance advocate;

''(C) shall, at the initial meeting with any insured under the national flood insurance program seeking the assistance of a regional office of the flood insurance advocate, notify such insured that the flood insurance advocate offices operate independently of any other Federal Emergency Management Agency office and report directly to Congress through the National Flood Insurance Advocate; and

''(D) may, at the flood insurance advocate's discretion, not disclose to the Director contact with, or information provided by, such insured.

''(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each regional office of the flood insurance advocate shall maintain a separate

*phone, facsimile, and other electronic communication access.*

*''(i) FLOOD INSURANCE ASSISTANCE RECOMMENDATIONS.—*

*''(1) AUTHORITY TO ISSUE.—Upon application filed by a qualified insured with the Office of the Flood Insurance Advocate (in such form, manner, and at such time as the Director shall by regulation prescribe), the National Flood Insurance Advocate may issue a Flood Insurance Assistance Recommendation, if the Advocate finds that the qualified insured is suffering a significant hardship, such as a significant delay in resolving claims where the insured is incurring significant costs as a result of such delay, or where the insured is at risk of adverse action, including the loss of property, as a result of the manner in which the flood insurance laws are being administered by the Director.*

*''(2) TERMS OF A FLOOD INSURANCE ASSISTANCE RECOMMENDATION.—The terms of a Flood Insurance Assistance Recommendation may recommend to the Director that the Director, within a specified time period, cease any action, take any action as permitted by law, or refrain from taking any action, including the payment of claims, with respect to the qualified insured under any other provision of law which is specifically described by the National Flood Insurance Advocate in such recommendation.*

*''(3) DIRECTOR RESPONSE.—Not later than 15 days after the receipt of any Flood Insurance Assistance Recommendation under this subsection, the Director shall respond in writing as to—*

*''(A) whether such recommendation was followed;*

*''(B) why such recommendation was or was not followed; and*

*''(C) what, if any, additional actions were taken by the Director to prevent the hardship indicated in such recommendation.*

*''(4) RESPONSIBILITIES OF DIRECTOR.—The Director shall establish procedures requiring a formal response consistent with the requirements of paragraph (3) to all recommendations submitted to the Director by the National Flood Insurance Advocate under this subsection.*

*''(j) REPORTING OF POTENTIAL CRIMINAL VIOLATIONS.—In carrying out the duties and responsibilities established under this section, the National Flood Insurance Advocate shall report expeditiously to the Attorney General whenever the National Flood Insurance Advocate has reasonable grounds to believe there has been a violation of Federal criminal law.*

*''(k) COORDINATION.—*

*''(1) WITH OTHER FEDERAL AGENCIES.—In carrying out the duties and responsibilities established under this section, the National Flood Insurance Advocate—*

*''(A) shall give particular regard to the activities of the Inspector General of the Department of Homeland Security with a view toward avoiding duplication and insuring effective coordination and cooperation; and*

*''(B) may participate, upon request of the Inspector General of the Department of Homeland Security, in any audit or investigation conducted by the Inspector General.*

*''(2) WITH STATE REGULATORS.—In carrying out any investigation or audit under this section, the National Flood Insurance Advocate shall coordinate its activities and efforts with any State insurance authority that is concurrently undertaking a similar or related investigation or audit.*

*''(3) AVOIDANCE OF REDUNDANCIES IN THE RESOLUTION OF PROBLEMS.—In providing any assistance to a policyholder pursuant to paragraphs (1) and (2) of subsection (b), the National Flood Insurance Advocate shall consult with the Director to eliminate, avoid, or reduce any redundancies in actions that may arise as a result of the actions of the National Flood Insurance Advocate and the claims appeals process described under section 62.20 of title 44, Code of Federal Regulations.*

*''(l) AUTHORITY OF THE DIRECTOR TO LEVY PENALTIES.—The Director and the Advocate shall establish procedures to take appropriate action against an insurance company, including monetary penalties and removal or suspension from the program, when a company refuses to cooperate with an investigation or audit under this section or where a finding has been made of improper conduct.*

*''(m) DEFINITIONS.—For purposes of this subsection:*

*''(1) ASSOCIATED ENTITY.—The term 'associated entity' means any person, corporation, or other legal entity that contracts with the Director or an insurance company to provide adjustment services, benefits calculation services, claims services, processing services, or record keeping services in connection with standard flood insurance policies made available under the national flood insurance program.*

*''(2) INSURANCE COMPANY.—The term 'insurance company' refers to any property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program under the national flood insurance program.*

*''(3) NATIONAL FLOOD INSURANCE ADVOCATE.—The term 'National Flood Insurance Advocate' includes any designee of the National Flood Insurance Advocate.*

*''(4) QUALIFIED INSURED.—The term 'qualified insured' means an insured under coverage provided under the national flood insurance program under this title.*

*''(n) FUNDING.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to fund the activities of the Office of the Flood Advocate in each of fiscal years 2009 through 2014, except that the amount so used in each such fiscal year may not exceed $5,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.''.*

***SEC. 132. STUDIES AND REPORTS.***

*(a) REPORT ON EXPANDING THE NATIONAL FLOOD INSURANCE PROGRAM.—Not later than 1 year after the date of the enactment of this title, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on—*

*(1) the number of flood insurance policy holders currently insuring—*

*(A) a residential structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of—*

*(i) $250,000 for the structure; and*

*(ii) $100,000 for the contents of such structure; or*

*(B) a commercial structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of $500,000;*

*(2) the increased losses the National Flood Insurance Program would have sustained during the 2004 and 2005 hurricane season if the National Flood Insurance Program had insured all policyholders up to the maximum conforming loan limit for fiscal year 2006 of $417,000, as established under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2));*

*(3) the availability in the private marketplace of flood insurance coverage in amounts that exceed the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations; and*

*(4) what effect, if any—*

*(A) raising the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to continue providing flood insurance coverage; and*

*(B) reducing the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to provide sufficient flood insurance coverage to effectively replace the current level of flood insurance coverage being provided under the National Flood Insurance Program.*

*(b) REPORT OF THE DIRECTOR ON ACTIVITIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—*

*(1) IN GENERAL.—The Director shall, on an annual basis, submit a full report on the operations, activities, budget, receipts, and expenditures of the National Flood Insurance Program for the preceding 12-month period to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.*

*(2) TIMING.—Each report required under paragraph (1) shall be submitted to the committees described in paragraph (1) not later than 3 months following the end of each fiscal year.*

*(3) CONTENTS.—Each report required under paragraph (1) shall include—*

*(A) the current financial condition and income statement of the National Flood Insurance Fund established under section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), including—*

*(i) premiums paid into such Fund;*

*(ii) policy claims against such Fund; and*

*(iii) expenses in administering such Fund;*

*(B) the number and face value of all policies issued under the National Flood Insurance Program that are in force;*

*(C) a description and summary of the losses attributable to repetitive loss structures;*

*(D) a description and summary of all losses incurred by the National Flood Insurance Program due to—*

*(i) hurricane related damage; and*

*(ii) nonhurricane related damage;*

*(E) the amounts made available by the Director for mitigation assistance under section 1366(e)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)(5)) for the purchase of properties substantially damaged by flood for that fiscal year, and the actual number of flood damaged properties purchased and the total cost expended to purchase such properties;*

*(F) the estimate of the Director as to the average historical loss year, and the basis for that estimate;*

*(G) the estimate of the Director as to the maximum amount of claims that the National Flood Insurance Program would have to expend in the event of a catastrophic year;*

*(H) the average—*

*(i) amount of insurance carried per flood insurance policy;*

*(ii) premium per flood insurance policy; and*

*(iii) loss per flood insurance policy; and*

*(I) the number of claims involving damages in excess of the maximum amount of flood insurance available under the National Flood Insurance Program and the sum of the amount of all damages in excess of such amount.*

*(c) GAO STUDY ON PRE-FIRM STRUCTURES.—Not later than 1 year after the date of the enactment of this title, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on the—*

*(1) composition of the remaining pre-FIRM structures that are explicitly receiving discounted premium rates under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104), including the historical basis for the receipt of such subsidy and whether such subsidy has outlasted its purpose;*

*(2) number and fair market value of such structures;*

*(3) respective income level of each owner of such structure;*

*(4) number of times each such structure has been sold since 1968, including specific dates, sales price, and any other information the Secretary determines appropriate;*

*(5) total losses incurred by such structures since the establishment of the National Flood Insurance Program compared to the total losses incurred by all structures that are charged a nondiscounted premium rate;*

*(6) total cost of foregone premiums since the establishment of the National Flood Insurance Program, as a result of the subsidies provided to such structures;*

*(7) annual cost to the taxpayer, as a result of the subsidies provided to such structures;*

*(8) the premium income collected and the losses incurred by the National Flood Insurance Program as a result of such explicitly subsidized structures compared to the premium income collected and the losses incurred by such Program as result of structures that are charged a nondiscounted premium rate, on a State-by-State basis; and*

*(9) the most efficient way to eliminate the subsidy to such structures.*

*(d) GAO REVIEW OF FEMA CONTRACTORS.—The Comptroller General of the United States, in conjunction with the Department of Homeland Security's Inspectors general Office, shall—*

*(1) conduct a review of the 3 largest contractors the Director uses in administering the National Flood Insurance Program; and*

*(2) not later than 18 months after the date of enactment of this title, submit a report on the findings of such review to the Director, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.*

***SEC. 133. FEASIBILITY STUDY ON PRIVATE REINSURANCE.***

*Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct and submit a report to Congress on—*

*(1) the feasibility of requiring the Director, as part of carrying out the responsibilities of the Director under the National Flood Insurance Program, to purchase private reinsurance or retrocessional coverage, in addition to any such reinsurance coverage required under section 1335 of the National Flood Insurance Act of 1968 (42 U.S.C. 4055), to underlying primary private insurers for losses arising due to flood insurance coverage provided by such insurers;*

*(2) the feasibility of repealing the reinsurance requirement under such section 1335, and requiring the Director, as part of carrying out the responsibilities of the Director under the National Flood Insurance Program, to purchase private reinsurance or retrocessional coverage to underlying primary private insurers for losses arising due to flood insurance coverage provided by such insurer; and*

*(3) the estimated total savings to the taxpayer of taking each such action described in paragraph (1) or (2).*

***SEC. 134. POLICY DISCLOSURES.***

*(a) IN GENERAL.—Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.*

*(b) VIOLATIONS.—Any person that violates the requirements of this section shall be subject to a fine of not more than $50,000 at the discretion of the Director.*

***SEC. 135. REPORT ON INCLUSION OF BUILDING CODES IN FLOODPLAIN MANAGEMENT CRITERIA.***

*Not later than 6 months after the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section, and shall determine—*

*(1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;*

*(2) the resources required of State and local communities to administer and enforce such a building code requirement;*

*(3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;*

*(4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;*

*(5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction; and*

*(6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building code or any applicable local building code provides greater protection from flood damage.*

***TITLE II—COMMISSION ON NATURAL CATASTROPHE RISK MANAGEMENT AND INSURANCE***

***SEC. 201. SHORT TITLE.***

*This title may be cited as the ''Commission on Natural Catastrophe Risk Management and Insurance Act of 2008''.*

***SEC. 202. FINDINGS.***

*Congress finds that—*

*(1) Hurricanes Katrina, Rita, and Wilma, which struck the United States in 2005, caused, by some estimates, in excess of $200,000,000,000 in total economic losses;*

*(2) many meteorologists predict that the United States is in a period of increased hurricane activity;*

*(3) the Federal Government and State governments have provided billions of dollars to pay for losses from natural catastrophes, including hurricanes, earthquakes, volcanic eruptions, tsunamis, tornados, flooding, wildfires, droughts, and other natural catastrophes;*

*(4) many Americans are finding it increasingly difficult to obtain and afford property and casualty insurance coverage;*

*(5) some insurers are not renewing insurance policies, are excluding certain risks, such as wind damage, and are increasing rates and deductibles in some markets;*

*(6) the inability of property and business owners in vulnerable areas to obtain and afford property and casualty insurance coverage endangers the national economy and public health and safety;*

*(7) almost every State in the United States is at risk of a natural catastrophe, including hurricanes, earthquakes, volcanic eruptions, tsunamis, tornados, flooding, wildfires, droughts, and other natural catastrophes;*

*(8) building codes and land use regulations play an indispensable role in managing catastrophe risks, by preventing building in high risk areas and ensuring that appropriate mitigation efforts are completed where building has taken place;*

*(9) several proposals have been introduced in Congress to address the affordability and availability of natural catastrophe insurance across the United States, but there is no consensus on what, if any, role the Federal Government should play; and*

*(10) an efficient and effective approach to assessing natural catastrophe risk management and insurance is to establish a nonpartisan commission to study the management of natural catastrophe risk, and to require such commission to timely report to Congress on its findings.*

***SEC. 203. ESTABLISHMENT.***

*There is established a nonpartisan Commission on Natural Catastrophe Risk Management and Insurance (in this title referred to as the ''Commission'').*

***SEC. 204. MEMBERSHIP.***

*(a) APPOINTMENT.—The Commission shall be composed of 16 members, of whom—*

*(1) 2 members shall be appointed by the majority leader of the Senate;*

*(2) 2 members shall be appointed by the minority leader of the Senate;*

*(3) 2 members shall be appointed by the Speaker of the House of Representatives;*

*(4) 2 members shall be appointed by the minority leader of the House of Representatives;*

*(5) 2 members shall be appointed by the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate;*

*(6) 2 members shall be appointed by the Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate;*

*(7) 2 members shall be appointed by the Chairman of the Committee on Financial Services of the House of Representatives; and*

*(8) 2 members shall be appointed by the Ranking Member of the Committee on Financial Services of the House of Representatives.*

*(b) QUALIFICATION OF MEMBERS.—*

*(1) IN GENERAL.—Members of the Commission shall be appointed under subsection (a) from among persons who—*

*(A) have expertise in insurance, reinsurance, insurance regulation, policyholder concerns, emergency management, risk management, public finance, financial markets, actuarial analysis, flood mapping and planning, structural engineering, building standards, land use planning, natural catastrophes, meteorology, seismology, environmental issues, or other pertinent qualifications or experience; and*

*(B) are not officers or employees of the United States Government or of any State government.*

*(2) DIVERSITY.—In making appointments to the Commission—*

*(A) every effort shall be made to ensure that the members are representative of a broad cross section of perspectives within the United States; and*

*(B) each member of Congress described in subsection (a) shall appoint not more than 1 person from any single primary area of expertise described in paragraph (1)(A) of this subsection.*

*(c) PERIOD OF APPOINTMENT.—*

*(1) IN GENERAL.—Each member of the Commission shall be appointed for the duration of the Commission.*

*(2) VACANCIES.—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.*

*(d) QUORUM.—*

*(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number, as determined by the Commission, may hold hearings.*

*(2) APPROVAL ACTIONS.—All recommendations and reports of the Commission required by this title shall be approved only by a majority vote of all of the members of the Commission.*

*(e) CHAIRPERSON.—The Commission shall, by majority vote of all of the members, select 1 member to serve as the Chairperson of the Commission (in this title referred to as the ''Chairperson'').*

*(f) MEETINGS.—The Commission shall meet at the call of its Chairperson or a majority of the members.*

***SEC. 205. DUTIES OF THE COMMISSION.***

*The Commission shall examine the risks posed to the United States by natural catastrophes, and means for mitigating those risks and for*

*paying for losses caused by natural catastrophes, including assessing—*

*(1) the condition of the property and casualty insurance and reinsurance markets prior to and in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, and the 4 major hurricanes that struck the United States in 2004;*

*(2) the current condition of, as well as the outlook for, the availability and affordability of insurance in all regions of the country;*

*(3) the current ability of States, communities, and individuals to mitigate their natural catastrophe risks, including the affordability and feasibility of such activities;*

*(4) the ongoing exposure of the United States to natural catastrophes, including hurricanes, earthquakes, volcanic eruptions, tsunamis, tornados, flooding, wildfires, droughts, and other natural catastrophes;*

*(5) the catastrophic insurance and reinsurance markets and the relevant practices in providing insurance protection to different sectors of the American population;*

*(6) implementation of a catastrophic insurance system that can resolve key obstacles currently impeding broader implementation of catastrophic risk management and financing with insurance;*

*(7) the financial feasibility and sustainability of a national, regional, or other pooling mechanism designed to provide adequate insurance coverage and increased underwriting capacity to insurers and reinsurers, including private-public partnerships to increase insurance capacity in constrained markets;*

*(8) methods to promote public insurance policies to reduce losses caused by natural catastrophes in the uninsured sectors of the American population;*

*(9) approaches for implementing a public or private insurance scheme for low-income communities, in order to promote risk reduction and insurance coverage in such communities;*

*(10) the impact of Federal and State laws, regulations, and policies (including rate regulation, market access requirements, reinsurance regulations, accounting and tax policies, State residual markets, and State catastrophe funds) on—*

*(A) the affordability and availability of catastrophe insurance;*

*(B) the capacity of the private insurance market to cover losses inflicted by natural catastrophes;*

*(C) the commercial and residential development of high-risk areas; and*

*(D) the costs of natural catastrophes to Federal and State taxpayers;*

*(11) the present and long-term financial condition of State residual markets and catastrophe funds in high-risk regions, including the likelihood of insolvency following a natural catastrophe, the concentration of risks within such funds, the reliance on post-event assessments and State funding, and the adequacy of rates;*

*(12) the role that innovation in financial services could play in improving the affordability and availability of natural catastrophe insurance, specifically addressing measures that would foster the development of financial products designed to cover natural catastrophe risk, such as risked-linked securities;*

*(13) the need for strengthened land use regulations and building codes in States at high risk for natural catastrophes, and methods to strengthen the risk assessment and enforcement of structural mitigation and vulnerability reduction measures, such as zoning and building code compliance;*

*(14) the benefits and costs of proposed Federal natural catastrophe insurance programs (including the Federal Government providing reinsurance to State catastrophe funds, private insurers, or other entities), specifically addressing the costs to taxpayers, tax equity considerations, and the record of other government insurance programs (particularly with regard to charging actuarially sound prices);*

*(15) the ability of the United States private insurance market—*

*(A) to cover insured losses caused by natural catastrophes, including an estimate of the maximum amount of insured losses that could be sustained during a single year and the probability of natural catastrophes occurring in a single year that would inflict more insured losses than the United States insurance and reinsurance markets could sustain; and*

*(B) to recover after covering substantial insured losses caused by natural catastrophes;*

*(16) the impact that demographic trends could have on the amount of insured losses inflicted by future natural catastrophes;*

*(17) the appropriate role, if any, for the Federal Government in stabilizing the property and casualty insurance and reinsurance markets; and*

*(18) the role of the Federal, State, and local governments in providing incentives for feasible risk mitigation efforts.*

***SEC. 206. REPORT.***

*(a) IN GENERAL.—Not later than 9 months after the date of enactment of this title, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a final report containing—*

*(1) a detailed statement of the findings and assessments conducted by the Commission pursuant to section 205; and*

*(2) any recommendations for legislative, regulatory, administrative, or other actions at the Federal, State, or local levels that the Commission considers appropriate, in accordance with the requirements of section 205.*

*(b) EXTENSION OF TIME.—The Commission may request Congress to extend the period of time for the submission of the report required under subsection (a) for an additional 3 months.*

***SEC. 207. POWERS OF THE COMMISSION.***

*(a) MEETINGS; HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this title. Members may attend meetings of the Commission and vote in person, via telephone conference, or via video conference.*

*(b) AUTHORITY OF MEMBERS OR AGENTS OF THE COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this title.*

*(c) OBTAINING OFFICIAL DATA.—*

*(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States any information necessary to enable the Commission to carry out this title.*

*(2) PROCEDURE.—Upon request of the Chairperson, the head of such department or agency shall furnish to the Commission the information requested.*

*(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.*

*(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services necessary for the Commission to carry out its responsibilities under this title.*

*(f) ACCEPTANCE OF GIFTS.—The Commission may accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the Commission. The Commission shall issue internal guidelines governing the receipt of donations of services or property.*

*(g) VOLUNTEER SERVICES.—Notwithstanding the provisions of section 1342 of title 31, United States Code, the Commission may accept and utilize the services of volunteers serving without compensation. The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.*

*(h) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.*

*(i) LIMITATION ON CONTRACTS.—A contract or other legal agreement entered into by the Commission may not extend beyond the date of the termination of the Commission.*

***SEC. 208. COMMISSION PERSONNEL MATTERS.***

*(a) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.*

*(b) SUBCOMMITTEES.—The Commission may establish subcommittees and appoint members of the Commission to such subcommittees as the Commission considers appropriate.*

*(c) STAFF.—Subject to such policies as the Commission may prescribe, the Chairperson may appoint and fix the pay of such additional personnel as the Chairperson considers appropriate to carry out the duties of the Commission. The Commission shall confirm the appointment of the executive director by majority vote of all of the members of the Commission.*

*(d) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Staff of the Commission may be—*

*(1) appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and*

*(2) paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay prescribed for GS–15 of the General Schedule under section 5332 of that title.*

*(e) EXPERTS AND CONSULTANTS.—In carrying out its objectives, the Commission may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS–15 of the General Schedule under section 5332 of that title.*

*(f) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson, any Federal Government employee may be detailed to the Commission to assist in carrying out the duties of the Commission—*

*(1) on a reimbursable basis; and*

*(2) such detail shall be without interruption or loss of civil service status or privilege.*

***SEC. 209. TERMINATION.***

*The Commission shall terminate 90 days after the date on which the Commission submits its report under section 206.*

***SEC. 210. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated to the Commission, such sums as may be necessary to carry out this title, to remain available until expended.*

## *TITLE III—MISCELLANEOUS*

***SEC. 301. BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.***

*The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota, authorized by section 101(a)(28) of the Water Resources Development Act of 1996 (110 Stat. 3666), is modified to authorize the Secretary to*

*reimburse the non-Federal interest for funds advanced by the non-Federal interest for the Federal share of the project, only if additional Federal funds are appropriated for that purpose.*

***SEC. 302. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.***

*(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—*

*(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and*

*(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.*

*(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $75 or less per barrel—*

*(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and*

*(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.*

*(c) EXISTING CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.*

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2007—MOTION TO PROCEED—Resumed

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The clerk will report the motion to invoke cloture.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 275, H.R. 980, the Public Safety Employer-Employee Cooperation Act.

Edward M. Kennedy, Robert Menendez, Russell D. Feingold, Patty Murray, Daniel K. Inouye, Amy Klobuchar, Debbie Stabenow, Ron Wyden, Barbara Boxer, Christopher J. Dodd, John D. Rockefeller, IV, Jon Tester, Sheldon Whitehouse, Frank R. Lautenberg, Sherrod Brown, Jeff Bingaman, John F. Kerry.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 980, the Public Safety Employer-Employee Cooperation Act, shall be brought to a close?

There is 2 minutes of debate, equally divided.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this is the legislation to provide a voice for our public safety offices. We have spent a great deal of time in the Senate on homeland security, but the key to effective homeland security is having effective firefighters, police officials, and first responders. They are the individuals who are really protecting our homeland. They are the ones who should have a voice in decisions affecting the security of our country. This legislation provides them with that, to ensure greater safety and security for all Americans. I hope the Senate will support the cloture motion.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, once again, we have one of those bills that has never been to committee. I guess we are afraid to take labor issues to the Labor Committee. We ought to be able to review these things and work on them as we do on other kinds of bills, but that is not happening on the labor issues. We are just going to play ''gotcha'' politics.

This bill will take longer than a minute or an hour or a day just to cover some of the flaws that are in this bill. Some of the things that have shown up in the substitute bill never got introduced on this one. So we can see how this doesn't work. This will affect all 50 States. This is an opportunity for you to impose the will of the Federal Government on your State. I don't think you really want to do that. We need to have a little bit more than a minute to discuss that.

I think the leadership is asking for people to vote for this amendment. We have agreed that we would go to it right after lunch. This isn't a matter of stalling out in the Senate; it is a matter of trying to get the right decision made. I ask you to look at these things. It ought to go to the Labor Committee so that reasonable suggestions can be made.

The ACTING PRESIDENT pro tempore. The yeas and nays are mandatory under the rule. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 69, nays 29, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—69

| | | |
|---|---|---|
| Akaka | Biden | Brown |
| Baucus | Bingaman | Byrd |
| Bayh | Boxer | Cantwell |
| Cardin | Johnson | Obama |
| Carper | Kennedy | Pryor |
| Casey | Kerry | Reed |
| Chambliss | Klobuchar | Reid |
| Clinton | Kohl | Rockefeller |
| Coleman | Landrieu | Salazar |
| Collins | Lautenberg | Sanders |
| Conrad | Leahy | Schumer |
| Dodd | Levin | Smith |
| Domenici | Lieberman | Snowe |
| Dorgan | Lincoln | Specter |
| Durbin | Martinez | Stabenow |
| Feingold | McCaskill | Stevens |
| Feinstein | McConnell | Sununu |
| Grassley | Menendez | Tester |
| Gregg | Mikulski | Thune |
| Hagel | Murkowski | Voinovich |
| Harkin | Murray | Webb |
| Hatch | Nelson (FL) | Whitehouse |
| Inouye | Nelson (NE) | Wyden |

NAYS—29

| | | |
|---|---|---|
| Alexander | Corker | Isakson |
| Allard | Cornyn | Kyl |
| Barrasso | Craig | Lugar |
| Bennett | Crapo | Roberts |
| Bond | DeMint | Sessions |
| Brownback | Dole | Shelby |
| Bunning | Ensign | Vitter |
| Burr | Enzi | Warner |
| Coburn | Graham | Wicker |
| Cochran | Hutchison | |

NOT VOTING—2

| | |
|---|---|
| Inhofe | McCain |

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 69, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2007

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Is the Chair going to report the bill now?

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to proceed is agreed to. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 980) to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

The ACTING PRESIDENT pro tempore. The majority leader.

AMENDMENT NO. 4751

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, on behalf of Senator KENNEDY and Senator GREGG, I send a substitute to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. GREGG, for himself, and Mr. KENNEDY, proposes an amendment numbered 4751.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

RECESS

Mr. REID. Mr. President, I ask that the Senate now stand in recess under the previous order.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2007—Continued

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, 46 years ago, President Kennedy designated this week to honor our first responders, particularly police officers who have lost their lives in the line of duty.

This week is National Police Week, and Thursday is National Peace Officers Memorial Day. Here in Washington, DC, and across the country, our communities are honoring the contributions of their public safety officers.

I think all of us in this body would agree that our police officers, our firefighters, paramedics, and all of our first responders are heroes. Their jobs are dangerous and they are extremely demanding. Unfortunately, they too often do not get the respect and gratitude they deserve. And that is why I rise this afternoon to urge my colleagues to support the Public Safety Employee-Employer Cooperation Act, which would take a small step toward repaying that sacrifice.

In most States around the country, our police and firefighters have the right to form unions. In fact, my brother was a firefighter in my home State of Washington. He is a proud member of his local union. But even so, there are still several communities in which our first responders do not have the ability to negotiate. They do not have the ability to bargain for better wages or hours or working conditions or benefits.

The bill we are considering on the Senate floor this afternoon would ensure all of our first responders have the power to organize and stand for their rights. And I believe it will make a real difference for our public safety officers and for all of our communities.

I thank Senator KENNEDY and Senator GREGG for their work on this legislation. Their work truly has been a bipartisan effort, and I hope it is a sign the entire Congress is willing now to come together to ensure our first responders have a right most workers in our country already enjoy.

I believe this bill will make our police and fire departments stronger and our communities safer. Everyone in our communities gains when our police and firefighters are working together with their employers. Having a voice in their work schedules, in their safety procedures, in their pay scales and benefits helps our police and fire departments. It helps them improve safety and reduce the number of deaths and injuries on the job, and it makes most departments more efficient. A department that is safer and more efficient is a department that is then better able to respond to a crisis.

I believe there is another reason we as Members of Congress should vote now to guarantee the right for all first responders to organize. Ever since the September 11 terrorist attacks, we have called on our first responders to play an even greater role in keeping our homeland safe.

Increasingly, as every one of us knows, our police, our firefighters, our troopers, our paramedics are the eyes and ears on the ground in our cities, counties, and States where they serve, no matter how large or small their communities.

So I think as we ask our first responders to do more for our entire Nation, we owe it to them to ensure that across the country they have the same collective bargaining rights.

This bill is pretty simple. The new law would only affect States that do not already allow their public safety forces to bargain collectively. It does not set up a new system of legislation. In fact, it is designed to ensure States have as much freedom as possible to decide how to implement this law. And it specifically allows States to keep enforcing their right-to-work laws. States that are affected would have 1 year to create a process for discussions with workers. If they have not acted by then, the Federal Labor Relations Authority would establish a way to give employees the ability to choose whether to form a union.

And that is it. Unlike some of the false rumors you may have been hearing, it does not encourage police and firefighters to go on strike. In fact, it specifically outlaws that. It does not require State and local governments to adopt any particular terms. It excludes our elected sheriffs and other policymakers, and it will not affect an employee's right to work part-time or prevent them from volunteering.

In short, this bill would be very good for our first responders and very good for our communities. But seeing this bill become law would not only be a victory for our first responders, it would be the first major victory for organized workers in the last 7 years. Unions have forged the way for millions of working families to share in the prosperity they helped create. Unions have helped balance the relationship between employers and employees. And they help to ensure that working families get their fair share of the economic pie. I am very proud to stand with working families to protect their right to organize and advocate for on-the-job safety, job security, and fair pay.

As we recognize National Police Week, what better way to honor the sacrifice our police and other first responders have given us than by ensuring they have the right to collectively bargain. Allowing our first responders to negotiate with their employers is the fair thing to do, and it also happens to be the right thing to do.

I hope all of our colleagues will support them and our communities by saying yes and passing this legislation.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my colleague from New York. I think he would like to speak on this issue, and then we will continue to balance off the speakers the best that we can to try to take into consideration the Members' schedules.

But we thank the Senator from New York. If he is prepared to speak, we would welcome his comments.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I am going to speak on this for a minute and then on one other issue that I mentioned to the Senator from Massachusetts. But first I thank him for his leadership.

The bottom line is, we have made progress in this country over the last 100 years because workers gather and bargain. Simply because somebody is in a life-threatening position, a position that saves lives—police and fire and emergency medical personnel—does not mean they should be deprived of that right.

The rules might not be exactly the same, and this bill is cognizant of that, but at the same time, for a policeman, a firefighter, to have the right to basically bargain and give his family a life with some decency and some dignity is extremely important. So I thank the leader from the Health, Education and Labor and Pensions Committee for bringing this bill forward. I think it will mark real progress.

I think, again, those who put their lives on the line for us, police and fire, should not be penalized because they are in those professions. The right to bargain is an important one. Many State and local workers have it. It is something I supported my whole career. I am proud to be a supporter of this legislation. I thank the Senator from Massachusetts for his leadership.

(The remarks of Mr. SCHUMER pertaining to the introduction of S.J. Res. 32 are located in todays RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SCHUMER. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KENNEDY. Mr. President, I thank my colleague and friend from Wyoming, Senator ENZI, for extending the courtesy, because we have had some speakers on our side, out of respect for their schedules. We have welcomed their comments at this time.

But I wish to refocus attention to the subject matter at hand, the matter that is before the Senate, and to describe in greater detail this legislation and the reasons for it and the support for this important piece of legislation.

First, I commend the Senate for voting earlier today to take up the Public Safety Employer-Employee Cooperation Act. The House passed this bill last July by an overwhelming vote of 314 to 97. The Cooperation Act isn't just about protecting union rights. This bill is vitally important to each and every American because, at its core, it is about safety, the safety of our dedicated first responders and the safety of our Nation in this new era of heightened concerns about homeland security. The bill takes a major step forward in protecting our firefighters, police officers, emergency medical technicians, and other first responders from danger on the job. Public safety workers are on the front lines of our constant efforts to keep America safe. They are all on call 24 hours a day, 7 days a week, doing backbreaking, difficult work, and doing it with great skill, great courage, and great dedication.

We have seen all too often how dangerous these jobs can be. These charts illustrate the point. In 2006, more than 75,000 police officers were injured in the line of duty. Last year, 140 police officers paid the ultimate price and lost their lives in the line of duty. We see similar numbers with firefighters who put their lives on the line every day. In 2006, more than 83,000 firefighters were injured in the line of duty. Last year, 115 firefighters paid the ultimate price. Another 45 have lost their lives so far this year. This is dangerous work, life-threatening work. These are careers which men and women follow for years with great courage, dedication, and commitment to the public interest and to the families of America. Those are the individuals we are talking about with this legislation.

First responders can also face chronic long-term health problems as well. The courageous firefighters who rushed to Ground Zero on 9/11 now suffer from crippling health problems such as asthma, chronic bronchitis, back pain, carpal tunnel syndrome, depression, and post-traumatic stress disorder. They often pay the ultimate price. Last year 250 public safety employees across the country lost their lives in the line of duty. Our public safety workers do not hesitate to rush into fires, wade into floods, put their lives on the line in other ways to protect our homes, our families, and our communities. They know better than anyone else what is needed to keep them as safe as possible on the job, and they deserve the right to have a voice in decisions that profoundly affect their lives and their safety.

When governments and public safety workers are unable to cooperate through collective bargaining, the workers' lives are put at needless risk. The numbers tell the story. Look at this chart. States without collective bargaining, which is the underlying issue before the Senate with this legislation, have 39 percent more fatalities. The reason primarily is because firefighters know how to work in ways that can protect the public and also can provide greater safety and security for the firefighters and first responders and police officials as well, based upon their experience, their knowledge of the task which is before them. Because of that, they are able to have a much better safety record. That is basically what we are trying to share, that kind of experience, with the other firefighters and police officials and first responders in other parts of the country who don't have these kinds of protections.

Behind those numbers are the tragic stories of lives that could have been saved with better communication or better cooperation of effort. A heartbreaking example occurred last year in Charleston, SC. Here is the story. In 2002, the Charleston firefighters association asked the city to begin following the National Fire Protection Association. That is an organization that makes recommendations with regard to safety and security in fighting fires. Unfortunately, there was no mechanism to ensure that these concerns could be heard and addressed. On June 18, 2007, nine Charleston firefighters died in the line of duty. In October of 2007, an expert panel hired by the city to investigate the loss recommended that the department begin following NFPA standards and begin meeting with workers.

That was their recommendation after experiencing the loss of lives. Afterwards we wanted to try to establish a procedure to avoid those kinds of circumstances in the future. We will never know how many lives might have been saved on that day in Charleston, if adequate safety standards had been in place, but we do know that in many other fire departments across the country, critical discussions about safety should be happening, but they are not. Unless public safety workers have a voice on the job, these problems will never be fully and fairly addressed. Without the protection of collective bargaining, workers are afraid to speak out for fear they will face retaliation. These fears are well founded because of countless examples of brave and dedicated first responders who have been harshly punished for raising safety concerns.

Consider the case of firefighter Stan Tinney of Odessa, TX. Here is his situation. In 2001, Stan Tinney, president of the Firefighters Association of Odessa, TX published a newsletter critical of the fire department's safety practices, including inadequate staffing and equipment. Tinney was suspended without pay, reprimanded, downgraded in a performance evaluation, and it took a Federal court that later found the Odessa officials violated Tinney's constitutional rights. It took a Federal case in order to do that. Think of all the other Stan Tinneys around the country who have been intimidated by that kind of action. We don't need that. We need to have suggestions. We need ideas. We need recommendations about how to protect our firefighters, our first responders, and our police community.

Tinney and four of his coworkers, when this incident took place, were questioned individually by city officials and Tinney was suspended without pay, reprimanded, and downgraded. A Federal court later found his constitutional rights had been violated, and the city settled Tinney's claim for $265,000. All that heartache and expense could have been avoided if there had been a mechanism in place for Tinney to express his concern. This legislation provides that.

The Public Safety Employer-Employee Cooperation Act will give Stan Tinney and countless others like him a voice in the decisions that affect their jobs, their health and safety, and their families. It will give them a safer workplace, and, just as important, it will give them a right to be treated with dignity and respect.

It is not just individual workers who will benefit from this important legislation. Enabling public safety workers and their employers to work cooperatively together makes our entire Nation safer.

In the past decade, we have seen dramatic changes in the way we protect our country. National security has become a local issue. Every city and town in our country—large and small, urban and rural—now has a vital role in keeping us safe from harm.

In this new and more dangerous world, State and local public safety workers are being asked to play an even larger role. We have asked them to become true partners with Federal security agencies in protecting our country from threats, and these dedicated workers have risen to the challenge. But year after year, we are failing to give them the support they need to do their vital jobs as effectively as possible.

Giving these brave men and women the voice they deserve at the bargaining table will facilitate cooperation between public safety workers and their employers. It will enable them to perform their jobs more efficiently and effectively. The benefits are obvious, and we see them in communities across the country that have already accepted the basic principles of public safety cooperation.

Take the example of Annapolis, MD. Until recently, scheduling rules for firefighters and paramedics in Annapolis, MD, often forced them—these are the workers—to work 48-hour shifts, leaving workers vulnerable to exhaustion and dangerous mistakes. The local union worked with management through collective bargaining to change scheduling rules, shortening

shifts and improving safety for the workers and the public. It does not sound too complicated. It just sounds like common sense to me. And it sounds like an important step in order to provide greater safety and protection for families in Annapolis. Workers there were concerned about scheduling rules, and through a cooperative collective bargaining relationship, the union worked with management to negotiate a new schedule that met the city's needs, while reducing the length of individual shifts. These obvious changes resulted in better rested and more effective firefighters and paramedics, with real benefits to both the first responders and the communities they serve.

Such cooperation also gives State and local governments the flexibility they need to respond to changing circumstances.

Look at this chart. The economy in Tulsa, OK, was struggling after September 11. Through collective bargaining, the mayor and the firefighters agreed to defer payments into the firefighters' Health and Welfare Trust for 1 year. The deferral saved the city over $400,000, and the city was able to spread its repayment to the trust over a longer period of time, providing valuable flexibility that helped the city address its budget troubles—working together with the community and for the community, an important achievement and an important accomplishment.

Some of my colleagues argue that granting them collective bargaining rights will limit the ability of States and cities to respond effectively to an emergency. Nothing could be further from the truth. We have seen, in the most dramatic illustration, that all 343 firefighters who lost their lives in the line of duty on September 11 were union members and with collective bargaining rights. There is no question about their courage, no question about their bravery, no question about their willingness to do their duty and do it heroically. When challenged, that has certainly been the evidence time-in and time-out. So we reject those suggestions and those observations.

In addition, for example, before 9/11, the Port Authority police officers worked 8-hour days, with 2 days off, each week. After 9/11, everyone worked 12-hour shifts every day and all vacations and personal time were canceled. This hard schedule continued for nearly 3 years, but neither the union nor any union member filed a single grievance about it. They did their duty, and they did it heroically.

Do we understand that? As to police officers for the Port Authority that has responsibility in the greater port area in New York, before 9/11 they worked 8-hour days, with 2 days off, each week, and after 9/11 everyone worked 12-hour shifts every day and all vacations and personal time were canceled. The hard schedule continued for nearly 3 years, and neither the union nor any union member filed a single grievance—not a single grievance—when they were called upon to meet their responsibility—not a single grievance. They did their duty, and they did it heroically.

Our families and communities deserve the best public safety services we can possibly provide, and achieving that goal starts with the strong foundation that comes with collective bargaining.

No one doubts that our communities and our country are living on borrowed time. We all hope the numerous other steps we are taking will be successful in preventing similar catastrophic attacks. It makes no sense not to make the basic rights granted by this legislation available to all of America's first responders. It is an urgent matter of public safety. I commend Senator GREGG for his leadership on this important issue, and I urge my colleagues to give our heroes the respect and support they deserve by approving the Cooperation Act.

Mr. GREGG. Mr. President, today I am pleased to be joined by Senator KENNEDY and the other 31 cosponsors of the Public Safety Employer-Employee Cooperation Act of 2007, as we begin discussion of this legislation. The Cooperation Act would extend to firefighters, police officers, and other public safety officials the right to discuss workplace issues with their employers.

Each year, more than 80,000 police officers and 75,000 firefighters are injured protecting their communities. Not counting the tragic events of September 11, it is estimated that 162 police officers and 100 firefighters will lose their lives each year in the line of duty. These extraordinary individuals selflessly risk injury, and sometimes their lives, to protect others, yet they remain the only sizable segment of workers who do not have the combined right to enter into collective bargaining agreements with their employers.

The Public Safety Employee-Employer Cooperation Act is balanced in its recognition of the unique situation and obligation of public safety officers. The bill requires that, within 2 years of enactment, States offer public safety officers the ability to vote in a free and fair election on whether to form and voluntarily join a union and collectively bargain over hours, wages, and conditions of employment. The bill only affects States which do not currently provide this opportunity, and those States would have 2 years to establish their own collective bargaining systems that can meet their unique needs. This approach leaves the decisions regarding implementation, enforcement, and all other major details with the individual States and local governments, ultimately allowing them to have the final say over any contract terms. Finally, under this legislation, States with right-to-work laws, which prohibit employers and labor organizations from negotiating labor agreements that require union membership or payment of union fees, can continue to implement those laws.

The legislation recognizes the need to put public safety first, so the use of strikes, lockouts, sickouts, work slowdowns, or any other action that is designed to influence the terms of a proposed contract and that will disrupt the delivery of emergency services is strictly prohibited. It further protects small towns by ensuring that areas with populations of less than 5,000 or fewer than 25 full time employees are exempt from collective bargaining and that firefighters or EMTs who are employed by a department participating in collective bargaining agreements can still serve their local communities as volunteers.

Healthy labor-management partnerships result in improved public safety for our towns and cities. The bipartisan Cooperation Act helps build these partnerships by putting firefighters, law enforcement officials, and other public safety officers on much deserved equal footing with other private and public sector employees and providing them with the ability to negotiate with employers over basic workplace rights.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I appreciate the opportunity to finally comment on some of these things and to do my opening statement.

I do want to say I was a little surprised by the speech of the Senator from New York, Mr. SCHUMER, about, primarily, the price of gas. I have to say, he has got it right. That is the biggest concern on the minds of people across this country. No matter what else we are talking about, it is about the price of gas. What I learned from his speech is we are going to be disrupted in this debate later today as the majority leader rule XIVs an energy bill.

I wish to congratulate Senator DOMENICI for his work on putting together an energy bill which we had a vote on this morning. I really think if that could have been voted on in pieces, a number of those pieces would have passed and made a difference to this country.

I can see that the main thrust of the bill we are going to be interrupted by later to take a look at is one to force Saudi Arabia to increase their production by a million barrels a day or give up some arms purchases from us.

Let's see, if we sell them arms—which I have not looked at enough to know whether that is a good idea—we get some money back. When we force them to do a million barrels a day, we give them $120 million a day. Part of that, which some people do not like, was ANWR. ANWR would produce at least a million barrels of oil a day from the United States. We would be paying people in the United States for the oil, not shipping it over to Saudi Arabia, and we have to worry about what they are going to do with the arms we sell them.

So I can understand they ought to be concerned about gas and are finally

concerned about gas and are going to interrupt us to be concerned about gas, but we had a proposal this morning that should have gotten a little bit more consideration and some of those provisions put into effect so we could actually solve some of our energy problem.

Let's see now, we are going to put the burden on Saudi Arabia.

My first encounter with higher gas prices happened back in 1973. I was president of the Wyoming Jaycees. We did some things to Saudi Arabia they were not very pleased about, and they cut us off completely. That produced the biggest crisis in this country in my memory. We had lines at the gas pumps. We had people who could not transport goods. We had people who could not get gas. We were trying to figure out ways to store gas should we ever get it again. It was because Saudi Arabia said: OK, if that is the way you are going to be, no oil.

Well, at any rate, I do not think we are carrying as big a stick on this as we think we are. We need to be looking at a number of the solutions.

Windfall profits tax—that was a good way for us to drive our companies overseas to do their work, to sell us oil. That does not bring down the price of oil. If I had my way, I would call the energy companies in. I would tell them I want to know what they are doing with however many billions of dollars worth of profit they are making. I want to know about it weekly. And I would report to the American people on a weekly basis. I do not suspect that would bring down the price of oil. I do suspect that would bring up the investment in energy, all kinds of energy. We need to have that done.

So I do not mean to go on and on about this, but as long as we are going to be interrupted in our debate on public employees, I want to make sure I have my say on it too.

Mr. President, I do rise today to voice my opposition to H.R. 980, the so-called Public Employer-Employee Cooperation Act. The fact that this bill has come to the Senate today is just another example of the cynical calculus of election-year politics. We are still doing ''gotcha'' politics on this floor. How do I know that? I know we have not passed a bill that did not go through committee—not just the Health, Education, Labor, and Pensions Committee that I am the ranking member of but the other committees. If it does not go through committee, it does not pass. But here we have an issue that I am told was passed last July by the House. Do you know how many hearings we have held on it? I looked back 4 years, and we have not had a hearing on this one—not a hearing on it.

What we do at hearings is kind of invite people in to tell us some specific points they want to make on a particular bill. Now, you will find that I am not a very big proponent of hearings because the chairman—and I used to be the chairman—gets to invite all the people to the committee except one and the ranking member gets to invite one. Then, people from both sides show up to beat up on the other witnesses. That is not very productive.

We did switch to a system, occasionally, where we have had roundtables. Roundtables are a little bit different than hearings. With roundtables, you invite in 10, 15, 20 people who have actually done something in the area, and you hear what the problems are and what the advantages are, and after all of them have spoken, then they interact with each other. They are not Senators asking clever questions. They interact with each other on ways their ideas fit with somebody else's idea. They come up with some good legislation.

Now, we have not ever had hearings—or roundtables on this issue. So how do you know what is really a good idea? How do you know what the effect is going to be on other people when you do not do anything to prepare for it and then you bring it right to the floor?

Another advantage of going through committee is that you can find out what the concerns are from the amendments when it gets to the markup process. From those amendments, you can say: Well, this might be a good idea, but we have to revise it a little bit. People go off and work on that part of the idea, and they bring it back in a workable fashion that will fit that both sides agree on.

You say it cannot be done on labor issues? Well, in the past we have. We passed a mine safety bill through here in less than 6 weeks, and it passed unanimously in the Senate, and it passed unanimously in the House. That is how we did it. We did it through the committee process. Now, that was the first change in mining law in 28 years, but it was done cooperatively, and it was done through the committee process.

This one has, I guess, purposely circumvented the regular order of the Senate and its committee process because the scrutiny of that process would expose some multiple flaws in the legislation. We are going to have some amendments that will point out what some of the flaws are in this legislation. Now, it is very difficult to do it here. I have to put in an amendment, and we kind of vote it up or we vote it down. We cannot go off and work it out so it is agreeable to both sides. It is a difficult process, especially when you involve 100 people with it. It is much easier to do it in committee.

So we have this bill, and once again we are going to play the election-year spin, going to do sound bites, probably do a lot of press. But I suspect the result may be the same as other things that did not go through committee.

Now, their calculation is simple: Since this bill involves unions that organize among police and firefighters, they will continue to simply claim that anyone who opposes this bill is against police and firefighters. You have already heard it.

Let's address that calculated untruth first. There is no one I know of—Republican or Democrat, supporter or opponent of this bill—who does not respect and value the work and dedication of our police, our firefighters, and other first responders. Their contributions to our communities are immeasurable, and our support for them is unwavering. However, this bill provides no benefit to any police officer, firefighter, or first responder. It does not provide a dime in Federal money to any State, city, or town to hire or to train or to equip any additional public safety personnel. In fact, it only imposes costs that will make that result less likely.

The bill does not contain a dime of Federal money or a word of language that would increase the pay or benefits of any firefighter, police officer or first responder or that would enhance their working conditions or that would make their job safer or make their retirement more secure. It only imposes totally unfunded costs on States, cities, and towns that will make those rules less—not more—likely.

Plain and simple, the only direct beneficiaries of this legislation are labor unions. This bill does nothing more than open new markets for unions, and it provides them with the opportunity for increased revenue from new dues-paying members. This bill does nothing for any police officer, firefighter or first responder, except to provide them with the dubious opportunity to share a portion of their paycheck with the labor union.

The real truth is there is absolutely nothing inconsistent about being fully supportive of our local police and firefighters and first responders and totally opposed to this bill. A vote against this bill is not a vote against first responders. Proponents of this bill would serve both the debate and themselves better by abandoning any absurd claims to the contrary. The public is simply not that gullible, and I think the public is fed up with a Congress that transparently panders to special interests, while trying to tell the rest of the world they are acting in everybody's interests. The old song is out of tune, but as long as some continue to sing it, there shouldn't be any surprise about the fact that the public opinion of Congress is at an all-time low.

Let me now turn for a moment to some of the serious and fundamental problems with this legislation. Over 70 years ago, the Congress passed what is now referred to as the National Labor Relations Act. That legislation has been amended numerous times over the many decades of existence, and it has become universally recognized as the embodiment of our national labor policy. A hallmark of that policy for eight decades has been the well-reasoned principle that the employment and

labor relations between a State, city or town and its own employees should not be a matter of Federal law, but a matter of local law. That bedrock principle is not only rooted in our national labor policy; it is firmly fixed in our Constitution and our traditions of federalism. For more than 70 years, Congress has repeatedly and consistently excluded State and local labor relations from Federal control and intervention. Yet today the proponents of this bill seek to overturn this hallmark principle and to radically change decades of unbroken Federal law and policy. The enormity of this change is only matched by the prospect that it could occur in the wake of an appalling lack of thought, total disregard for the processes of the Senate, and complete absence of any meaningful opportunity for rational debate.

This body has before it a bill that would overturn more than 70 years of unbroken precedent and law. It would raise profound constitutional issues. It would overturn law in a majority of States—in a majority of States—and completely reverse the fundamental and founding principle of our national labor policy. You would think the Senate would consider such a bill only after careful examination and due deliberation. But if you do think that way, sadly, you are wrong. This legislation, as I said, has not had a Senate committee hearing or markup this Congress. I looked back 4 years. I could not find a single hearing or markup on this bill. There has been no meaningful exploration by the HELP Committee this Congress of the important issues that this legislation implicates. This bill grants enormous power over States to a virtually unknown Federal agency that will make critical decisions about these people. Yet we have never so much as asked a representative sampling of State officials about their views, nor have we ever informally asked the Federal agency involved if it feels up to the job we are about to impose on it. These shortcomings alone are ample proof that this bill is being pushed not because it is good policy but only because we see it as expedient politics in an election year.

This bill would require that every State, every city, and every town with more than 5,000 residents would open its police, firefighters, and first responders to unionization. It would impose as Federal mandate—not in the absence of any State consideration of this issue but in direct opposition to the legislative will of several States.

Proponents of this legislation have attempted to maintain the fiction that it actually does little to disturb State laws—a good way to pass a bill, I guess, but not true. It is simply not the case. Within the last 2 legislative sessions, some 13 States have officially considered and rejected legislative proposals similar to the law that would be federally imposed under H.R. 980. The proponents of this legislation have attempted to maintain the fiction that it wouldn't disturb State laws. Nothing could be further from the truth. Every expert who has reviewed this law has concluded it is clearly in conflict with the current law in at least 22 States, and the chart shows the 22 States. Some believe the number is as high as 26, and even the bill proponents freely concede it is at least 21. All of these States, their citizens, and their legislatures have expressly considered all the issues raised in this bill and have decided on a different approach—a different approach—than what would be required under this bill. Some States have decided to use meet-and-confer laws. Some have placed limits on the enforceability of agreements. Some have limited the subjects of bargaining. Some have made the issue one of local option, and some have decided to limit bargaining by employee function.

States, cities, and towns have done what they think best to provide for the safety and welfare of their own citizens in developing their labor relations policy for their own public safety employees. Yet we propose to clearly overturn the democratic judgment of at least 22 States through this legislation.

Let's be clear. We would take this action not because States have not acted; that is not the case. All these States made a conscious, democratic decision about what is best for their citizens. In fact, some 16 of these States have considered and rejected laws similar to H.R. 980 within the last few years.

Now, the impact, however, doesn't end there. Experts who have reviewed this legislation and existing State laws have identified at least 12 States where this bill would raise serious legal questions about one or more aspects of their existing collective bargaining law. You can see those filled in on the chart. These are States that supposedly have full collective bargaining statutes. Remember: The question of whether an existing State law complies with the requirements of H.R. 980 is going to be figured out later by a little-known Federal agency—the Federal Labor Relations Authority—that is devoid of any experience in State labor relations and isn't accountable to a single State government. I am sure all the technical and legal issues left unclear by this bill, which bear on whether a State law complies, will keep an awful lot of lawyers busy for a long time and guarantee a huge expansion of the Federal labor relations authority.

Now, the effect of this bill, however, goes beyond the States where the law is clearly overturned and where it is probably overturned and where the lawyers will fight about whether it is overturned. By federalizing State labor relations, this bill will affect every State, city, and town in the country. As a matter of State law, States have the authority to effectively take items off the union bargaining table. Many States with collective bargaining laws already do this, particularly in the area of public safety. Manning and staffing levels, training and job requirements, deadly force rules, drug testing, merit pay, job requirements, and promotion are a few of the examples of the terms and conditions of employment which must be bargained but could be exempted from bargaining by State action or a law. Now, once you federalize this law, States will lose that authority.

Look closely at both the Senate and the House language of this bill. It specifically lists only three things a State can exempt or take off the bargaining table: pension, retirement benefits, and in one version, health insurance. Everything else is on the table. That will be the Federal law over which a State can do nothing.

This is a critical problem for every State. States can't be responsible for the safety of their citizens when the Federal Government takes away the authority they need to accomplish the job. Here is one example. Suppose a State decides to implement mandatory drug testing for public safety officers. It can't just do that under Federal law if H.R. 980 passes. Any change such as that would require bargaining. Why would we ever require that any State, city or town bargain or horse trade over matters of public safety?

If you don't think this is a real problem, you need only look at today's paper. The city of Boston has for years sought to negotiate a drug-testing provision with its public safety union. Despite incidents of documented and suspected drug use by Active-Duty personnel, the city has not been able to implement a program. We have seen the same pattern reflected in the utterly shameful situation in Major League Baseball and the inability to achieve any meaningful resolution, despite years and years and years of collective bargaining. Now, here is the difference: Baseball is a game; public safety isn't.

So let us be completely clear about what we propose doing with this legislation. Any vote that advances this bill is a vote to overturn the law and the democratic will of citizens of a near majority of our States. Let me say that again. Any vote that advances this bill is a vote to overturn the law and the democratic will of the citizens of a near majority of our States to create unnecessary question and litigation over the validity of law in many other States and to forever tie the hands and limit the authority of every State to protect the safety of its citizens as it sees best. This legislation is not only directly contrary to over 70 years of Federal labor policy; it further violates the most fundamental, centuries-long principles of federalism and most likely runs completely afoul of the U.S. Constitution to boot.

With all this in mind, we should be asking ourselves: What price is this Congress willing to pay in an effort to ingratiate itself to organized labor?

Earlier this year, Congress transparently pandered to the special interests of organized labor and came perilously close to depriving workers of their democratic right to a secret ballot in deciding the question of unionization. Now we are at it again. This time, however, the price of congressional pandering is the sovereign authority of States and the integrity of their democratic process.

Since even these compelling facts are unlikely to stand in the way of politics, we need to look at the legislation itself. Since it has not been discussed and has not been marked up in the committee of jurisdiction, I suppose at least a few moments of legislative consideration is better than none at all.

In no particular order, here are a few of the multiple and fatal drafting and policy problems of this bill:

First, this bill is the height of hypocrisy by the Federal Government. This bill would require States, cities, and towns over 5,000 to provide full collective bargaining for all their public safety employees. However, while requiring this of States, cities, and towns, the Federal Government would continue to exempt itself from any collective bargaining obligation with regard to many of its public safety employees.

Let's see. We are going to tell States, cities, and towns what to do, but we don't tell ourselves what to do. That sounds like hypocrisy to me.

Second, this law would require States to bargain over wages of their covered employees. However, the Federal Government routinely exempts itself from bargaining over wages with its employees.

I wonder how many Senators bargain with their staff? Moreover, this bill would severely limit—in fact, virtually eliminate—the right of State governments to determine the appropriate subjects for bargaining with their employees—a right fully retained by the Federal Government with regard to its employees.

Third, this legislation forces collective bargaining on States but doesn't require or ensure fundamental employee rights. For example, Federal law preserves the right of the workers in the private sector to decide the issue of unionization by secret ballot. However, this legislation, which imposes collective bargaining on unwilling States, cities, towns, and their employees, not only fails to guarantee the right to a secret ballot in union elections, it specifically ratifies and approves State laws that strip public sector workers from this fundamental democratic right.

Fourth, this legislation is a gift to organized labor that comes with none of the obligations or safeguards of other federally mandated bargaining. Unionized workers, under current Federal law, have the right to information about their union's finances, and those unions must publicly report on their finances every year. This bill would force unions on States, cities, and towns but would not require union financial transparency or require that workers have access to this financial data.

Fifth, this is the gift that keeps on giving. Not only is there no requirement about union financial reporting and disclosure in this bill, this bill also fails to contain any guarantees to the workers about how their union dues money can be spent. For example, workers unionized under current Federal law cannot be required to contribute to a union's favorite political causes. This bill, which forces collective bargaining on States, cities, and towns that have rejected it contains no such guarantee.

Sixth, this bill would not only fail to provide any meaningful guarantee against the disruption of municipal services because of labor disputes, it practically guarantees the right of unions to cause those disruptions. The bill purports to have no strike guarantee. However, it goes to great pains to say it is not a strike when a public safety officer refuses ''to carry out services that are not mandatory conditions'' of their employment.

What does that mean? Who decides which duties of a firefighter or police officer or public safety officer—that is a pretty broad title—are ''mandatory''? This provision appears to be nothing more than legislative code words specifically authorizing ''work to rule'' and a host of other types of disruptive job actions that have become all too familiar among public school teacher unions. This bill forces unions on unwilling cities and towns, and then gives those unions a legislative green light to disrupt municipal services.

Finally, there is the enormous problem in this legislation that relates to volunteer firefighters. It is no secret that the International Association of Firefighters, the principal firefighter union in this country, actively opposes the use of voluntary fire departments. It has consistently sought to prevent its members from volunteering their services. Its own union constitution provides for the discipline, fining, or discharge of members who do. The most effective way this union has to prohibit volunteering or, as they refer to it, ''two-hatting,'' is the union contract clause to that effect. They have sought and obtained this kind of clause in union contracts across the country and want to make sure they can continue to do so under H.R. 980.

Now, there is a clause in there that may be referred to. If you look at it, it is ''weasel'' words. It does not do what it is purported to do, and it will eliminate volunteer fire departments.

Members are being told this problem with the bill has been ''fixed.'' That is wrong. It is not. If you really wanted to make sure unions had no authority to kill off volunteer firefighting, you could write a plain provision that does exactly that. Instead, both the House and Senate versions use convoluted, double negative, lawyer speak in a deceptive effort to claim that the problem is solved. I guarantee you that it is not. Once you unwind the language, you will find both the House and Senate versions of the bill leave the door wide open to an all-out union assault on the use of volunteer firefighters.

In 25 States, volunteer firefighters account for all or most of the staffing in more than 90 percent of the departments statewide. In 14 States, volunteers account for all or most of the staffing in more than 80 percent of the departments. With just two exceptions, in the remaining 11 States, volunteers account for all or most of the staffing in more than 60 percent of the departments. No State can provide fire protection in its cities, towns, and rural districts without volunteer firefighters. Anyone who even considers advancing this legislation ought to be completely sure that it could not have a negative effect in their State.

These problems represent only the tip of the iceberg. This bill is quite simply a prime example of terrible policy being badly executed, without process.

Mr. President, I want to bring up another point regarding this legislation that is also of critical importance. This bill imposes an enormous unfunded Federal mandate on States, cities, and towns across the country. I want to take a minute and address this serious concern not only from my current position as a Senator but from my former position as mayor of Gillette, WY, a city of about 22,000 people.

As I look around the Chamber, not many here have had any experience with trying to balance the budget of a city or town. So I guess we should understand why they would pay so little attention to the very real financial consequences of their actions on thousands of municipalities. They ought to.

Just last week, after teetering on the brink of insolvency, the city of Vallejo, CA, finally declared bankruptcy. Everyone has acknowledged that the cause of Vallejo's financial problems was plain and simple: The spiraling costs of their police and firefighter labor agreements.

Vallejo is not alone. In the last few years, a number of other cities and towns have teetered on the brink or actually have been forced into bankruptcy: McCall, ID; Toledo, OH; Marion, MS; Moffet, OK; Duluth, MN—just to name a few.

Now, what we usually don't realize in this body is those bodies don't get to print their own money. They actually have to work with the revenue that comes in. Most of them have severe limitations on the ability to raise money. They could not raise taxes if they wanted to. So the revenue is limited, but the costs go up. What do you do?

Here is the reality. Without regard to pay or benefits, just the administrative costs alone of collective bargaining represent a very significant line item

that Congress now proposes to force on States, cities, and towns. Towns, particularly small ones, that currently don't have the resources to negotiate and administer multiple collective bargaining agreements must now hire and pay for these additional services. And this isn't just going to be one; it is multiple.

Towns and cities that do not devote the long hours of municipal time to the complicated process of bargaining and overseeing multiple union contracts and to administering contract provisions and resolving disputes under a collective bargaining system will be required to spend that time. Nobody should be fooled. Those additional manpower and manhour requirements are enormously costly and burdensome. This bill would impose those costs by Federal mandate but would not provide a single penny of Federal money to help offset those costs. Make no mistake, the Congress is proposing to buy organized labor a free lunch and stick America's small towns with the bill.

As a former mayor and as the only accountant in the Senate, I remind my colleagues about the cold realities of municipal finance. If you increase municipal costs, you have only two ways to meet those increased costs: You either increase revenues or decrease services. This bill will unquestionably place many municipalities in that difficult position of choosing between raising State and local taxes, which they probably would not have the capability to do, or decreasing and eliminating local municipal services, which they don't want to do.

Are the Members of this body so completely out of touch with the real needs of their constituents and the real fiscal problems that their cities and towns face every day that they would impose these unnecessary costs and burdens? With stagnant or declining property values and an endless parade of increasingly fixed costs, don't our cities and towns have enough on their plate without the Federal Government imposing yet another cost on them?

This isn't an imaginary problem. Remember Vallejo, CA, and the other cities and towns I mentioned across the country that make it clear that this problem is very real.

For all these reasons, Mr. President, I am opposed to H.R. 980. I urge my colleagues to vote no on this legislation. Hopefully, we will have a chance to make some corrections to this bill—particularly on the flaws that I have pointed out.

I will just recap. It didn't go to committee. It is an unprecedented intrusion by the Federal Government. It directly overturns existing laws in 22 States. It casts doubt on a dozen more. Sixteen States have recently considered and rejected legislation very much like this. It calls into question the constitutionality. We had no hearing or markup. It creates unfunded mandates. It would impose costs on small towns.

I don't know how many of you think 5,000 is a big city. Actually, in Wyoming it is; 3,500 is considered a first-class city. But 5,000 is not a very big town, and there isn't as much expertise.

I mention that another piece of the bill says the requirement is imposed when there are 25 employees. It doesn't say 25 public safety employees. It doesn't say 25 people who would be covered by this. It says a flat 25. I suspect there are a lot smaller towns than 5,000 that have 25 employees. That is a pretty small amount. That is not the same as public safety employees. So they either have to cut services or raise taxes or the city is going into bankruptcy.

The bill doesn't contain any worker protection for them getting to vote on whether they will have a union, and it puts in charge a little known Federal agency. Again, it is pretty hypocritical of us. We have not imposed this on the Federal Government, but we are willing to impose it on the little places back home. I think we will regret it, and it will remind us of the mistake we made here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I see my friend from Utah. We did have three speakers on our side, and we are going to do the best we can to balance it. I think the Senator's side is next. How long does the Senator from Utah wish to speak? Then I will ask that the Senator from New York to follow.

Mr. HATCH. I can probably do it in less than 10 minutes or around that.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from New Jersey be recognized for 20 minutes following Senator HATCH.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

AMENDMENT NO. 4755 TO AMENDMENT NO. 4751

Mr. HATCH. Mr. President, I believe my amendment No. 4755 is at the desk. I call it up and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 4755.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a public safety officer bill of rights)

At the end of section 2, add the following:

(5) Public safety officers frequently endanger their own lives to protect the rights of individuals in their communities. In return, each officer deserves the optimal protection of his or her own rights under the law.

(6) The health and safety of the Nation and the best interests of public security are furthered when employees are assured that their collective bargaining representatives have been selected in a free, fair and democratic manner.

(7) An employee whose wages are subject to compulsory assessment for any purpose not supported or authorized by such employee is susceptible to job dissatisfaction. Job dissatisfaction negatively affects job performance, and, in the case of public safety officers, the welfare of the general public.

**SEC. 2A. PUBLIC SAFETY OFFICER BILL OF RIGHTS.**

(a) IN GENERAL.—A State law described in section 4(a) shall—

(1) provide for the selection of an exclusive bargaining representative by public safety officer employees only through the use of a democratic, government-supervised, secret ballot election upon the request of the employer or any affected employee;

(2) ensure that public safety employers recognize the employees' labor organization, freely chosen by a majority of the employees pursuant to a law that provides the democratic safeguards set forth in paragraph (1), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding; and

(3) provide that—

(A) no public safety officer shall, as a condition of employment, be required to pay any amount in dues or fees to any labor organization for any purpose other than the direct and demonstrable costs associated with collective bargaining; and

(B) a labor organization shall not collect from any public safety officer any additional amount without full disclosure of the intended and actual use of such funds, and without the public safety officer's written consent.

(b) APPLICABILITY OF DISCLOSURE REQUIREMENTS.—Notwithstanding any other provision of law, any labor organization that represents or seeks to represent public safety officers under State law or this Act, or in accordance with regulations promulgated by the Federal Labor Relations Authority, shall be subject to the requirements of title II of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 432 et seq.) as if such public safety labor organization was a labor organization defined in section 3(i) of such Act (29 U.S.C. 402(i)).

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

Mr. HATCH. Mr. President, many of my colleagues have spoken about the tremendous service America's public safety employees give to the public. I could not agree more. Any given day one of these officers may be asked to put his or her life on the line, and they will do so willingly and courageously. I agree with my colleagues that individuals who choose these careers deserve respect, gratitude, and special treatment. But the bill we are considering today would actually result in diminishing the rights of public safety employees who are not currently unionized.

Once a workforce is unionized, even employees who don't wish to be part of a union will have pay deducted from their paychecks, spent in a manner outside of their control, and they will have very little ability to question or alter the legal representation that has been established with or without their support.

My amendment seeks merely to balance that diminution of self-determination by establishing a Public Employee Bill of Rights.

This amendment would do three things: Guarantee the right to vote by

secret ballot, limit the right of public unions' dues collection authority to nonpolitical uses, and allow financial transparency.

By ensuring that public safety employees in all States have the right to vote on whether to unionize by secret ballot, my amendment guarantees for public safety employees that same right private employees now have. In a democratic society, nothing is more sacred than the right to vote, and it is undeniable that nothing ensures truly free choice more than the use of a private ballot.

The possibility of coercive or threatening behavior toward employees who may not wish to form a union is even more concerning in the context of public safety employees who rely on coworkers to reduce the deadly risks they face routinely in the course of their important work.

The amendment would also limit the right of public unions' dues collection authority to nonpolitical uses. Those who choose public service often accept lower pay than they might make in the private sector because they are dedicated to public service. Let's not insult that choice by allowing labor bosses to take money from that paycheck and spend it on purely political causes the employee does not support.

I believe public employees should have the same protections from fraud and abuse as private employees. My amendment would empower public employees by allowing them to observe how their dues are being spent and the other financial dealings of their unions. It does this by bringing public unions under the requirements of the Labor Management Reporting and Disclosure Act, a 1959 law enacted with bipartisan support, including then-Senator John F. Kennedy.

Public employees who pay union dues, especially those who are compelled to do so against their wishes, are no less entitled to financial transparency and fraud protections than the private sector employees covered under the law today.

I urge my colleagues to support this amendment. It is a simple amendment. It provides for protections that ought to be there. If this bill should pass, these protections, at a minimum, ought to be part of this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we will recognize the Senator from New Jersey, but if he will yield a minute.

Mr. MENENDEZ. I will be happy to yield to the Senator.

Mr. KENNEDY. Mr. President, we want to permit others to speak. I will speak in a short time in response to my friend and colleague from Wyoming. If this legislation did what he suggested it did, I would not be a sponsor or support the legislation either. I will go into some detail in explaining what the legislation does do and what it doesn't do.

With regard to the Senator from Utah, this issue about having a secret ballot or nonsecret ballot, we leave up to the States. Rather than trying to mandate that—a lot has been talked about giving the States options as to how to proceed. We say on both items the Senator addressed that the States are the ones that should make the judgment and determinations.

We will have a longer time to debate this issue.

I thank the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, let me first say I appreciate the Senator from Massachusetts and his leadership in this regard. I have come to the floor not only to acknowledge his leadership on this critical piece of legislation but to speak strongly in support of the Public Safety Employer-Employee Cooperation Act. For me, this bill is about protecting some of the most basic fundamental rights of America's bravest and finest public servants. Our Nation's first responders put their lives on the line every day. That sometimes only comes vividly to us when we lose one of those brave men and women and their lives are lost in the line of duty, but the reality is they are at risk every day, risking everything they have to protect us, to protect complete strangers, to protect their communities. At a moment's notice, they are on call to respond to natural and manmade disasters of every size, scope, and severity. These men and women are firefighters, emergency management technicians, police officers, and first responders who are prepared day in and day out to go to any length to save the life of a complete stranger.

They have one goal: to keep others safe. In those moments, they don't think about anything else. As they rush to respond to a fire, they are not thinking about their job security. As they risk their life in a collapsing building, they are not doing it in return for a higher wage. As they put themselves into harm's way, they are not thinking about the benefits their family might receive if the worst should happen.

In 2006, more than 75,000 police officers were injured in the line of duty, and last year 140 police officers paid the ultimate price and lost their lives in the line of duty. In 2006, more than 83,000 firefighters were injured in the line of duty, and 115 firefighters paid the ultimate price. This year alone, another 45 have lost their lives.

Today we have an opportunity to thank these selfless heroes, not just with our words but with our actions. We have an opportunity to guarantee the rights of those who work to protect our lives and safety every day. In short, we have an opportunity to fix what is wrong and do what is right.

This legislation simply gives first responders the same right that virtually all Americans enjoy: the right to collectively bargain and have a voice about their working conditions, to come together in common cause to achieve a better standard.

A majority of the States already confer this right of collective bargaining, including my home State of New Jersey. This bill would give public safety officers across the country that right. It would ensure if they choose—if they choose—they can join a union and bargain over wages, hours, and working conditions.

I was a former mayor. I did not have the challenges of having a unionized police force and firefighting force that ultimately worked in contradiction to the interests of my municipality. I did not. Certainly, in the urbanized context in which I was, that was a bigger challenge than others. So the reality is I do not believe the right to collectively organize automatically means the dire consequences that some have portrayed as it relates to this legislation.

In New Jersey, we recognize how important it is for first responders to have a strong working relationship with the municipalities they serve. We recognize these public safety officers deserve the dignity and respect to have a say in their wages, hours, and working conditions. And we recognize that when public safety employers and employees work together, the results serve us extremely well.

Some of my colleagues will try to argue this legislation will hurt volunteer firefighters by limiting the amount of time professionals can volunteer while off duty. We have volunteer firefighters in New Jersey alongside those who are organized at the same time, and that has not simply been the case. This is simply incorrect, as the legislation specifically forbids any State from putting limits on professional firefighters who volunteer during their off-duty hours.

Others are saying this legislation could effectively repeal State right-to-work laws. Again, this legislation specifically allows States to enforce right-to-work laws. The bill makes no change in States that have right-to-work laws and would not prevent any other States from adopting new right-to-work laws.

Let's be honest about what the bill actually does say. It does not dictate how States should approach this issue. The bill only requires local governments to engage in negotiations if workers choose to join a union. It respects the authority of local legislative bodies to approve or disapprove funding for any negotiated agreement. The bill only affects States that do not already provide their public safety officers with the right to bargain collectively. States that do not have these protections can choose to establish their own collective bargaining systems.

I hope we realize what is at stake here. Beyond fairness, which is something which is fundamentally important, particularly for those who risk

their lives every day, we are talking about safety. In States where there are not collective bargaining protections for workers, fatalities are 39 percent higher. That is a fact. In States where there is not collective bargaining opportunities, fatalities are 39 percent higher.

The fact is, greater protections for workers lead to better safety conditions. We have seen this time and time again in which the negotiation—some people think it is only about money. It is not just about money. When I was a mayor, some of the most significant negotiations were about the standard under which you operated, which was not only important as it related to the firefighter or the police officer but was important as it related to the response time and the ability to perform the services that ultimately saved property and saved lives.

Some people think this is all about simply money and making more and having better benefits. A lot of it is about working conditions and the nature of how one, in fact, applies their profession in a way that not only saves lives of those who serve—firefighters and police officers—but also saves the lives of those they were sworn to protect because they had a better system—breathing apparatus, having the technology to enter into a fire and being able to detect someone who has been immobilized. Often that negotiation was not about money but about can we have this equipment that is essential for us to perform our duty in behalf of those we are sworn to serve.

It seems to me we have to understand there is a direct correlation between the benefits that often are on the negotiating table to citizens, not only to those who serve but to citizens in terms of having greater lifesaving capabilities—for me as a mayor, that was often what I heard the negotiations being about. I thought it was exemplary, that we were negotiating over how do we better save lives at the end of the day.

Any time we can have the reality that more lives are saved because, in fact, the collective bargaining system allows us to create circumstances under which not only the workplace and the profession, but the lives of the citizens of those communities are saved, is worthy of achieving.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MENENDEZ. I will be happy to yield.

Mr. KENNEDY. I always appreciate hearing from the Senator from New Jersey. I hope our colleagues will listen carefully to what the Senator from New Jersey has said because he comes to this debate as a former mayor. Mayors, as we all know, have had special relationships, obviously, with firefighters and police on the firing line. So when I hear the Senator from New Jersey talk about that value as a former mayor, he can see the value in terms of safety and security for the people in that community as a result of this legislation in terms of cooperative discussions and arrangements. That says a good deal.

Some have presented a situation—which, of course, is not accurate—where this legislation is going to be imposing extraordinary hardships, additional burdens, and unfunded mandates on mayors, particularly in smaller communities, and do a great disservice, actually, in terms of the whole relationship between the public safety officers and the security of the community.

So I particularly value his comments on this aspect of the bill. There are obviously a number of other important aspects of it. But as it relates to small towns, I forget the actual population or the size of the community, the city that the good Senator was the mayor of, but, in any event, if he could elaborate on his views about this legislation and its importance to mayors as well as to firefighters, I think it would be very helpful because he speaks from very practical experience.

Mr. MENENDEZ. Well, I appreciate the comments of the Senator from Massachusetts. We had about 60,000 people in the community at the time. But it was a challenge, 60,000 people in 1.1 square miles, the most densely populated city in the Nation.

So the uniqueness of some of those challenges of having police and firefighters be able to respond was very much—although the population was high, the geography was small. So we had a much smaller sense of the response times and the necessities that were demanded.

But I also was part of the mayors' coalition in the State of New Jersey at the time. That coalition represented urban, suburban, rural mayors. Throughout the State of New Jersey, they had obviously the right for collective bargaining. To be honest with you, I don't recall any of those mayors saying collective bargaining was the bane of their existence as it related to being able to produce the services.

I think the reality is that what we do through this process is we build strong partnerships between first responders and the cities and the States in which they serve. When public safety employers and employees work together, it not only reduces worker fatalities, and they have a consequence, even in a noncollective bargaining system—there obviously clearly are claims against the municipality—but above all, it improves the quality of the services and the delivery of those services at the end of the day.

I believe in a post-September 11 world, having resided in a State that lost hundreds of people on that fateful day and in a community that saw several hundred lost on that fateful day, that these are individuals who now play a critical role far beyond what we envisioned originally or what their history has been, which is certainly producing the safety in our communities from the normal challenges of crime, burglaries, thefts, robberies or assaults, or maybe even more minor roles of traffic violations.

These first responders across the landscape of the country face a much heightened responsibility. They play a critical role in homeland security. So by enhancing cooperation between those public safety employers and employees, I believe the legislation helps to ensure that vital public services run as smoothly as possible.

It is interesting that every New York City firefighter and police officer who responded to the disaster at the World Trade Center on September 11, 2001, was a union member under a collective bargaining agreement.

I believe their ability to have been integrated in their negotiations with the cities about all aspects of the delivery of their services gave some of the most incredible response on that fateful day.

There is not a reason why we cannot see that take place across the country in terms of readiness. So I believe that if we look at the bill, it only requires local governments to engage in negotiations. If workers choose to join a union, that is a rather low threshold. Again, States that do not have these protections can choose to establish their own collective bargaining systems. So I hope we realize what is at stake—that safety is incredibly at stake.

Twenty-nine States, along with the District of Columbia, currently guarantee all public safety workers the fundamental right of collective bargaining. Now, with the House of Representatives overwhelmingly—overwhelmingly—approving companion legislation almost a year ago, it is hard to believe the Senate will not act.

In fact, it is time for the Senate to act and to respond. With 80,000 firefighters and 76,000 police officers being injured in the line of duty each year, the time has come to ensure that these workers are protected. It is time to put our votes where our values are. It is interesting to me how very often those of us who serve in this body and the other body want to be there with police and firefighters. We want to take our picture with them, acknowledge them. We appreciate their services.

We talk about their heroism. But the time for all that talk to be meaningful is when you come to the Senate and you cast a vote that is to simply have a right that is fundamentally basic, that we have believed it to be truly an American right. And so all those pictures, all those speeches, it is time to put that vote to work. It is time to put our votes where our values are. It is time to uphold the rights of those who provide for our safety. It is time we show how much we appreciate the dedication and bravery of our Nation's heroes who take this risk every day.

Mr. KENNEDY. Would the Senator yield for another question?

Mr. MENENDEZ. I would be happy to yield.

Mr. KENNEDY. I think all of us in this body know the good Senator represents the State of New Jersey in this case, which had suffered extraordinary loss at the time of 9/11. A number of those extraordinary firefighters lived in the Senator's State. So when he speaks about these issues, talking about the courage and the bravery of these firefighters, he talks about it with a good deal of background and understanding and an enormous sense of compassion for having gone through with many of these families their loss.

That is why, I believe, the Senator in his strong support for this legislation, as a former mayor and also someone who knows and has personal experience with these firefighters, can speak so authoritatively about what this legislation can mean in terms of the safety and security of the community and also with regard to the safety and security of the firefighters, police officers, first responders.

Does the Senator agree with me that those who were not lost on that day but in a very real sense brothers and sisters of the first responders who were lost on 9/11, many of whom were lost in his district, do they feel that legislation will help and assist providing safety and security to the people, whether it is in New Jersey, or in the communities they represent, and that they are supporting this legislation because they are very hopeful and prayerful we will never again face that kind of tragedy we faced but that they believe this legislation can help provide additional safety and security for their communities and for their fellow citizens?

Mr. MENENDEZ. I appreciate the question of the Senator from Massachusetts and the chairman of the committee. The answer is, yes, I say to the Senator. The fact is that New Jerseyans have this right. Yet every year when I have had visits from firefighters and police officers, they have talked about this legislation because they understand, even though they already have the right, they never want to visit another State for the loss of one of their fellows in service who have committed the ultimate sacrifice.

They understand very powerfully that the ability to negotiate, as I suggested earlier, is not only about salaries. Look, you do not do this type of work for a salary. You do not do this type of work for a pension. You do not do this type of work for certain benefits. You do this type of work because you are committed to the proposition that you are willing to sacrifice your life in return for saving someone else's, and that is incredibly important.

Finally, the reality is, I found it interesting in those negotiations that I used to have as a mayor, very often, as I said before about the ability to perform the job, because it was with the mission in mind and the oath taken to save lives, that more often was on the table than the question simply about salaries or pensions or benefits. They know their interaction with their governmental bodies in performing and having a service goes far beyond that which may exist in those States that do not permit that interaction through the collective bargaining system, that in fact lives of their fellow officers can be saved, their fellow police officers and, most importantly, the lives of their fellow citizens. That is why they have come and advocated for this legislation.

Even though they already enjoy the benefit, they understand the potential benefits for a much broader benefit for a much broader universe.

Mr. KENNEDY. I see other Senators wish to address the Senate. We have been reminded about how long we have been considering this legislation and how important it is that we do it at the present time.

As the Senator knows, this bill was initially introduced by our former colleague, Senator Mike Dewine, in 1999. The Senate even voted on it in 2002. We had a HELP Committee hearing on this same legislation in the 106th Congress in 2001.

So many of these brave responders have waited for a long time. This has gone on for some 8 years without coming to completion. It is a matter that has been before this body as well during this Congress.

So would the Senator not agree with me, finally, that the time is now to take action? This is the time. We are talking about homeland security; we are talking about first responders; we are talking about those firefighters and police officers. Now is the time to permit them to be fully engaged and involved in further advancing the safety and security of our colleagues.

Would the Senator not agree with me that this is a significant matter that we have full awareness of and knowledge of and should be ready to take action on?

Mr. MENENDEZ. I agree fully with Senator KENNEDY, that in fact, it is past time. Senator Dewine was a Republican and obviously saw the wisdom of this legislation. It is even more appropriate today. We face challenges unlike any other time in our history as it relates to what police and firefighters are called to do, to go far beyond their traditional roles. They need to have a voice as it relates to how they respond to these new challenges and to their new roles.

Finally, I would simply say, when they negotiated, I know New York City firefighters did not say: Well, we do not have enough men on the rig according to our contract so we are not going to respond on September 11 or enough police officers to say we do not have two-men cars patrolling so we are not going to respond.

That has never been the case of those who serve. They have an oath and calling and they live up to that calling every day. We need to live up to our ultimate calling in the Senate to respond to the challenges they face each and every day to give them the right and the dignity they deserve to be able to negotiate not only for themselves and their families but for the well-being of the citizens they serve.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator the Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4760 TO AMENDMENT NO. 4751

Mr. ALEXANDER. I send to the desk an amendment and ask for its immediate consideration. I believe Senator KENNEDY has seen a copy of it.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER] proposes an amendment numbered 4760 to amendment No. 4751

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4760) is as follows:

(Purpose: To guarantee public safety and local control of taxes and spending)

At the appropriate place, insert the following:

**SEC. ____. GUARANTEEING PUBLIC SAFETY AND LOCAL CONTROL OF TAXES AND SPENDING.**

Notwithstanding any State law or regulation issued under section 5, no collective-bargaining obligation may be imposed on any political subdivision or any public safety employer, and no contractual provision may be imposed on any political subdivision or public safety employer, if either the principal administrative officer of such public safety employer, or the chief elected official of such political subdivision certifies that the obligation, or any provision would be contrary to the best interests of public safety; or would result in any increase in local taxes, or would result in any decrease in the level of public safety or other municipal services.

Mr. ALEXANDER. Mr. President, this is an amendment to the pending legislation which would give the mayors and chief administrative officers of cities and States the opportunity to opt out if they conclude that this law would be, in their circumstances, contrary to the best interest of public safety, No. 1, or would result in an increase in local taxes or a decrease in the level of public safety or other municipal service. In other words, if this legislation amounted to an unfunded Federal mandate, it would not be effective.

Let me speak to the unfunded mandate aspect of this legislation and its interference with the prerogative of States. Those are two different ideas and two very important ideas in the American fabric. Let me begin by saying we are talking about some of the most honored men and women in our country—firefighters, policemen, and other public safety workers. That is true in Tennessee as well. We have over

700 fire departments, and we were grateful for the heroism of firefighters everywhere on 9/11. Local fire fighters in Tennessee and across the Southeast were among the first on the scene after the deadly tornadoes earlier this year. We are deeply grateful for that.

Charles Martinez from Maryville, my hometown, was named Tennessee firefighter of the year in 2004 for giving his kidney to a fellow firefighter. We deeply admire him for that.

In 2006, Lieutenant Terrance Andrews of Chattanooga was named Tennessee firefighter of the year for his dramatic rescue during a house fire in which he pulled the security bars away from a window to save Virginia Humphrey. Ms. Humphrey was injured and spent some time in a hospital, but she fully recovered. I admire Lieutenant Terrance Andrews' bravery.

Another example, firefighter Shane Daughetee of the Highway 58 Volunteer Fire Department in Chattanooga died in the line of duty in January of last year when he was trying to rescue a family. We mourn Shane Daughetee's death and admire the bravery of that individual. All of us admire and respect the bravery of firefighters and other public safety employees in all our communities. But that is not what this legislation is about.

A better name for this bill would be the ''Washington knows best unfunded mandate act.'' In the name of some of the men and women we respect the most, our firefighters, policemen, and others, we are about to commit two of Washington's worst and most flagrant sins. That is, No. 1, to take away from States and communities their right to decide their own labor relations, what they ought to be; and, No. 2, to pass an expensive piece of legislation, make it sound good, take credit for it, and then send the bill home to mayors, Governors, and local officials who will have to either raise taxes or cut services to deal with it. It is an unfunded mandate in that sense.

Current Supreme Court law suggests that the tenth amendment permits the Federal Government to require State compliance with the general regulatory scheme but does not permit the Federal government to require States in their sovereign capacities to regulate their own citizens.

The argument made by the distinguished Senator from New Jersey basically boiled down to this: We have it in New Jersey, so we are going to make Tennessee have it. We have decided in New Jersey that it is a good idea, so I am going to fly to Washington and impose it on Tennessee, Georgia, Wyoming, and all 21 States which have different laws.

This is not a new subject. We haven't been waiting a long time to discuss this. We debated and discussed this law every year I was Governor of Tennessee in the 1980s, which is where it is supposed to be discussed, because we are discussing the labor relations of the State of Tennessee. It was discussed almost every year in the 1990s and rejected by the legislature of Tennessee in an entire series of years. I have here the years in which it was considered and rejected by our State. Tennessee considered this specific question in both the State House and the State Senate which, I might add, are majority Democratic during all of this time. In 1997, Tennessee said: We prefer to have a law in Tennessee that provides that mayors and local officials deal directly with public safety employees such as firefighters and police officers. We believe that is the best way to encourage public safety, to have strong communities, and to provide the best labor-management relationship in our State.

The State legislature said that in 1997. The Democratic State legislature said it again in 1999. They said it again in 2001, 2003, and 2005. In our State of Tennessee, we will grant that a different rule might be good for New Jersey, but we have decided over the last two or three decades that way is not good for our State.

What are we talking about here? What we are saying in this Federal law—which will be imposed, as the Senator from Wyoming has said, on every State, but in 21 States like ours, it overturns our law—is basically that a mayor is required to recognize a union leader, if he or she wants to sit down and talk instead of with the policemen and firemen and other public safety employees about pay, benefits, and work rules. It takes away the State's decision that says we believe it is better for the mayor to deal directly with those employees. I don't know what that will do to improve working conditions or cooperation or the public safety, but I am confident it will coerce hundreds of thousands of local policemen and firemen to pay union dues and fatten those treasuries.

This bill is saying what is good for New Jersey, what is good for Massachusetts, is good for Tennessee. What I am saying is we have 90 towns in Tennessee that will be forced to change how they deal with their public employees, because someone in New Jersey or someone in Massachusetts or other States thinks that is what we ought to do. Not only does Washington know best, according to the advocates of this legislation, but also that Washington knows best how to spend our money. Because what are these discussions about? They are discussions about towns such as Pulaski, 7,800 people; Mumford, 5,000 people; Dyersburg, 17,000; Alcoa, 7,700; my hometown of Maryville, 23,000.

Let me take Maryville as an example. We have good schools there. My father ran for the school board after World War II with a ticket of men and women who said: We will take all the money we have and we are going to focus on having great schools. So in that blue-collar town where at the time most of the people worked for the Alcoa plant, middle-income community, lower middle income, by and large, we slowly built up a culture of very good schools. About 75 percent, if I remember the figure correctly, of the local tax dollars go to make those schools superior. They win academic scores year in and year out.

What we are saying to Maryville is: OK, the Senator from New Jersey and the Senator from Massachusetts have a better idea for you folks in Maryville. We are going to impose on you a different way of dealing with your policemen and firemen. As a result, some labor union leader from Massachusetts and New Jersey may come into Maryville and say: Instead of spending 75 percent of your money to make schools better, we want you to do this, that, or the other about public safety and reduce spending on schools and increase spending for salaries of public safety people.

One could make that argument.

But so far, the people in my hometown have said: We would rather not do it that way. We would rather make education our priority. We think we have a super police force. We are very proud of them. But we like the way we are doing things. The same in Sweetwater and Erwin and Bolivar and Rockwood and Church Hill and Millersville. Ninety of our towns in Tennessee would suddenly be doing things the New Jersey way, the New York way. If we wanted to do things the New Jersey way, we would move to New Jersey. We would move to Massachusetts. We would move to New York. Those are wonderful States, but we don't choose to live there. We like to do things our way, and we have always been able to.

We don't have a chance to do that just out of common sense. Common sense would suggest that a big, complex country of 300 million people, where people come from all over the world and freedom and liberty are our values, that we allow people as much as possible to do things in different ways, so long as they meet with certain constitutional rights. Senator BYRD likes for us to carry around in our pockets the Constitution to which we took an oath to honor. It says in amendment X:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In other words, it says that in the United States of America—it might not be true in some other countries—unless the Constitution says the Federal Government shall do it, the States do it. And so the States have been doing it. We don't say in this country if New Jersey does it and the Senator from New Jersey thinks it is a good idea to do it in Tennessee, make Tennessee do it. That is not the way we do things. So I don't believe this legislation is constitutional, among other things.

Let me also say that as a former Governor, I am trying to make a temperate speech about this legislation, because I feel so strongly about it. But

as a former Governor, when I was sitting there in Nashville, nothing made me madder than to look up to Washington and see some Congressman—and I will have to say, sometimes they were Republicans and sometimes they were Democrats—who flew to Washington and got smarter than they were when they were back in the small towns in which they grew up. They would say in Washington: I have a great idea. They would pass it into law and hold a press conference and take credit for it, and then they would send the bill to me, the Governor. Then what would happen? The next week that same Congressman, if it was a Republican, would be home in Knoxville making a Lincoln day speech bragging about local control, and the Democrat would be in Nashville making a Jackson day speech bragging about local control, and I would be paying the bill. That is not right. That is called an unfunded Federal mandate.

The American people don't like it. I will tell you how much they don't like it. I was one of those Senators—there are a lot of us—who felt a calling to run for the Presidency of the United States a few years ago in the middle of the 1990s. I didn't make it. My preacher brother-in-law said it was a reverse calling and that I should be doing something else for the people. So I am here. But I remember in 1994, 1995, and 1996, there was a strong resentment in this country toward being told what to do from Washington, DC. People had had it up to here. The Republicans seized on that. I remember Newt Gingrich and a lot of Republican candidates for Congress standing on the Capitol steps and saying: No more unfunded mandates. They put it in something they called a Contract with America. And the first piece of legislation that was passed by the new Republican Congress, elected overwhelmingly by the people, S. 1, was the no unfunded Federal mandate act. That was S. 1. We are not going to pass unfunded mandates anymore. If we are going to pass something, we are going to pay for it.

This legislation doesn't pay for it. It might tell Erwin and Maryville and Alcoa and Pulaski and 90 other towns in Tennessee what they need to pay firefighters and policemen. It might tell them what to pay them or create an environment that creates a higher salary, perhaps, or a bigger benefit, but it doesn't pay the bill.

Now, the Republican Congress said in 1994: No more unfunded mandates. If we break our promise, throw us out. In fact, the people have, and I think part of the reason is because some Republicans forgot about no unfunded Federal mandates.

So I urge my colleagues to recognize that to impose upon a State—as different as Tennessee might be from New Jersey; as different as Wyoming might be from Georgia—we do not need the same rules and regulations. We are capable in our hometowns of making a good decision about how to have good labor relations, or how to deal directly with our volunteer firemen. We have over 700 fire departments in Tennessee—700—and lots of different ways of dealing with them. We do not need anybody from New Jersey or Massachusetts or somewhere else telling us how we should deal with them.

This is an ominous trend. Tennessee is also a right-to-work State. Now, I know this legislation has a little section that says this does not interfere with right to work. Well, I wonder about that. Maybe this legislation by itself does not in its explicit terms. But if the Federal Government can say, in New Jersey, in New York, and other States: We have a union shop—in other words, employees do not have the opportunity to make a choice about whether to join a union—why cannot they say: It is good for New Jersey; let's have it in Tennessee? It is not a very big step.

Or if New Jersey or some other—I am not just picking on New Jersey, but their Senator was here saying if this is good for them, it would be good for us—State might say: We do not see any need for the secret ballot in union elections. Let's just let employees sign cards. It makes it a lot easier to organize, and if it is good for New Jersey or New York or California, it is good for Tennessee. A lot of people moved to Tennessee because they prefer our level of taxes. They prefer the right to work. They prefer the relations we have between employers and employees.

I imagine the auto industry, which is now one-third of our manufacturing jobs in Tennessee, is there because we have a different labor environment than in some other parts of the country. Now, that does not mean we do not have union workers. We have a lot of union workers.

In fact, in the mid-1980s, a lot of people paid attention to our State because here came the Nissan plant, which even today is nonunion, and it is the largest, most efficient automobile plant in North America, making 500,000 or 600,000 cars and trucks a year. Right next door, 15 miles away, is General Motors' Saturn plant. When General Motors came, the United Auto Workers came, and they are a partnership. Both plants are successful. There has been some shifting and changing at the General Motors plant, but it is back on track.

So we have both plants there: one where employees are required to join the union, one where people have a choice to join the union. We like it that way, and I think they like it that way.

Now, we are the third or fourth largest State in suppliers. They seem to like it that way. So why would we do it the way some other State does it, especially if we figured out a better way to do it, in our opinion. Particularly in the United States of America where we have a 10th amendment to the Constitution, we believe in federalism, and we are a decentralized society.

So I am very worried about this piece of legislation. I think it is bad for Tennessee. It is bad for our labor-management relations. We have enough common sense in our State—with our Democratic Governor, our Democratic House of Representatives, our Republican State senate now—to make these decisions for ourselves. Why do we need U.S. Senators telling us this? Then, when we get in the majority, we might say: What is good for us in Tennessee is good for New Jersey, and change their law; or what is good for us in Tennessee is good for New York, and change their law. We don't care about New Jersey's law. As long as we follow the constitutional rights of the people of the United States, we would like to settle things.

I come from the mountains of Tennessee. My great-grandfather was asked about his politics. He said: I am a Republican. I fought with the Union and I vote like I shot.

The reason we were unionists and Republicans in the Civil War—and still today—was because we did not want the Federal Government telling us what to do. This is an extreme example of serious meddling.

One last example, and then I will stop.

The argument is, if we can only force all these 90 Tennessee communities to collectively bargain, that will improve public safety. Well, how do we know that? Is New Jersey and New York safer than Tennessee? Do we know that for sure?

Or let's take the one example in Tennessee where we have required communities to collectively bargain, and that is with teachers. The unit is an arm of the National Education Association. I have had some pretty important disagreements with my friends in the Tennessee education association over the last 25 years about what is good for education. For example, I thought it would be a good idea to reward outstanding teaching, pay teachers more for teaching well. Twenty-five years ago, our State became the first State to do so. We created a career ladder system, and we raised taxes in order to offer every single teacher a 70-percent pay increase on the State's share. Ten thousand teachers went up that ladder. Guess who the No. 1 opponent to that was. The teacher's union. Not Albert Shanker and the American Federation of Teachers, but the National Education Association.

I am not criticizing them. They are very open about that. They do not like the idea of paying teachers more for teaching well. I think to improve education we should. So does that really improve education in Tennessee to require that collective bargaining?

Another example: I notice a lot of teachers were worried about being sued by parents. I think that is not right. Why not offer teachers the same liability insurance the State provides to State employees?

The Tennessee Education Association raised its dues to defeat my proposal

because they offer liability insurance. Did that improve education in Tennessee?

Or charter schools? I think charter schools are a good idea, public charter schools that leave teachers free to make their own decisions about the kids who are there. But the teachers union disagreed. That is a legitimate difference of opinion. But I think I am right. They think I am wrong. But does that improve Tennessee's schools to have them there?

Choices for parents: I think the best thing to do in Nashville, for example, where schools are having a very difficult time, might be to ask all the parents where they would like to send their kids to school and see if we could do it. Give them their first, second, and third choice to see if we could probably supply that. The teachers union is opposed to that.

Everyone, when we were bringing in the auto industry to Tennessee, bringing in the Nissan plant—the first time we had ever had those jobs, which raised our family incomes—I wanted to build a road out to the plant with State dollars, and the teachers union objected because they wanted me to give the money to the teachers. I thought that was short-sighted because if we improved the tax base, we would have the money to improve education.

So there are differences of opinion about what would improve education, and there are differences of opinion about what would improve public safety. We like our opinions in Tennessee. That is why we do not like this bill.

So I will be seeking a vote on my amendment when the appropriate time comes. I would urge my colleagues, you may be right about your own home State. Maybe it is better to require all your communities to collectively bargain. Maybe that improves safety in New Jersey or New York or somewhere else. But in Tennessee, we have considered it almost every year for the last 25 years, and we have decided a different way. We believe States ought to have the right to decide what their own labor relations ought to be. We do not believe it is a right of the Federal Government to impose unfunded mandates on us and cause us to pay our extra bills at a time when the Governor is laying off people in our State because there are not enough tax dollars coming in.

This is the grossest sort of interference to the sovereignty of our State. We have a strong bipartisan opinion about this in Tennessee. That is why I am so vigorously opposed to this piece of legislation.

It should be called the Washington Knows Best Unfunded Mandate Act. I am going seek to amend it. I am going to do my best to defeat it.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4759

Mr. LEAHY. Mr. President, in a short while I am going to call up an amendment, and I will move at that time to set aside the pending amendment to call up amendment No. 4759. I am not going to do it yet because I want the distinguished Republican manager of the bill, Senator ENZI, to have a chance to see what it is before I do. But let me describe it a little bit before I do call it up.

The amendment would reauthorize and extend the Bulletproof Vest Partnership Grant Program. This is a program that some may recall the former Senator from Colorado, Mr. Ben Nighthorse Campbell, and I began some years ago.

This morning, the Judiciary Committee held a hearing about this important grant program. We heard compelling testimony from an officer, Detective David Azur of Baltimore, whose life was saved in 2000 when he was shot at pointblank range in the chest. He said he had enormous pain and a huge bruise from it, but the bullet did not penetrate his vest. I said to Detective Azur from Baltimore—and I know his family; his father served as a police officer in Burlington, VT, when I was a prosecutor—at least he felt the bruise. Had he not had the vest on, he would not have felt anything. He would have died instantly.

We also heard from Vermont State police lieutenant Michael Macarilla. I know Lieutenant Macarilla very well. He spoke about the assistance Vermont law enforcement officers have received from the program.

This week, thousands of law enforcement officers from around the country have come to Washington to honor the men and women who have given their lives in service over the past year. One thing everybody in this Senate could agree on, all Americans could agree on: We should offer our gratitude to the officers and their families.

On Thursday, May 15—this week—Congress and the American people are going to pause to reflect upon the sacrifices too many have made, as we celebrate Peace Officers Memorial Day. This week, at the Police Officers Memorial, we will recognize and remember the 181 officers who were lost in the line of duty during the past year. Every death is a tragedy, but 181, Mr. President—that is the largest yearly total since the extraordinary losses on 9/11 and in its aftermath. Think of that: 181 officers lost, lost in the line of duty. It also means that a family lost a loved one: a spouse, a father, a mother, a son, a daughter, a brother, a sister. We need to do all we can for the men and women who risk their lives protecting us and the public's safety every day.

The Bulletproof Vest Partnership Grant Program saves lives. It makes a real difference to our officers and their families. The officers who testified before the Judiciary Committee today have firsthand experience with the importance of armor vests. So I am grateful to Detective David Azur from Baltimore and grateful to Lieutenant Michael Macarilla from the Vermont State police for their willingness to share their experiences with the committee and the Senate and the Congress.

I was proud to initiate the Bulletproof Vest Partnership Act with Senator Ben Nighthorse Campbell in 1998. Both of us relied on our own experience in law enforcement, experience both of us had in law enforcement before we came to the Senate. Between 1999 and 2007, our program has assisted in the purchase of an estimated 818,044 vests. We have taken a giant step away from the days in which law enforcement officers were required to purchase their own vests or go without the vest. Actually, I do believe the bulletproof vests should be standard issue equipment for law enforcement, just as we have standard equipment issuing a badge and a weapon.

In addition, as we were reminded at this morning's hearing, body armor is not effective forever. You buy it but it wears out. In fact, manufacturers offer only a 5-year warranty for these life-saving vests. They have to be replaced periodically. In fact, for Detective Azur, his warranty was just about to run out when he was shot.

Despite the fact that the President's budget has repeatedly—repeatedly—neglected to request authorized funding for this program, Congress has stepped up and recognized its importance and appropriated the funds needed to keep it strong. I hope Congress will do so again this year. It may be easy to just look at Federal grant programs as just numbers, and say: Here's a number we can cut. It is a good way to reduce Federal spending. But when it comes to the safety of law enforcement officers, I can think of no rational excuse not to fully meet Congress's determined levels of support for the men and women who protect us all. Look what we have done in Iraq. This administration has provided the Iraqi police forces with a virtual blank check over the past several years. American taxpayers have seen hundreds of millions—some would say billions—of dollars sent to Iraq and misspent, this just on the police forces there. Large sums of cash and weapons disappear. We sent over thousands of weapons, and we didn't even know where they went until some of them showed up in the hands of the people trying to kill our own soldiers. If we can afford to pay for training and equipment for the Iraqi police, we ought to be able to afford bulletproof vests for the officers who protect Americans here at home.

There is money in the President's budget for the Iraqi police forces. I would like a little bit of money in the budget for American police forces. I worked with these police officers for 8 years when I was State's attorney. I think we ought to start paying a little bit of attention here at home.

State and local law enforcement officers assist Federal authorities in many areas, and this grant program should

be viewed in the spirit of this cooperation. In an era when State and local law enforcement are shouldering more responsibilities on the front lines in the name of national security or in cooperation with Federal authorities in fighting interstate crime, then the Federal Government owes it to them to provide them with some support. Much of our Nation's strength lies in our rule of law, and Congress should support the men and women who uphold the laws and protect our democracy.

The Bulletproof Vest Partnership Grant Act expires next year, so the amendment I filed would reauthorize this program for another 3 years. It is drawn from the bill that Senators SPECTER, MIKULSKI, SHELBY, HATCH and I have introduced today. It also includes giving discretionary authority to the Director of the Bureau of Justice Assistance at the Justice Department to waive the matching requirement for jurisdictions experiencing financial hardship. That provision is drawn from the Leahy-Shelby bill, S. 2511. I think that in a narrow and tighter budget and a troubled economy, it makes sense to give the agency making these plans the authority and the flexibility to ensure that no jurisdiction is excluded from such critical assistance simply because it can't afford to meet the matching requirements.

Local law enforcement agencies don't have oil revenues. They don't have outside sources of revenue. If we are going to have the administration say send money to the Iraqi police force, which does have enormous oil revenues, and ask the American taxpayers to pay for it, let's pause and do something to help American police forces.

I ask unanimous consent to set aside the pending amendment and call up amendment No. 4759.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Without objection it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 4759 to amendment No. 4751.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reauthorize the bulletproof vest partnership grant and provide a waiver for hardship for the matching grant program for law enforcement armor vests)

At the end of the amendment, insert the following:

**TITLE ___—BULLETPROOF VEST PARTNERSHIP GRANT AND HARDSHIP WAIVER FOR MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS**

**SEC. 01. REAUTHORIZATION OF BULLETPROOF VEST PARTNERSHIP GRANT .**

(a) SHORT TITLE.—This section may be cited as the ''Bulletproof Vest Partnership Grant Act of 2008''

(b) REAUTHORIZATION.—Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2009'' and inserting ''2012''.

**SEC. 02. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.**

Section 2501(f) of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll(f)) is amended by inserting at the end the following:

''(3) WAIVER.—The Director may waive, in whole or in part, the requirement of paragraph (1) in the case of fiscal hardship, as determined by the Director.''.

Mr. LEAHY. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I wish to take a little bit of time to talk about at least two of the amendments and probably make a mention of the one we just had. As to the underlying bill, we have two amendments that have been suggested—one for a public employees bill of rights and the other one for an unfunded mandate exemption—and I want to comment on those a little bit. I haven't gotten to speak much, and there are several on the other side who have spoken to some extent.

I did notice that the Senator from New Jersey, the former mayor of a community of 60,000, made some comments about how this bill would work, and I wished to point out that 60,000 is a pretty big city in a lot of States around this country. That would be bigger than any city in Wyoming. So when we are talking about how easy it is to do these negotiations, I think we are leaving out some crucial factors.

The bill says it applies if a municipality has more than 5,000 people or—this is very important. It says 5,000 people or 25 employees. If it has 25 employees, no matter what they do for the city, the city comes under this bill. It becomes an unfunded mandate for the city even if there are less than 5,000 people. I can tell my colleagues there are a lot of towns that have less than 5,000 that would have, depending on what services they provide, more than 25 employees.

I think that some of these other employees are going to be a little upset, too, realizing that we have this opportunity to place some special emphasis—and should—on the public safety employees, but not others. My city had its own electrical utility, and I can tell my colleagues, if the power goes out, the most important person in the city for public safety is the guy who comes and gets the electricity going again. This bill would not cover those people. If your city sewer is backing up into somebody's home, the most important city employee from a public safety standpoint is the guy with the city utility. This doesn't include him. But it will force some mandates on the city that will take away money from the guy who fixes the sewer backing up into your house or fixes the electrical utility that keeps the power on that handles heat and air-conditioning and other important things for your home.

I also was kind of fascinated by the Senator from Massachusetts, Mr. KENNEDY, mentioning that as far as the secret ballot, they are going to leave that up to the States. Why would we leave that up to the States? We are not leaving any of the rest of this up to the States. Not only that, we are saying that no matter what the city and the employees agree to, there is going to be this little-known Federal agency that can say: Nope, not enough. That is the way the bill reads. It allows overriding of agreements by the director of a Federal agency. So we are not only saying: We don't care what kind of relationship you have with your public safety people, we don't care how unfunded this is, and we don't care if it steals money from other city employees, we have a Federal agency that is going to keep its eye on you and let you know if you are doing it well enough. Not to mention, of course, that the rules haven't even been written on this, so we don't even know how those are going to go.

So there are some difficulties, and I want to have the chance to address some of these amendments a little more fully.

Of the people who voted for the motion to proceed—some voted that way to say we should debate this. I mentioned in my speech that we needed to have some time to talk about the difficulties of this bill, that there are a lot of things that people don't realize about this bill that need to be corrected and brought out, and we are doing that through some logical amendments.

But Washington does not know best how a municipality works. There is no way we can understand the diversity of all of the municipalities in this United States that would qualify under this bill. Remember, it applies to those with a population of 5,000 or more or 25 employees. So we are not even sure whom we are pulling into this. But we do know we are affecting State law in all 50 States. The exception, of course, is the question of card check or secret ballot where the bill says if they already require it, it is OK, but if they don't, that is OK too. So we can impose every rule on them we can possibly think of, but we are going to leave the right to a secret ballot part out. I hope that is not the case.

I hope some of the amendments that are being suggested will be voted on and passed or, even better yet, accepted. I think some of them are worthy of that.

So with that, I yield the floor and reserve the right to speak again.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise in support of the Public Safety Employer-

Employee Cooperation Act. I have been a cosponsor of this legislation in previous Congresses, and I am pleased that the bill, which I first joined several years ago in cosponsoring, is finally coming to the Senate floor.

This bill would ensure that the people we most count on to protect and serve the public—our firefighters, our police officers, our emergency medical personnel, and other first responders—can exercise their rights to organize and bargain collectively with their employers.

Currently, 20 American States do not effectively provide for this right despite the fact that it applies across nearly every other area of the American economy. All first responders should have an effective process to address job issues and practices with the State and local governments they serve.

Now, some have argued that this bill interferes with the proper authority of States and municipalities, but, in fact, the bill simply requires States to allow public safety officers to bargain over wages, hours, and working conditions. My State of Maine has a very similar law in place already. This bill does not in any way dictate outcomes of this process. It gives State—not Federal—courts the authority to enforce contract rights that arise from collective bargaining.

I also wish to emphasize that the bill does not authorize actions that might threaten public safety. In fact, it prohibits both strikes and walkouts. Further, it does not interfere with any existing collective bargaining agreements, nor does it impinge on any area traditionally reserved to management decisionmaking.

Mr. President, I have heard some of my colleagues say this bill will somehow harm the volunteer firefighters who are so important in rural States, such as mine and the State of the Presiding Officer. I think it is important we spell out why that is not the case. In fact, there is no collective bargaining established by this bill for volunteers, volunteer fire departments. This is a bill about collective bargaining rights of employees who are paid for their work. Volunteers, by definition, are not employees. Any suggestion that cities and towns are going to be required to bargain with and possibly pay their volunteer firefighters is simply wrong.

Volunteers are expressly not covered by this bill and will have no right to collective bargaining. All volunteer departments would have no bargaining complications. Furthermore, professional firefighters would still be encouraged to volunteer. I am touched by the fact that some of the professional firefighters in my town act as volunteer firefighters for their hometowns. They may be employed by a larger city in Maine, such as Bangor, Lewiston or Portland, but they may live in a very small town outside the city, where they volunteer on the all-volunteer firefighting force. There is nothing in this bill that discourages anyone from serving as a volunteer firefighter.

In many towns, as I mentioned, volunteer firefighters are actually professional firefighters who volunteer during their off-duty hours. Our legislation preserves that kind of relationship by actually prohibiting States from putting limits on professional firefighters who want to volunteer during their off-duty hours.

This bill addresses concerns that were raised by some of the volunteer firefighters because the protections in the House-passed bill weren't clear enough. The Senate version of this bill will dispel any ambiguity in the House-passed version and make clear that a professional firefighter can, in fact, volunteer to be part of a volunteer force.

The Senate drafters of this bill worked with groups representing volunteer firefighters. I note that the National Volunteer Fire Council supports the language in the Senate substitute that protects the volunteer firefighters.

I believe this bill is a balanced, constructive measure that will help first responders and improve public safety, without improperly or unduly burdening States. It has won the endorsement of the International Association of Firefighters, and it is particularly appropriate that we are turning to this bill during National Police Week, when so many police officers are also in town.

I believe all Americans gained a new appreciation for the service and the sacrifices of our first responders on that terrible day, September 11, 2001. On that day, 343 New York City firefighters and paramedics, 28 New York Police Department officers, and 37 Port Authority officers died doing what they loved. They died trying to rescue others. Such heroism occurs, usually, with far less tragic results in towns and cities across our country every day.

The least we can do to repay the sacrifice and service, the selflessness of our first responders is to ensure that all public safety officers have the right to bargain on their pay and safety standards and working conditions.

This legislation makes sense. I urge my colleagues to join me in supporting this bill to put America's public safety workers on an equal footing with their counterparts in other jobs.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Senator from Maine for her statement. I have one request for her though. Look at the paragraph that deals with volunteer firefighters—the language regarding allowing professional firefighters who want to help out in the community to volunteer as well. There has been language suggested that would make it clear that what you described would happen. But the language from the House definitely doesn't say that. The language, as revised in the substitute amendment, still doesn't say that. I would appreciate it if the Senator would take another look at that and see if that can be made a lot clearer. The language I was referring to is ''to prohibit an employee from engaging in volunteer or part-time employment, any agreement that contains such language shall be unenforceable.'' That is pretty clear. I am concerned that will not only be misconstrued, but it will be bargained away without any consequence. I would appreciate if the Senator would take another look at that.

Ms. COLLINS. Mr. President, if I may respond to my good friend—and he is a good friend who knows this issue very well and considers bills very carefully, which I have always admired about the Senator from Wyoming. First, let me say it is clear the House bill does not do a good job in this area. I think the House bill is very ambiguous and doesn't make clear what I described. So I think we are in agreement about the House bill. I will take a second look at the substitute language, as the Senator has suggested. But I know the drafters of the bill, Senators GREGG and KENNEDY, worked very closely with the National Council of Volunteer Firefighters, and I doubt they would have signed off on the language—which it is my understanding that they have—if, in fact, it did not protect the volunteer firefighters.

Thirdly, my intent is not to impose any sort of obligation on volunteer firefighters. They are, by definition, not employees, so I don't think they come under this bill. In addition, I do wish to make sure anyone who is a professional firefighter, and employed in that profession, is not precluded from also acting as a volunteer firefighter, as so many professional firefighters in Maine and across this country do. I will take another look at the language, but I do know Senator GREGG and Senator KENNEDY have worked very closely with the Volunteer Firefighters Council, and they believe the substitute language does cure what I think all of us would agree was a problem in the House bill.

Again, I thank the Senator from Wyoming. I will take another look at the language.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I concur in what the junior Senator from Maine has said, if the volunteer firefighter organizations worked closely with Senators GREGG and KENNEDY and they are supportive and have signed off on the language.

I am particularly pleased to participate in this discussion for a lot of reasons. One of them is because I was in the Ohio State legislature many years ago—about 25 years ago—when we debated a bill that would have given collective bargaining rights to Ohio first responders. That legislation eventually passed. I have to tell you Ohio, partly

because of that legislation, has the best public safety forces in the United States of America, the best police officers, the best firefighters, and the best EMS professionals. I may be biased about that, but I am also right.

I have worked with the firefighters in Cincinnati to push for legislation that would help eliminate needless risks to their safety on the job. I have worked with firefighters in Lorain and Akron to make sure Federal and municipal firefighters receive the proper benefits when injury strikes. I have worked with police officers to fight for the COPS Program and with EMS professionals to reduce the redtape surrounding hometown hero benefits. All these men and women have pledged to fight for our lives. Every single day they bear deadly risks on our behalf.

The Public Safety Employer-Employee Cooperation Act gives Members of this body an opportunity to fight for first responders, just as they fight for us. It gives us an opportunity to take on risk and overcome it, just as our first responders do. S. 2123 will reduce the risk of injury or death to first responders and the public they serve.

The Alexander amendment will take away our ability to do that. S. 2123 will reduce the risk of a first responder workforce shortage. The Alexander amendment, again, will take away our ability to do that. It will reduce the risk that first responders will be grossly overworked or dramatically underpaid. The Alexander amendment will take away our ability to do that. It will reduce avoidable risks, and when it comes to public safety, avoidable risks are unconscionable risks.

Some public safety professionals have the right to negotiate fair wages, decent benefits, and proper equipment. Some don't have that right. That is because some States empower their first responders to collectively bargain and others don't.

Collective bargaining is not just about wages or benefits; it is about doing the job in the safest way possible, doing the job in the best way possible. If first responders, without bargaining rights, are underpaid or overworked or poorly outfitted, their options include living with it or leaving.

Neither option serves the public good. Our Nation has a stake in ensuring that public safety jobs are filled in every town, every city, and every State.

Denying first responders the right to negotiate fair wages—denying them the right to negotiate their own safety—is not exactly a strong selling point for these jobs. That is why the Alexander amendment should go down and the bill should pass.

The Public Safety Employer-Employee Cooperation Act ensures that every first responder, regardless of where she or he lives, can do that. This bill promotes fairness and safety. It wasn't just written for first responders—police, firefighters, and EMS professionals. It was also written for those who rely on first responders. That is us. This bill was written for us.

Senator ALEXANDER's amendment, when he spoke, talked about the ''Washington knows best'' attitude. I thought about that as he was talking. His points were well made and well articulated. I wear on my lapel a pin that is a depiction of a canary in a birdcage. About 100 years ago, the mine workers used to take the canary into the mine, and if it died from toxic gas or from a lack of oxygen, the mine worker knew he had to get out of the mine. In those days, the worker had no Government that cared enough to protect him, no union strong enough to protect him, and he didn't have collective bargaining rights. We know that 100 years ago, a baby born in this country lived to be about 46 or 47 years old. Today, a child lives 30 years longer. Do you know why that is? It is not mostly miracle medical technology. Certainly, chemotherapy and heart transplants and other things help many of us live longer. But the reason people live 30 years longer today is, frankly, because of national standards, because of collective bargaining rights. Look around. We have strong collective bargaining laws, and people live 30 years longer because we have strong laws on safe drinking water and clean air. We have strong laws on minimum wage and Social Security and Medicare and prohibition on child labor and protections for women and all the things that were negotiated at the bargaining table and were passed by this Congress—setting national standards on clean air, on safer drinking water, on worker safety, national standards on a whole host of issues that are important to all of us. That is why when I hear this ''Washington knows best,'' we will do it our own way—we have not done that on civil rights or worker rights. As a nation, we share these values, whether we are from Wyoming, Tennessee, New Jersey, Massachusetts or Ohio, and we share these values of helping people, giving them collective bargaining rights, passing a minimum wage increase, having safe drinking water and clean air and pure food laws—all that our country has stood for.

Also, Senator ALEXANDER said this act imposes an unfunded mandate on cities and States, and they would not even be able to afford new benefits for public safety officers. I will answer that for a moment. First of all, under the bill, no costs are imposed. The bill comes with no pricetag. There is not a single provision in the bill that requires cities and States to spend a penny.

Senator ALEXANDER spoke about Pulaski and other communities in Tennessee, saying we are going to go to Tennessee and tell them how much they are going to have to pay first responders in Pulaski or in Nashville. We don't want to do that. I don't want the Federal Government to tell us what first responders in Mansfield, Zanesville, Lima, Springfield, and Xenia should get. But this bill doesn't do that. It doesn't set those kinds of standards, and we know that.

I wish to speak to a couple other issues. No particular terms are imposed in this legislation. Local governments under the Kennedy-Gregg bill are free to write their own contracts. The bill doesn't require any particular terms. State and local officials will sit down with workers and figure out together what will work for their communities. That is the whole point of collective bargaining, not to impose this health provision or this level of pension or that particular wage. It doesn't do that. It simply gives those communities the right to organize and bargain collectively.

There is no binding arbitration in this bill. Many States have done binding arbitration. This bill doesn't require binding arbitration. So no third party can require a government to raise wages or spend any money the local government and their citizens don't agree to spend.

State and local legislatures have the final say. We went out of our way to respect the autonomy of State governments. One way we have done that is to let State and local legislatures have the final say on collective bargaining agreements. The States can give their legislatures the right to approve or disapprove funding for any negotiated agreements. Again, that is what collective bargaining is all about, whether it is in New Jersey, Massachusetts, Wyoming, Ohio, or Tennessee.

This bill most specifically is about mandating a discussion between employers and workers. It is not a mandate. It certainly is not an unfunded mandate. That is why the Alexander amendment should be defeated. That is why the underlying bill should be approved.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BROWN. I certainly will yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope our colleagues have listened carefully to the Senator from Ohio because he has laid out the essential elements of this legislation and did it effectively.

As I mentioned, very often around here we have people who misrepresent or mischaracterize legislation and then differ with it. I have even done it myself a few times. We have seen that done with regard to this legislation.

I listened to my friend and colleague—and he is my friend and colleague—from Tennessee. I watched him wave the Constitution and talk about the tenth amendment, and the Senator from Ohio has answered that.

Does the Senator not agree with me that the basic process that is followed is that if this legislation is passed, a State then must set up some opportunity fulfilling four different requirements that are included in the bill? Those four different requirements that are to provide public service officers

the right to form and join a labor organization; requires the employers to recognize a union that is chosen, require employers to engage in a collective bargaining process, and make available an impasse resolution. As the Senator correctly pointed out, that may very well be arbitration, that may be factfinding. It is completely left open.

Now the State takes these four broad guidelines and fashions legislation. Once Tennessee passes a law, if Tennessee workers say we don't like unions, they don't have to have one. End of the story. I had difficulty in understanding the Senator from Tennessee talk eloquently for half an hour describing this amendment, and I said one of us hasn't read it because there is no such requirement in this legislation as described by the Senator from Tennessee.

I wish the Senator would once again speak to the issue of an unfunded mandate. There is no possibility, as the Senator has mentioned, that there can be any impact on the local community or the State in terms of requiring them to spend a nickel if it isn't going to be approved by the regular order within that State. The State is going to have to make that judgment and that decision whether they want it, but there is nothing included in this legislation that is going to alter that part of the procedure.

As to these concerns we have heard during the course of the afternoon that this new legislation is going to suddenly be an unfunded mandate, I am always interested, if you eliminated the words ''unfunded mandate,'' you would quiet about half the Senate. They use those words so frequently when too often they don't have anything else to say. ''It is an unfunded mandate,'' and everyone quivers and shakes about it. That is the situation.

It is good if we have a debate, and we welcome the opportunity to take some time to debate. We are in no rush. This is important legislation. It is important that the Members understand it, but it is important, it does seem to me, as we are engaging in this debate, for the Members to understand correctly what we are doing and what we are not doing.

I was interested to know if the Senator agrees with me that the bill will not require any town or community in Ohio or any State to expend resources and funds that the State will not duly authorize under its existing appropriations procedures?

Mr. BROWN. Mr. President, I thank the Senator. I certainly agree with the senior Senator from Massachusetts. In my State in Ohio, I have watched for 25 years what has happened with public employee collective bargaining. It has made the State better.

At the beginning of my comments, I talked about Ohio, I believe, has the best police, fire, and EMS forces in the entire country. A big part of that came out of collective bargaining.

Many times in communities when the city council reaches a difficult position with their police or with their fire or with their other first responders, the Federal Government does not get involved. We don't mandate that there should be a certain level of pay or certain level of fringe benefits or certain level of worker protections as they do their jobs. That is up to them, and this bill makes that easier to accomplish.

In no way is there a mandate, and in no way is this an unfunded mandate. No costs are imposed, no terms are imposed, there is no binding arbitration. As Senator KENNEDY said, if Newton, MA, Lynn or Boston want to have binding arbitration or factfinding, they can do that. It is the same with Marion, Portsmouth, and Ravenna, OH. They make those decisions. That is the beauty of this legislation. We set up the system of collective bargaining and let them make those determinations.

Mr. KENNEDY. Mr. President, if the Senator will yield further, would the Senator not agree with me that the decisionmaking then is going to be done at effectively the local level by workers rather than at the Federal level or even at the State level? The State is going to outline a process. Then the workers are going to make a judgment as to whether they want to follow that process. And if they choose that they will not do it, then there is no process or procedure, and they don't have to do it.

A compelling aspect of this legislation is the fact that we are giving the authority to deal with the most local issues to those who have responsibility today in the local community and who know best in terms of safety and security, and are trained in safety and security—the first responders.

The record is powerful in this area about how to ensure additional safety and protection for local communities, the State, and the country. We want to make sure that those decisions are made by the workers who have that expertise.

I thank the Senator for his comments because we have heard a good deal of rhetoric on the floor. It is important that we make sure our colleagues have a good understanding and awareness of the great efforts that have been made to make sure we are going to respect the States, we are going to respect, obviously, local communities and the differences that take place, and we are going to have special provisions, as the Senator correctly pointed out, in terms of voluntary fire departments.

We tried to work very carefully and closely—as the Senator has mentioned, this has been a bipartisan effort with Senators from all different parts of the country. What is important is that local firefighters, local first responders, local police officers are so strongly in support of this legislation because they understand better than anyone on the floor of this Senate the difference it can make for the safety and security of the American people.

I thank the Senator.

Mr. BROWN. Mr. President, I thank Senator KENNEDY again for his comments. Look at what happened in this country over the last decades, as we set up a system of collective bargaining for private employees. This body had no interest in telling GM and the UAW how to negotiate a contract, only that the rights of collective bargaining are recognized in this country.

We have the same view—not a mandate, not an unfunded mandate, to be sure—the same view of setting up collective bargaining with governments, elected officials, in all that we do.

As Senator KENNEDY said, it is all pushed to the local level. They will make the decisions. That is why defeat of the Alexander amendment is crucial. It undoes all the good in this bill. After defeating the Alexander amendment, this legislation should receive an affirmative vote.

Mr. DODD. Mr. President, I rise today to speak in support of the Public Safety Employer-Employee Cooperation Act, a bipartisan measure that will guarantee our Nation's law enforcement officers, firefighters and emergency medical personnel the right to bargain collectively with their employers. I want to thank Senator GREGG and Senator KENNEDY for their long-standing commitment to this critically important legislation.

Now more than ever, the risks taken by our first responders are greater than they have ever been. From the increased risk of terrorist attacks, to the catastrophic hurricanes, tornadoes, and wildfires that have ravaged our country from coast to coast, each and every day we ask more from our emergency workers, and they always rise to the challenge. These are people who have chosen to dedicate their lives to serving their communities—making the streets safe, fighting fires, providing pre-hospital emergency medical care, conducting search-and-rescue missions when a building collapses or a natural disaster occurs, responding to hazardous materials emergencies, and so much more.

The Public Safety Employer-Employee Cooperation Act provides these brave men and women with basic rights to bargain collectively, a right that workers in many other industries have used effectively to improve relations with their supervisors. This bill is carefully crafted to allow States a great deal of flexibility to implement plans that will work best from them. All it requires is that States provide public safety workers with the most basic collective bargaining rights—the right to form and join unions and to collectively bargain over wages, hours, and working conditions. It also will require a mechanism for settling any labor disputes. These are rights that a majority of States already provide these workers, and this bill does nothing to interfere with States whose laws already provide these fundamental rights.

This bill will allow States to continue enforcing right-to-work laws

they may have on the books, which prohibit contracts requiring union membership as a condition of employment. This bill even allows States to entirely exempt small communities with fewer than 5,000 residents or fewer than 25 full-time employees.

Importantly, this bill takes every precaution to ensure that the right to collectively bargain will not interfere with the critical role these workers play in keeping our communities safe. It explicitly prohibits any strikes, lockouts, or other work stoppages. But the key to this bill is truly to foster a cooperative atmosphere between our first responders and the agencies they work for. Cooperation between labor and management will inevitably lead to public safety agencies being better able to serve their communities. Unions can help ensure that vital public services run smoothly during a crisis, and this bill will further that goal.

I would add that this legislation enjoys enormous bipartisan support. The House passed H.R. 980 by an overwhelming margin of 314–97. Here in the Senate, our version enjoys the support of all my colleagues on this side of the aisle and many on the other side as well, including Senator GREGG, the bill's sponsor. In an era ruled by party-line votes, this speaks to the great importance of this legislation. That is because we recognize the unique and essential role these workers play in every single community, and we recognize that by granting them these basic rights they will be able to better serve those communities.

This bill addresses some of the most critical concerns of our Nation's first responders. It goes beyond negotiating wages, hours and benefits. In this circumstance, for this group of people, it means so much more. It means that the men and women who run into burning buildings, resuscitate accident victims, and patrol the streets of our towns and cities can sit down with their supervisors to relate their real life experiences. They can discuss their concerns and use their on-the-ground expertise to help improve their service to the community. Granting our first responders this basic right is not only in their best interest it is in all of our best interests. It will allow these men and women to better serve their communities by fostering a spirit of cooperation with the agencies and towns that employ them.

When tragedies have struck us, from the September 11 attacks to Hurricane Katrina, it is these workers who are the first people on the scene and the last to leave. We owe them everything, and all they have asked of us in return is dignity and respect in the workplace. They stand with us every single day on the job, and it is time we stand with them. I urge all my colleagues to join me and the millions of first responders who form the backbone of our nation's homeland security by voting to pass this crucial legislation.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Arizona.

Mr. KYL. Mr. President, I wish to speak to this legislation and address briefly some of the comments that have been made.

I don't think there is any question that this legislation would represent an unprecedented intrusion by the Federal Government into the affairs of States. It is justified on the basis primarily that it is needed, that States should be required to do the things the law mandates.

I don't think one can argue this is not an intrusion into State law. As a matter of fact, as I understand it, the bill would specifically reverse the actions of 13 States that have considered and rejected similar legislation in the last two legislative sessions of those States. The law in these States would be overruled by this legislation. The bill would specifically overturn the current law in an additional eight States and cast into doubt a number of aspects of current law in at least an additional nine other States.

Apart from the constitutional issues that have been raised by some of my colleagues, the first point I wanted to make is we cannot very well argue we are not telling the States to do anything, we are not really changing anything in the States; this is Federal law that controls certain aspects of State labor laws from now on and, as I said, in several situations would specifically change the policies of States as determined by the citizens of those States.

We have to ask ourselves a fundamental question: Do we trust States and local governments or do we not? There are some reasons why States have different labor laws, as well as other kinds of laws. There are reasons why some States have permitted what this legislation would mandate and other States have not.

For example, it is very difficult to argue a State that doesn't currently have this kind of requirement doesn't care about the safety of its employees. These are people in our communities, these are people who are already governed by other laws relating to minimum wage and safety, to the things that were mentioned by my colleague from Ohio, and these are people who certainly have the ear of others in their community. They are leaders in their community.

I can certainly attest to my State of Arizona. There are some tremendous folks in our firefighting communities, specifically in my hometown of Phoenix, but in other communities as well. If they were working under unsafe conditions or conditions they felt were not appropriate for the circumstance, I think we would hear about that.

To suggest that the mayor of a town doesn't care about their safety or else he would be doing this and, therefore, we are going to have to mandate it on to that community is not a proper recognition of the way our Government works in this country, starting from the ground up rather than the top down. That is what the United States is all about, and that is why communities have different ways of dealing with these different situations.

I, frankly, have not heard any case made for the legislation. I have not heard of situations where in several of these communities over 5,000 population, because this particular mandate doesn't exist, there are all sorts of horrible things happening that have to be fixed.

Unless there is some suggestion that is the case—first, that petition ought to be brought to the State or local government that is involved to see if they want to change their laws. But otherwise, there is certainly no reason why the Federal Government should be intruding into the area.

I don't think we can say this legislation is not a mandate to the States, that it simply allows States to continue to operate as they are. That is clearly not the case.

As my colleague from Massachusetts pointed out, there are four specific requirements that have to be met under this legislation. But he then went on—and I am not certain of exactly what the point here was—that if they do not agree, then that is the end of it.

The reality is, the legislation itself has a very explicit provision for what happens if the Federal authority does not believe the agreement is in compliance with this law. It is subject to the enforcement of section 5 of the law, which is a very extensive section that deals with what happens if you are not in compliance. I will not bother to go through the whole legislation, but it speaks about the determination of rights and responsibilities and says that the authorities shall make a determination as to whether a State substantially provides for the rights and responsibilities set forth in the legislation not later than 180 days after enactment. If it concludes that it does not meet the requirements, then it shall be subject to the enforcement or to the procedure described in section 5. That is on page 9 of the bill. Then section 5 goes on to provide all of the ways in which the Federal authority would then have the jurisdiction to make determinations as to what the State is supposed to do. This is an intrusion of the Federal Government into activities that have previously been left to the States, and I think there is a failure to protect both the rights of the workers in this case as well as the local communities.

I note that Senator HATCH has an amendment, which I think is a good idea, to provide for, in effect, a bill of rights for the workers under this legislation.

I also think the bill itself purports to prohibit strikes. But let me describe to you what the bill does do. It goes to great pains to say that it is not a strike when a public safety officer refuses ''to carry out services that are not mandatory conditions of their employment.'' Well, what does that mean? There is a rich history in labor law

about, you know, well, we were all sick that day. It was purely coincidence that we did not come to work, that kind of thing. We are all familiar with that. Who decides this?

Obviously, at least in my view, this provision appears to be nothing more than legislative code words that authorize work-to-rule and a host of other types of disruptive job actions that we have all become familiar with in certain unions—teachers unions, for example.

The bill forces unions on unwilling cities and towns and then gives those unions the legislative green light, in effect, to disrupt municipal services as long as it is not the refusal to carry out a mandatory condition.

I think some of these things probably could have been corrected had the bill gone through the regular legislative process. But, as the Senator from Wyoming, the ranking member of the committee, the former chairman, pointed out, the bill has not gone through committee. It has not had the benefit of some of the changes that would have improved the bill had it done so.

In fact, I am informed that there were changes that were recommended even by some supporters of the bill when it came from the House of Representatives, things they understood at that point that should be done to the bill to make it a better bill and to make it work more effectively. But the committee had no opportunity to consider those items.

So, at a minimum, this kind of complicated legislation that is going to direct States and municipalities should be the subject of hearings and of the regular legislative process that would enable us to correct its deficiencies before it comes to the floor of the Senate here.

Now, there has been discussion about the administrative expenses not being an unfunded mandate. Well, I do not think there is any doubt that there are costs associated with this. The Federal Government is not paying for them. You can call it whatever you want. I do not know what those costs would totally amount to, whether they would end up bankrupting cities. I am not going to make those claims. But I do not think you can deny there would be extra costs associated with this legislation and that the Federal Government does not pay for those costs.

It has also been pointed out that because of provisions that have—union contracts that cities have taken on in certain instances, those cities have either declared bankruptcy or become close to declaring bankruptcy because of the requirements of these union contracts. I am not going to assert that every city would end up in that kind of a situation either. But I do think it is important to note that there will be financial ramifications. There is no point in doing it otherwise. As a result, I think the cities and the folks in these communities need to consider what their additional obligations are going to be. As I said, there is no reason to have this legislation unless one assumes there will be additional costs imposed upon the folks in those communities.

Another thing about this legislation that causes a great deal of consternation, at least on this side of the aisle and among a lot of people who have been surveyed about the so-called card check legislation, is the principle that in order to unionize a particular facility, you do not have to have a secret ballot. The people, the workers there, are not, in fact, entitled to make their wishes known by secret ballot but, rather, it is done through what is called a card check, a nonsecret proposition where somebody comes around and says: You want to sign this petition, don't you? And through various methods of intimidation—direct or indirect—they could end up forcing unionization in that situation. That is not the American way. We have always prided ourselves on having secret ballots in this country, in labor relations as well as when we elect our officials and vote on propositions that affect our communities.

This bill contains no workers' protections. Specifically, it sanctions State card check laws that do not guarantee secret ballot elections for unionization, and it does not require transparency, fiscal transparency, for labor unions or any other control over the way the unions would then spend the union dues of the members of the union.

One of the things that bothers me most about it, though, is what is called the authority, the Federal entity. It is a new entity that would be created to supervise this legislation. It is not accountable to the State, but it basically becomes in charge of their State laws. In fact, as I said, if it makes the determination that the State law does not comply in what it thinks is the requirement of this legislation, then there are several different enforcement actions it can take to bring the State into compliance. That is not States rights. That is not allowing communities to decide. That is an imposition from the top down from the U.S. Government here in Washington.

There are a lot of smart people in the Senate and a lot of smart bureaucrats and other officials here in Washington, but I do not think any of them got any smarter when they came to Washington, DC, from where they were originally located. We have many smart people in our States and communities who can do these things. We do not have to turn to Washington, DC.

The final point I wish to make is that there is a little bit of a double standard here because, of course, we do not have this in the Federal Government. We are not mandating full collective bargaining for Federal employees, but we are going to impose it on States and towns for a large segment of their employees. I think our folks back home would rightly ask us: Now, what about this? It is something you are imposing on us. If it is such a wonderful idea, why don't you try to do it at the Federal level as well? I think most of us recognize it would not get very far at the Federal level, and it should not get very far at the local level.

I will conclude with this: We all have folks back in our communities who do a tremendous job in protecting us through fire and police protection, providing emergency services. It has been my pleasure and, frankly, an honor to visit with some of them even this week and to visit with them back home and to represent them and to work with them on matters of concern to them. From time to time, some of them have spoken to me about this legislation.

We have a pretty rich tradition in Arizona. It is a right-to-work State. It is a State that obviously has unions, but it also has a rich tradition in trying to protect workers' rights. I find so much of this legislation, as it is written, does not meet what the people of the State of Arizona have year after year insisted in labor relations legislation to govern the relations with the folks who work in the State of Arizona. I think it would be rejected by my constituents. Therefore, it is far better to try to work to correct conditions as they exist locally if those conditions can be presented as significant problems. As I said, I have not seen that. I have not seen it in my local community. I have not seen it presented as a national emergency that has to be dealt with in this extraordinary way. If there are hearings, bring these problems out. If the legislation then works through the committee in a way that provides some of the worker protections we do not see here, provides a little more clarity with respect to things that are not clear, then it is obviously something folks could look at.

In the meantime, I am going to respect the local communities and the people in the State of Arizona who have spoken to this issue in the past and, as a result, urge my colleagues to reject this legislation in its current form. In the meantime, I will support some of the very interesting amendments that have been brought forth, one by my colleague from Tennessee, but I specifically mention my colleague, Senator HATCH.

Let me conclude by acknowledging the good work of the leader on our side of the aisle, the ranking member of the committee, the Senator from Wyoming, and also the fine work that, as always, he does in putting legislation like this together with the chairman of the committee, Senator KENNEDY. To suggest that the bill is not perfect is not to suggest that I do not respect his considerable skills at writing and legislating. It is that we have some disagreement about some of these things. I suspect that had the bill gone through the committee process, it would be a better product than it is today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take a few moments to respond to some of the points that have been made during the afternoon. There are some very basic and fundamental points that I think should be made, and that is on the question of the right to choose and the ability for individuals to have that right to choose.

Here on the floor of the Senate, we heard last night from the Senator from Tennessee and at a time here earlier from the Senator from Arizona. I appreciate his kind personal comments. And I join him in paying tribute to my colleague, the Senator from Wyoming.

Although we differ on this legislation, he knows the great respect I have for him as a legislator and the affection I have for him. But there is a difference between a State saying: We are going to deny people the opportunity for collective bargaining, and a State having a process and a procedure in which the people in the State make that judgment and decision. It is similar to the right to vote. Every individual ought to have that right to vote, and if they are not going to use it, that is their judgment and decision, but it is an important enough right to say that we must make it available and allow them to exercise it.

That is what we are saying with this legislation, that a decision dealing with safety and security and a voice on the job for first responders is sufficiently important that workers should have an opportunity to express themselves and decide whether they want collective bargaining. The States themselves, as good as we believe their judgments are, shouldn't get to make that decision for the workers. The States should set up a process and procedure and let the people in the States make that judgment—that is pretty apple pie Americana, to let people make judgments and decisions about matters that are going to make an important difference with regard to safety and security of their jobs and their communities. That is what this is basically about.

So when we hear on the other side: my State made a judgment on it, and we are trying to see another State trying to impose its will on mine, well, I think my friend Senator BROWN answered that very well as a general concept, but in particular, it is important to understand what is at the root of this, and that is a process. If this legislation passes, a State has four broad criteria that it must meet, and the Senator from Arizona is correct that if the State does not meet these requirements, then the Federal Labor Relations Authority has to step in and make sure these criteria are met. But if they do meet these basic requirements the Federal Labor Relations Authority would not become involved at all.

The idea that workers are going to be forced to join a union if they don't want one is a scare tactic—and I don't say that in a pejorative way, but just for our membership to understand. We are giving the choice to the workers. We believe those firefighters and first responders can make that judgment. We think it is an important enough decision that affects their lives and the lives of the people they are protecting that they should make it. Then they can make the judgment and decision on what they want in that particular State. If they make the decision that they don't want to have collective bargaining, so be it. But at least they have the possibility of moving ahead in that direction. It is difficult for me to believe that the States would refuse to establish the kind of process and procedure that would make that choice possible.

There are a host of different provisions in the Hatch amendment which have previously been rejected in one form or another. We might go over them briefly tomorrow. But I wanted to point out, in this legislation there is no requirement that workers must use majority sign-up, or card-check. I am a supporter of card check. I think it would open up opportunities for people to speak on the issue of whether they want to organize. But we have not made that judgment in this legislation. That isn't what this legislation is about. It is always interesting to me to hear all the opposition to card check, when we know historically that we used to have card check and it worked very well. Into the 1950s, we had it, and we didn't hear a lot of the horror stories that we hear associated with it at this time. But there is not any requirement in this bill about card check. So it is important people understand that.

During the course of the afternoon, I heard a description of this legislation that I could not understand and never would have supported, if the legislation provided that. I hope we can clear up some of these misconceptions. We have had a good discussion on a number of these issues and on a number of others during the course of the afternoon. We will have a chance to go through the RECORD in more careful detail this evening, and make additional points when that opportunity presents itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, as the Senator from Tennessee prepares, I wish to make a couple of comments because I still haven't gotten to talk about either the bill of rights or the unfunded mandate amendments. I am equally as disturbed as the Senator from Massachusetts has just described himself. Where he thinks that I don't understand it, I don't think he understands it. But we have never had a chance to work this out as part of the committee. We come here to the floor, and here it is, kind of take it or leave it. Any amendment that we bring up is going to be considered to have been old and regurgitated. These are things we have always had a concern for, especially when something is being thrust on States that have specifically addressed the particular issue and said no.

I know the Senator from Ohio had a lot of enthusiasm, but I don't think we can connect collective bargaining with the Clean Air Act and the Clean Water Act. Both sides are using some things that might be a little extraneous to what we are trying to achieve here. I do want everyone to pay particular attention to what is in the bill about the final and unprecedented authority of the Federal Labor Relations Authority. As the Senator from Massachusetts says, there are only four requirements. Those are very vague requirements. There are many people who work with this on a daily basis who have noted the vagueness of these terms and how impossible it would be to deal under that criteria. Not to mention the fact that some of these States have not been subject to such ruled before, and after they make agreements, a Federal agency may say: No, that is not good enough.

That is what we are mandating in this bill, asking a Federal agency that we hardly ever hear about, the Federal Labor Relations Authority, to decide, even if a city and their first responders, police, and firefighters say this is a contract we like, that group can override it. They can say: That is not good enough. I don't think that is the kind of Federal authority we should be trying to give to an agency that hasn't had that kind of authority.

I do have more to say, but the Senator from Tennessee is here. I would love to hear his comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 4761

Mr. CORKER. Mr. President, I ask unanimous consent that the pending amendment be set aside.

Mr. KENNEDY. Reserving the right to object, I don't expect that I will object, but would the Senator withhold that request for a few more minutes?

Mr. CORKER. Yes.

Mr. KENNEDY. I am sure we are going to accede to it, but there is something we want to check out.

Mr. CORKER. If it is OK to continue, I will.

Mr. KENNEDY. Please, I appreciate that.

Mr. CORKER. Mr. President, with the approval of the senior Senator from Massachusetts, at the appropriate time I will send to the desk an amendment to the pending legislation we are discussing. What this amendment would do, in the spirit actually of what our distinguished Senator from Massachusetts said, talking about giving States the ability to do what they wish after this legislation passes, in that same spirit, what this amendment would do is actually give each State or political subdivision the ability within 1 year of enactment of this legislation, should it pass, to be able to override that and not have this legislation apply to their State or to their political subdivision.

I think this is very much actually in keeping with many of the statements the Senator from Massachusetts made. I hope this amendment passes.

Let me say, in giving a background to this, I was a mayor of a city. I don't think I will ever have a job that I loved more than being the mayor of a city, working with citizens right there with the problems they have to deal with, nor do I think there will ever be a group of people I respect more than the firefighters and the men and women of our police departments who serve us so well. Like many people here, I have attended funerals of policemen who have lost their lives in the line of duty. I have attended retirements and other meaningful events for firefighters who spent their entire life giving public service to our cities. I don't think there is anybody in this body who respects more what firefighters and police men and women do in their line of duty to protect each of us and deal with us. But I have also had to deal with those issues at the local level where we have to balance a budget, the same thing at the State level, something we here in Washington don't have to do. We don't have the financial constructs that local municipalities and States have. They actually have to deliver. I find it almost ironic that here in Washington we are going to mandate to the States, we are going to mandate to cities all across America, how they should go about dictating labor agreements in their own cities and States. This is a tremendous overreach by those of us at the Federal level.

I have yet to hear a good policy reason for this to be in place. States and cities throughout our country, should they decide to incorporate collective bargaining in the area of public service, can do so if they wish.

This legislation certainly deserves defeat in its present mode. I hope this amendment, as it will be presented tomorrow, can be accepted and at least cause this legislation to give back to States and cities the right to determine their own destiny as it relates to negotiating with people who work in firefighting and police departments all across the country.

With that, I ask unanimous consent, again, to send the amendment to the desk.

Mr. KENNEDY. We have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 4761 to amendment No. 4751.

Mr. CORKER. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit States to pass laws to exempt such States from the provisions of this Act)

At the appropriate place, insert the following:

**SEC. ____. STATE EXEMPTION.**

Notwithstanding any other provision of this Act, the provisions of this Act shall not apply to a State (or political subdivision) that, within 1 year of the date of enactment of this Act, enacts a law that specifically refutes the provisions of this Act.

Mr. CORKER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, very quickly, the effect of the Corker amendment would be to gut or undermine the legislation. What we are trying to do is give workers an opportunity to make a judgment about how to proceed. That choice should be made by workers, not the Federal Government, not us here in Washington, DC, not in the State capitols, not the legislatures, but to let the workers, who are on the frontlines—firefighters, police officers, first responders—make the judgments that are going to make a difference in terms of their lives and in terms of their view of what is in the best interests of the safety and security of fellow citizens. This amendment, of course, will undermine that effort.

Finally, I want to review what this legislation does. We have done this a bit earlier today. I wanted to mention exactly what the requirements would be. First, there are four requirements that the States must meet to establish a framework by which the first responders and the firefighters and the police would make a judgment about whether they want a union. There must be a process allowing workers to form or join a union so they can have a voice in important decisions such as safety; they must be allowed to bargain over working conditions with their employers; they must be able to sign legally enforceable contracts; and they must have access to a neutral third party to help resolve disputes. We don't say whether it is arbitration, mediation, factfinding. All of those options are available. At the end of the day, if the workers say: We don't want that, then the issue is settled. But they have the voice. That is at the heart and the soul of this legislation. Do you have sufficient confidence in these individuals to be able to make that judgment. Those 343 extraordinary firefighters who lost their lives on 9/11, should they have had the opportunity to make judgments with regard to their safety and security? Shouldn't they be the individuals who know what is important in terms of safety and security? They weren't failing or flagging in terms of their resolution or their courage. What we are attempting to do is say: They are the knowledgeable people. They are the trained people. They are the ones who know how to improve safety. They should have a voice at the table, if they want one.

All of this about unfunded mandates, all of this about the Federal Labor Relations Authority, all of the language about volunteer firefighters, all of that is useful to talk about but misses the very basic and important element and thrust of this legislation, which is so important in terms of people who work every day to make our communities and our cities in our country safe and secure.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, again, I appreciate the words of the Senator from Massachusetts and do enjoy working with him on bills. I think I have been pretty cooperative in getting bills through committee, as he was when I was the chairman.

Again, we have not had a chance to work on these amendments or on the bill together. We are having to do it separately, and there is a lot of rhetoric involved in this issue, and a lot of misunderstanding. Those are the kinds of things that get cleared up in a little closer working relationship than you can get by addressing it on the floor of the Senate.

But I too was a mayor, and I was a mayor of a boomtown. Boomtowns attract young people, and young people are vivacious. They are busy. They like to work hard, and they like to play hard. As a result, I had a police department that had to handle some probably unique situations.

I had a volunteer fire department to work with, and we later combined that with the county so we did not have disputes over whether a building that was on fire was inside the city or outside the city. That helped overcome a lot of difficulties there.

So I worked with the firefighters. I have worked with police. I worked with the sheriff's department. Again, we had that same boundary problem when it came to: What is within the city limits and outside the city limits, particularly when you have a fast-growing community; and we did. And we do again. The energy boom is creating a fast-growing community again.

I remember being at a crawfish boil almost a month ago. That is one of the highlights of the year for people who work particularly in the oil patch, but actually people who work all over the community. It was started by some Cajuns from Louisiana who came up to work in the oil patch. They said: We ought to have a crawfish boil. They even figured out a reason for it. They said: If we can get somebody to donate the food, and then we can charge people to come, we can put that in kind of an emergency fund for anything that happens to anybody. They did that. The event still goes on 25 years later. They used to give the beer away. Now they sell the beer. That is worth about another $45,000 in donations. But they did about 11,000 pounds of crawfish this year and fed about 5,000 people. At any one time, there were easily 3,500 people in the building. As you came in, you

had to be approved as being over 21 in order to be able to buy that beer. If you were over 21, you got this bright orange wristband, virtually impossible to take off without cutting.

As I was enjoying my crawfish, I looked around the room and noticed that almost everybody there had on one of these orange bands. But I also noticed that they all looked like they were about 18 or 19. I knew they were 21.

So, once again, we have a very young community of people who are working hard and playing hard. That puts some extra stress on law enforcement. I respect the people who are in law enforcement. In fact, my brother-in-law is a policeman in Gillette. He is the oldest person to ever go through the Wyoming law enforcement academy. He decided to become a policeman at the time most policemen are retiring, and he loves it. He enjoys it, and he does a good job with it. He has seen some interesting situations and even been bitten by a person. But he loves his work. He does it well. But he has not asked me to mandate collective bargaining. Neither did the people who worked for me when I was mayor.

I would not have had the capability to do any particular additional things for them because while it was a boom, it was an energy boom, and all the energy happened outside of the community. So we did not get any tax base off of that business—the business that was growing and causing the city growth. We only got to tax what was inside the city limits. We had to handle things such as sewer and water, streets, garbage, police protection, and electricity. We even had our own electrical utility.

I had to find water for people. They considered that to be the biggest need. The only place we could get enough water to take care of the population—we were already on water rationing when I took office—was to go 42 miles away. The cost of that project—the interest alone on the cost of that project exceeded all the revenue for the city of Gillette. It did not leave me a lot of negotiating capability with anybody. It tied my hands significantly.

I had to come to New York City and prove that we would be able to pay off the water bonds. I had to go to New York to go to the rating agencies so we could get a good enough rating that I could get revenue so we could afford the whole thing. The ironic part of it was, it was when New York City was going broke. New York City was going broke. Mayor Lindsay was having a few problems with the city. The questions I got were very difficult to handle for a small town in Wyoming because they were basing them on a big city in New York. They wanted to know if we were going to run into the same problems New York City had.

Well, the big problem that New York City had was that they bargained early retirement for firefighters and police, so they only had to work 20 years until they could get their retirements. So they worked for 20 years. They were only 40 years old. They had two people retired for every one person who was working. It is hard to provide police protection if you have twice as many people retired as you have working, and you have to pay all of these people who are not working their retirement. It created a huge problem for New York. They did not need us to say: You have to have collective bargaining, because they already had collective bargaining. So we did not have collective bargaining. I was able to explain why our policemen would work a little bit longer and be a productive part of the police force longer than in New York City. I got the rating I needed on the bonds and was able to build the water project. It has been a good source—and still is a good source—of water. But now the town has had another one of those booms where they probably doubled or maybe tripled in size. That will require a lot more water. Water is a basic need for communities. So I do not feel comfortable imposing on them any kind of requirements of how they are supposed to do their business. They are right there where the people are. They are in the best position to know what the community needs and wants the most.

When I was mayor, I used to talk about the ''oh, by the ways.'' That is when you are walking down the street or you are out to dinner, even with your family, and people come up and say: Oh, by the way, I have this little problem. Don't get up and solve it right now. Tomorrow will be fine. But they do intend for you to solve that problem by tomorrow.

Now, the whole discussion today has made it sound as though municipalities are enemies of public service and public safety employees. I do not know of any communities where that is true. To make it sound as though the whole country works against the policeman, against the fireman, against the first responders because there is not a collective bargaining law, is wrong. There is an old expression: You can't fight city hall. My opinion of that is, if you can't, you never tried it. Because the people at city hall are responsive. The mayors and the council keep their job if they take care of the problems the people have. If they do not, they are out of there—probably not just one at a time, but en masse. They do not try to pick out exactly who made the bad decisions; they just get rid of them. So towns have to be responsive to all of their employees.

As I said before, I think there are probably a lot of employees out there who say: How come I am not important? How come just the firefighters, just the police, just the first responders are important? I am important too, and this leaves me out.

So we are trying to make some points while a big public relations event is going on here this week. I finally figured out that is why this bill has been brought up at this time, even though it has not gone through committee or had any hearings in the Senate. On bills that came before this committee before, we tried to avoid the heat of the moment because I have found in legislating, if it is worth reacting to, it is worth overreacting to. I think what we have here is a little bit of an overreaction, and there is not going to be much chance to make any changes in it.

I have been kind of keeping track of time here. I know we had about the same number of speakers, but we certainly did not have the same amount of time to speak. I also know the leader also already sent out the word there were not going to be any more votes today. Well, since we have not gotten to address this bill before with the rest of the body, I have asked all of them to pay attention to the amendments we are doing. But I would hesitate to offer any more amendments when I know everybody has gone home. They are all out to dinner by now.

I do not think this is the way we should try to do business. I do not think it was intentional. But I think it certainly puts us at a disadvantage when we are trying to bring up some things that point out some difficulties with this particular bill—offering some responsible amendments, regardless of how they are portrayed.

So with that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I think we have had a good discussion today on this legislation. I hope we will have a chance to look over the RECORD tonight. We have four pending amendments. We understood Members wanted to talk about these measures, and they wanted to give consideration to them. So we will be ready. There is another group of amendments that I believe have been filed, but we are checking with their authors whether they want to call those up. So I think in the totality of things we have made some good progress today.

I understand we will be on this legislation in the mid or late morning tomorrow. We look forward to that opportunity to further respond to questions and to consider other amendments. We would certainly look forward to the authors of these amendments being ready to give consideration to voting on some of these measures. I think they are all—at least the amendments we have seen—pretty straightforward. I have responded to a few this afternoon. We will have a chance to further respond in the morning. But I think we will be prepared to keep the process moving and move ahead. There are matters which should

be discussed and debated. We look forward to that debate and discussion as well tomorrow.

At least now, we have no further speakers on this legislation at this time. I see our friend from Iowa on his feet.

## MORNING BUSINESS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 3014 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

## SURVIVAL OF THE MIDDLE CLASS

Mr. SANDERS. Mr. President, about a month ago on my Web site, which is sanders.senate.gov, I requested that Vermonters e-mail me about what the collapse of the middle class means to them personally—not in esoteric economic terms but in a sense of what they are going through.

Frankly, we are a small State, and our people are pretty reticent. People in Vermont don't like to open up and tell everybody all of the problems they have. They try to keep it to themselves. We expected that we would receive perhaps a few dozen replies. In fact, over the last month, we have received some 700 e-mails that came into my office talking about how people in the middle class today are trying desperately to survive. About 90 percent of the e-mails came from the State of Vermont. We have had a number from around the rest of the country.

I sometimes think that many of our colleagues here really don't have much of a clue about what is going on in the real world. It is no great secret that the Halls of Congress are filled with lobbyists who make hundreds of thousands of dollars a year representing the energy companies, the coal companies, the oil companies, the drug companies, the insurance companies, the banks, and the credit card companies. They are all over the place, and they try to influence—and are successful in many instances—in influencing Congress to pass legislation that protects the interests of multinational corporations or the wealthiest people in this country. It is far too rare that we hear the pain and the reality of life that is going on among ordinary people, especially people who come from a rural State such as mine.

What I wish to do is spend most of my time doing nothing more than just reading to my colleagues and for the American people some of the reality that takes place in a small, rural State which I think is not radically different from what is taking place today all over this country. All of these are verbatim e-mails that I received from families in the State of Vermont. Let me begin by reading one which says:

> I make less than $35,000 a year and work hard to earn it. I am trying to get by with rising costs of fuel. I have a wife and four kids that I love dearly and I am trying to do the best that I can for them. With the cost of gas pushing $4 a gallon and the price of heating oil up to over $4 a gallon, it is hard to make ends meet. On top of that, the furnace that heats the house and keeps my kids warm died today, and while it will not need to run much longer, the nights are still too cold for a 3-year-old. I am not sure how I am going to pay for the repairs. I never thought that I would be classified as poor having grown up in an upper middle class family, but that is where I am now. I don't know what we need to do, but I know we need to do something before the middle class is a thing of the past.

As I read these stories, what you are going to hear today in the year 2008 is that children are going cold in America, and we have to understand that. This is one example. I will read more. Anyone who thinks it is not true doesn't know what is going on in the real world. Here is another e-mail that I received:

> I am a teacher with 20 years of experience, and I have a master's degree. As a single parent, I am struggling every day to put food on the table.

This is a teacher with a masters degree.

> Our clothes all come from thrift stores. I have a 5-year-old car that needs work. My son is gifted and talented. I tried to sell my house to enroll him in a school that had curriculum available for his special needs. After two years on the market, my house never sold. The property taxes have nearly doubled in 10 years, and the price of heating oil is prohibitive. To meet the needs of my son, I let the house sit and moved into an apartment near his high school. I don't go to church many Sundays because the gasoline is too expensive to drive there.

Now, I wonder how many people all over this country are facing that same reality. I will read right from her letter:

> I don't go to church many Sundays because the gasoline is too expensive to drive there.
>
> Every thought of an activity is dependent on the cost. I can only purchase food from dented can stores. I don't know how I can continue this way for two more years of my son's high school; yet, I am trying to meet his academic and psychological needs. I know that I will never be able to retire on a teacher's retirement with no insurance. I am stretched to the breaking point, with no help in sight.

That is a teacher with a master's degree. This is not somebody who is unemployed, who never graduated high school. This is solid middle class. This is her reality.

Here is another story:

> My wife and I live in rural Vermont. We own a home and make about $75,000 a year combined.

That is, in Vermont, not a bad income.

> We own two vehicles and travel about 74 miles a day roundtrip to get to our jobs. Not only is the price of gas killing us, I have been displaced from two jobs in the last nine years due to the exportation of jobs overseas. My current job is in jeopardy of being downsized due to the economy. Every job I have had since I moved here in 1999 has paid less, with less benefits. We are spending our life savings just to make ends meet.

When you read these stories, you hear recurring themes: The price of gas and people losing jobs due to outsourcing. Over and over again, these themes appear. I want to reiterate that these are not ''poor'' people, homeless people, people without any education. These are people who once considered themselves to be part of the American middle class. Similar to millions and millions of other people, that middle-class life is rapidly disappearing.

Here is another one:

> I work full-time at the largest hospital in Vermont. I am in more debt now than I was 10 years ago as a single mother going full time to college and waitressing to make ends meet. When is something going to be done to lower gas prices, which have exponentially raised the cost of everything? I would love to just tell my children, ''Yes, we can go out to the movies'' and not have it break the bank.

In other words, what you are seeing all over this country is for people who take a ride to church or go to the movies, they can no longer perform these basic joys of life because they cannot afford to do that anymore.

Here is another letter:

> My husband and I have lived in Vermont our whole lives. We have two small children (a baby and a toddler) and felt fortunate to own our own house and land, but due to the increasing fuel prices we have at times had to choose between baby food, diapers, and heating fuel. We've run out of heating fuel 3 times so far, and the baby has ended up in the hospital with pneumonia 2 of the times. We try to keep the kids warm with an electric space heater on those nights, but that just doesn't do the trick.
>
> My husband does what he can just to scrape enough money for car fuel each week, and we've gone from 3 vehicles to 1 just to try and get by without going further into debt. We were going to sell the house and rent, but the rent around here is higher than what we pay for our monthly mortgage and property taxes combined. Please help.

This is the story in America in 2008—a family not having enough heat and their child getting pneumonia. This is the United States of America in 2008. She asks, ''Please help.'' Well, let's help.

This is from north central Vermont:

> Due to illness, my ability to work has been severely limited. I am making $10 an hour and if I am lucky, I get 35 hours a week of work. At this time, I am only getting 20 hours as it is ''off season'' in Stowe.

That is a major recreation area in Vermont.

> It does not take a mathematician to do the figures. How are my wife and I supposed to

live on a monthly take home income of less than $800. We do it by spending our hard-earned retirement savings. I am 50 and my wife is 49. At the rate we are going, we will be destitute in just a few years. The situation is so dire that it is all that I can think about.

Listen to this:

Soon, I will have to start walking to work, an 8 mile round trip, because the price of energy is so high it is that or go without heat.

In the United States of America, in 2008, somebody will be walking 4 miles to work and 4 miles back. The alternative is not having enough money to heat their home.

As bad as our situation is, I know many in worse shape. We try to donate food when we do our weekly shopping, but now we are not able to even afford to help our neighbors eat. What has this country come to?

Imagine that, having to walk 4 miles to work, and they donate food for other people who are worse off than they are.

Here is one from a single mother in a small town in southern Vermont:

I am a single mother with a 9-year-old boy. We lived this past winter without any heat at all.

In Vermont in the wintertime.

Fortunately, someone gave me an old wood stove. I had to hook it up to an old, unused chimney we had in the kitchen. I couldn't even afford a chimney liner (the price of liners went up with the price of fuel). To stay warm at night, my son and I would pull off all the pillows from the couch and pile them on the kitchen floor. I'd hang a blanket from the kitchen doorway and we'd sleep right there on the floor. By February, we ran out of wood and I burned my mother's dining room furniture. I have no oil for hot water. We boil our water on the stove and pour it in the tub. I'd like to order one of your flags and hang it upside down at the capital building. We are certainly a country in distress.

This is a gentleman from another town in southern Vermont:

I make less than $35,000 a year and work hard to earn that. I am trying to get by with the rising cost of fuel. I have a wife and four kids that I love dearly and am trying to do the best I can for them. We do receive help from the State, but I would like to be able to make it without that help.

He would like to do it without that help.

With the cost of gas pushing $4 a gallon and price of heating oil up over $4 a gallon, it is hard to make ends meet.

On the top of that, the furnace that heats the house and keeps my kids warm died today, and while it will not need to run much longer this winter, the nights are still too cold for a three year old, and I have next winter to look forward to. I am not sure how I am going to pay for the repairs.

Here is another from a woman from a small town in central Vermont:

My husband and I followed all the rules. He grew up in urban projects and went into the military with Vietnam service so he could get GI Bill benefits and go to college. I grew up picking strawberries as a migrant worker but had a mother who so pressed education that I was able to go to college on scholarship and by working full time nights in a mental hospital. My husband and I worked hard to buy a home, maintain good credit, even taking government jobs because we truly wanted to help others. I became disabled and unable to work, but we managed to live a middle class life on one salary.

Slowly, though, we have sunk back to the ''poor'' days. Our heating oil bill, gas prices, food prices—well, you know the story. Even a pizza is a splurge now. The interest on our meager savings doesn't seem worth keeping the money in the bank. We're so much more fortunate than many others, since we can still meet our bills, but we're scared that we will drop beneath that level soon. It doesn't seem right that after working hard and following all the rules for our lives, now, at 60, we're tumbling down.

Here is an e-mail from a Vermonter from a small town near the New Hampshire border:

Dear Senator SANDERS: First, let me thank you for all of the support and rallying behind the middle class you have done. I, too, have been struggling to overcome the increasing cost of gas, heating oil, food, taxes, etc. I have to say that this is the toughest year, financially, that I have ever experienced in my 41 years on this earth. I have what used to be considered a decent job. I work hard, pinch my pennies, but the pennies have all but dried up. I am thankful that my employer understands that many of us cannot afford to drive to work five days a week. Instead, I work three 15-hour days. I have taken odd jobs to try to make ends meet.

This winter, after keeping the heat just high enough to keep my pipes from bursting (the bedrooms are not heated and never got above 30 degrees), I began selling off my woodworking tools, snowblower (pennies on the dollar), and furniture that had been handed down in my family from the early 1800s, just to keep the heat on.

Today, I am sad, broken, and very discouraged. I am thankful that the winter cold is behind us for a while, but now gas prices are rising yet again. I just can't keep up.

This is from a mother in a town near the Canadian border:

I am a single mother of 4. Each day the struggle becomes more difficult. Thank goodness for Spring. My last oil delivery was $500. I spend over $200 a month on gas just driving back and forth to work (approximately 300 miles a week).

Sometimes what some of my colleagues don't understand is that in rural parts of America, people don't walk to work, they don't take a car ride of 5 minutes. Sometimes people drive 50 miles to work. Sometimes they drive 100 miles to work. When gasoline costs $3.70 a gallon, every nickel of the pay raise they may have gotten goes right into that gas tank.

We have cut our budget again and again. There is little left to cut. Spring and Summer brings a respite from the fuel bills of winter, but I worry what next winter will bring. I will have to dig into my small 401(k) to make some home repairs this summer. Money that had been set aside went to fuel, an electric bill that increased by 14%, and food.

I read these letters because sometimes in the middle of the debates we have here, everybody is spouting off all kinds of facts and figures and ideas. I thought it important to bring a little bit of reality of what is going on in middle-class Vermont. I have to say I doubt very much that it is any different than middle-class New Jersey or any other State in this country. People are hurting. Poverty is increasing. The middle class is collapsing. The only people in our economy who are doing well are the people at the very top, and they are doing extremely well.

Many of the stories we have heard deal with high energy prices. I believe that what happened is that while the middle class has been shrinking for many years now, these high energy prices have resulted in a lot of people now dropping over the cliff. They were struggling and trying to keep their heads above water and, suddenly, out of nowhere, comes $3.70 for a gallon of gas and $4 for home heating oil. That has taken them over the edge.

That is one of the reasons 82 percent of the American people think our country is moving in the wrong direction. What do we do? There is a lot we can do.

Let me focus on energy. The good news is that today, thankfully, 97 Senators voted to stop the Bush administration from continuing the absurd policy of adding 70,000 barrels of oil a day into the Strategic Petroleum Reserve, which is already 97 percent full. Is that going to result in a precipitous drop in gasoline prices? No. Will it help? Yes. I applaud my colleagues for doing that.

I find it interesting that 97 of our colleagues voted for this today, when 2 or 3 weeks ago we were wondering whether we had the votes to get this through. I think many of our colleagues are hearing, when they go home, that people are in trouble. They are hearing the same stories I am hearing, and they are hearing people want them to begin to stand up to the Bush administration, stand up to the oil companies, stand up to the speculators, stand up to the people who are ripping them off while their lifestyle is rapidly declining.

What we did today is a good thought, but, clearly, we have a long way to go. I am onboard legislation, which we discussed a little bit today, which demands that President Bush tell Saudi Arabia it is not acceptable that they have cut back on their oil production, that it is imperative they increase oil production so we can have more oil on the market, which will lower gas and oil prices.

In addition to that, I believe the time is long overdue that we start dealing with the reality that OPEC is, by definition, a cartel designed, created to restrict trade, to collude to limit oil production output, and to make prices higher than they need be. We have to take a hard look at OPEC and begin to demand that this President go to the WTO and break up OPEC.

Furthermore, it is very clear that at a time when oil prices are soaring, it is, in my view, absolutely necessary that we impose a windfall profits tax on the oil and gas industry. The American people do not understand why they are paying recordbreaking prices at the gas pump while ExxonMobil has made more profits than any company in the history of the world for the past 2 consecutive years.

Last year alone, ExxonMobil made $40 billion in profits and rewarded its CEO with $21 million in total compensation. Just a few years ago,

ExxonMobil gave its former CEO a $400 million retirement package—a $400 million retirement package and people in Vermont and all over this country are unable to fill up their gas tanks or heat their homes.

But ExxonMobil is not alone. Chevron, ConocoPhillips, Shell, and BP have also been making out like bandits. In fact, the five largest oil companies in this country have made over $600 billion in profits since President Bush has been in office.

Last year alone, the major oil companies in the United States made over $155 billion in profits. Believe it or not, these profits continue to soar. Recently, ExxonMobil reported a 17-percent increase in profits, totaling $10.9 billion. Earlier, BP announced a 63-percent increase in profits and on and on it goes. Every major oil company is seeing a significant increase in their profits. Meanwhile, what these big oil companies do with all their revenue is they have the capability of providing their CEOs with lavish compensation. In 2006, Occidental Petroleum gave its CEO, Ray Irani, $400 million in total compensation for 1 year of work.

My friends, when you are going to fill up your gas tanks at $3.75 a gallon, let's remember, the gentleman who runs Occidental managed to survive last year on $400 million in total compensation.

Last year, Anadarko Petroleum's CEO received $26.7 million; Chevron's CEO received $15.7 million; and ConocoPhillips' CEO made $15.1 million in total compensation.

Let's be clear, I believe oil companies should be allowed to make reasonable profits, and CEOs of big oil companies should be able to make a reasonable compensation. But at a time when so many Americans are struggling to make ends meet and when people cannot afford the outrageously high prices they are now forced to pay, these kinds of executive compensations are to me totally unacceptable.

It is not just the oil companies that are ripping off the American people. There is a lot of evidence, and there have been hearings held on this issue, that wealthy speculators and hedge fund managers have been making obscene amounts of money by driving up the price of oil in unregulated energy markets with absolutely no Government oversight. The top 50 hedge fund managers earned $29 billion in income last year.

What we are seeing now is not only oil company greed driving up prices, but we are seeing financial institutions and hedge funds speculating on oil futures also driving up the price of oil. This is an issue that must be dealt with in a number of ways, including repealing the so-called Enron loophole.

I conclude by saying what I think the American people know. They know our middle class is in deep distress, that people who have worked their whole lives hoping to enjoy a secure retirement are not going to have that retirement. We have heard from young people who are very worried about how, if ever, they are going to be able to pay off their very high college loans, and we heard about other people who cannot afford to go to college.

The time is very much overdue for the Congress to stop listening to the oil companies, the speculators, the banks, and the credit card companies and all these people who make huge sums of money and who pay their CEOs obscene compensation packages and start listening to ordinary Americans who, to a great degree, are not having their voices heard. That is what our job is. That is what we swore to do when we swore to uphold the Constitution. I think we swore to uphold the needs of the American people.

I hope we can move forward in addressing the energy crisis short term. Long term, of course, we need to transform our energy system away from fossil fuels and foreign oil into energy efficiency and sustainable energy. I know you and I, Mr. President, have worked on a number of pieces of legislation that will move this country in that direction, and that is what we have to do.

## HONORING OUR ARMED FORCES

### SERGEANT FIRST CLASS LAWRENCE D. EZELL

Mr. SALAZAR. Mr. President, I rise today to honor the life of a soldier whose work defusing bombs and traps in Iraq and Afghanistan saved countless American, Iraqi, and Afghani lives. Army SFC Lawrence Ezell, of Fountain, CO—a hero by all standards—was killed on April 30 when a roadside bomb detonated near his unit. Assigned to the 62nd Ordnance Company, 71st Ordnance Group, out of Fort Carson, Sergeant Ezell was 30 years old.

I know of no words that can properly honor Lawrence Ezell's sacrifice or measure the depth of his courage. Serving in an ordnance company requires a fortitude, a strength of mind, and a professionalism that few possess and even fewer are brave enough to summon for the task. It is a job with no room for error and no respite from danger. It demands a steady hand. It requires even steadier wits.

Sergeant First Class Ezell performed his job day in and day out in the most dangerous places in the world. In 2003 and 2004, he was in Iraq. In 2005 and 2006, he was in Afghanistan. And this time he was back in Baghdad, trying to bring a measure of calm to its violent streets.

We cannot know how many American servicemembers are alive today thanks to Sergeant Ezell's work, or how many Iraqi or Afghani citizens were saved from a devastating blast. We do know, however, how talented Sergeant Ezell was, and what a gifted leader he proved to be. He was highly decorated for his service. His awards included the Bronze Star, the Army Commendation Medal, the Army Achievement Medal, and the Senior Explosive Ordnance Disposal Badge.

He was the type of soldier who has earned the admiration and praise of our Nation, generation after generation. He was the type of soldier who Douglas MacArthur hailed in a 1962 address to cadets at West Point. The type of soldier who ''prays for peace, for he must suffer and bear the deepest wounds and scars of war.'' The type of soldier who typifies the creed of ''duty, honor, and country.''

''In twenty campaigns,'' General MacArthur told the cadets, ''on a hundred battlefields, around a thousand campfires, I have witnessed that enduring fortitude, that patriotic self-abnegation, and that invincible determination which have carved his statue in the hearts of his people. From one end of the world to the other, he has drained deep the chalice of courage.''

Sergeant Ezell's chalice of courage must have been bottomless. There is no other way to explain how a man can rise each morning, thousands of miles from his family, step into streets torn by sectarian strife, and put his life on the line to defuse bombs, day after day. He was a peacemaker in a land of great turmoil.

To Sergeant Ezell's wife Christina, his parents Rebecca and Lawrence, and all his family and friends, our thoughts and prayers are with you. Sergeant Ezell's humbling service was beyond anything a nation can expect from its citizens. You can be certain that his country will never forget him, and never cease to honor his sacrifice.

## NATIONAL POLICE WEEK

Ms. LANDRIEU. Mr. President, 10 Louisiana law enforcement officers were killed in the line of duty this past year, and they are being recognized in Washington this week as part of National Police Week. I welcome their families and colleagues to the Nation's Capital. These officers lost their lives while serving their communities and are being honored for their courage and the ultimate sacrifice they made to serve and protect the citizens of Louisiana.

National Police Week is collaborative effort to honor the service and sacrifice of America's law enforcement community and includes the National Law Enforcement Officers Memorial Fund, NLEOMF, the Fraternal Order of Police/Fraternal Order of Police Auxiliary, FOP/FOA, and the Concerns of Police Survivors, COPS.

Officers from around the country and the families of fallen officers travel to Washington, DC, for events including the Peace Officers Memorial Day Service at the U.S. Capitol and the National Police Survivor's Conference. In addition, the names of our 10 Louisiana heroes will be engraved on the National Law Enforcement Officers Memorial along with 348 other names from around the country. The names will also be read at a candlelight vigil at the memorial this week.

The following brave police officers and Sheriff's deputies gave their lives

to protect our Louisiana communities: Patrolman Brian Keith Coleman, Alexandria Police Department; Detective Thelonious Anthony Dukes, Sr., New Orleans Police Department; Sergeant R. Alan Inzer, Calcasieu Parish Sheriff's Office; Deputy Hilery Alexander Mayo, Jr., St. Tammany Parish Sheriff's Office; Deputy Joshua E. Norris, Jefferson Parish Sheriff's Office; Sergeant Linden Albert Raimer, St. Tammany Parish Sheriff's Office; Chief David Gerald Richard, Port Barre Police Department; Sergeant John Russell Smith, Bastrop Police Department; Detective Charles Douglas Wilson, Jr., Bastrop Police Department; and Deputy Yvonne D. Pettit, Washington Parish Sheriff's Office.

The sacrifices of our heroic law enforcement officers remind us that it is Congress's responsibility to ensure the Federal Government looks after our disabled officers and firefighters, as well as the families of our fallen and disabled first responders. They put themselves in harm's way each day so that the rest of us may live safely and peacefully in a free society. There is no group more deserving of our full support, and the truth is, our Federal Government has not done enough to care for and honor these officers, their families, and their sacrifice.

National Police Week provides an opportunity for us to reflect on our law enforcement officers' contributions to building safe and productive communities in Louisiana and across the country. I ask the Senate to join me in honoring these 10 Louisiana fallen officers, their families, and their colleagues across the country for their unwavering service and dedication to keeping us safe.

Mr. DOMENICI. Mr. President, I wish today to commemorate the hard work and sacrifices made daily by law enforcement officers all across our great land. Many officers have lost their lives in the line of duty so that our families and communities may remain safe. We must never forget those who have given their lives to protect us all.

In 1962 President John F. Kennedy first declared the annual celebration of Peace Officers Memorial Day and National Police Week in ''recognition of the service given by the men and women who, night and day, stand guard in our midst to protect us through enforcement of our laws.''

Since then, many men and women have paid the ultimate price for our security, including many brave New Mexicans. This year, two New Mexico police officers will be honored and remembered by having their names added to the National Law Enforcement Officers Memorial in Washington, DC.

The first, Patrolman Germaine F. Casey of Albuquerque, was tragically killed in a motorcycle accident while he was a part of the police escort for President George W. Bush's trip to Albuquerque, NM, on August 27, 2007. Patrolman Casey was an officer with the Rio Rancho Police Department and had previously served as an officer with the University of New Mexico Police for 2 years.

Also being honored this week is Officer Christopher M. Mirabal of Alamogordo, who passed away as a result of injuries sustained in a motor vehicle accident while on duty as a New Mexico State police officer on July 13, 2007. Officer Mirabal was a lifelong resident of Alamogordo and like Patrolman Casey, worked to protect New Mexicans, including the families they left behind.

This week we remember the dedication of Patrolman Casey and Officer Mirabal and all of our fallen police men and women who protect and serve our communities, and the tragic price they paid for that devotion. We must also remember the families of all fallen officers and the sacrifices they have incurred because of a deep-seated commitment to duty and public service. All of us from New Mexico owe a debt of gratitude to each and every officer who has lost their life in the line of duty. To those who continue to serve, we are grateful. You have my utmost admiration.

## 60TH ANNIVERSARY OF THE FOUNDING OF ISRAEL

Ms. MIKULSKI. Mr. President. This month we are celebrating one of the greatest achievements of the 20th century—the founding of the modern State of Israel.

The story of Israel is unique. A people forced into exile, who endured centuries of persecution, rebuilt their ancient homeland. They forged a nation where they could practice their ancient faith and traditions. They created an open and free democratic society. And always, they offer a home to Jewish immigrants from around the world.

The founding of Israel followed the most incomprehensible and evil event of the 20th century, when the Nazis—with the complicity of so many others—sought to exterminate a people. The survivors of the Holocaust helped to build modern Israel. Never again will the Jewish people be dependent on anyone else for their security.

At first Israelis envisioned an agrarian society. But today, Israel is a center for technology and science. American scientists and engineers are working as partners with Israelis to develop the innovations of the future. Our great Federal Laboratories, like the National Institutes of Health, are now working with Israeli scientists on a cure for cancer and other deadly diseases. Together America and Israel are working toward a future that is safer, stronger, and smarter.

America's relationship with Israel is also unique. We share common goals, values, and interests. We stand by each other in good times and bad.

Israel has had to endure many wars and live in constant readiness for battle. They live with the constant threat of terrorism. Yet the people of Israel are strong and resolute. They are committed to building a safer and more peaceful future.

On this anniversary, all friends of Israel should recommit ourselves to ensuring the survivability and viability of the State of Israel, now and forever. Our friendship is based on shared values, shared interests, and strategic necessity. My support for Israel is unabashed and unwavering. I will continue to be a voice for Israel and a vote for Israel in the United States Senate.

Mr. President, I salute the people of Israel as they celebrate 60 years of independence, and I look forward to a future of peace, prosperity, and friendship.

## FAA REAUTHORIZATION

Mr. ENSIGN. Mr. President. I wish to speak about Government barriers to competition in the aviation sector. Like many of my colleagues, I am disappointed that the Senate was unable to pass the legislation reauthorizing the Federal Aviation Administration last week. This is a difficult and dynamic time for the aviation industry, and it is important that Congress review and update our Nation's aviation policies.

Rising ticket prices and increasing delays have made the flying experience more unpleasant for many travelers. Any inefficiencies introduced into the system only serve to exacerbate such problems. Therefore, I believe it is important that Congress reduce barriers to competition whenever possible so that the marketplace can best serve consumers and the public interest.

One issue that needs to be addressed is how Government-imposed slot controls at a handful of U.S. airports effectively bar the entry of new airline competitors at those airports. These federally regulated slot controls are intended to reduce congestion-related delays; this congestion mitigation, however, comes at the expense of open competition.

Once slots at an airport have been doled out to the airlines, it becomes very difficult for new entrant carriers to break into the airport because the market has essentially been closed. Airlines with limited operations at these airports face similar problems should they wish to increase their presence in an effort to compete with the larger airlines. Because the marketplace has been artificially constrained, this leads to higher ticket prices and fewer flight options for travelers.

It has been proven time and again that prices go down and flight options go up when airlines are allowed to freely compete. The Department of Transportation and the Federal Aviation Administration should take every step possible to ensure that competition can flourish at these slot-controlled airports. As these agencies administer congestion programs, I hope that they will develop mechanisms that will allow for new entrants to compete with

the more entrenched airlines at these airports. If they are unable to do so, it may be up to us in Congress to provide them with legislative guidance to ensure a more open marketplace.

Another arbitrary barrier that Congress should address is the outdated perimeter restriction at Ronald Reagan Washington National Airport. For over 40 years, Federal law has restricted flights at Reagan National and delayed the arrival of competition at the airport. With Senator BOXER and Senator MCCAIN, I introduced an amendment to the FAA reauthorization bill to revise Reagan National's outdated perimeter restriction.

The American flying public has shown strong demand for more flights between the Western United States and the Washington, DC, area. Unfortunately, the perimeter rule prevents airlines from responding to that demand by largely prohibiting flights to western cities such as San Francisco, Las Vegas, Phoenix, Denver, and Seattle. Revising the Reagan National perimeter restriction would help free-market competition, directly benefiting consumers. While I am disappointed that the FAA reauthorization bill was pulled from the floor before my amendment could be considered, I will continue to work with my colleagues to find a way to revise the perimeter restriction so that air service between the West and Reagan National is increased in a market-based manner.

We owe it to the American flying public to squeeze every last bit of efficiency out of our aviation system. As the Senate considers aviation issues in the future, I hope my colleagues will work together to reduce the artificial barriers to competition created by well-intentioned yet burdensome Government regulations.

## TRIBUTE TO LARRY TRIBE

Mr. KENNEDY. Mr. President, most of us in Congress know Larry Tribe as the highly regarded expert on constitutional law at Harvard Law School who has been so helpful to us for decades on the many important constitutional issues we often deal with in the Senate and the House of Representatives.

But another side of Larry came to light last month in a very moving front-page article of the ''Scope'' section in the April 16 Shanghai Daily newspaper in China.

Shanghai is Larry's birthplace and he recently returned there for the first time for the Harvard Alumni Association's ''Global Conference in Shanghai.'' He was interviewed by a reporter for the newspaper during the visit.

As the article states, Larry was born in Shanghai in October 1941. His father was a Russian American who had been living in northeastern China where he had met his wife. When war broke out between China and Japan in the 1930s, they moved to Shanghai to be safer, because the city welcomed Jewish refugees. The Japanese occupied Shanghai, however, and after Pearl Harbor, Japanese soldiers arrested Larry's father and held him in a concentration camp because of his American citizenship. Larry and his mother were not allowed to visit him until near the end of the war, and after the war, the family came to the United States.

During those early years in China, Larry attended kindergarten at the Shanghai American school. He remembers that when he finally saw the concentration camp, he was shocked by its harsh conditions, and he says the experience may have influenced his decision years later to become a lawyer involved in fighting for justice and human rights.

As the author of the article, Yan Zhen, writes, ''Who would have thought a frightened little boy who once ran through the streets of Shanghai during World War II would go on to become one of the most revered legal minds in the United States?''

Mr. President, I believe all of us who know and work with Larry Tribe will have even greater respect for him because of this extraordinary part of his life. He truly has lived the American Dream. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Shanghai Daily, Apr. 16, 2008]

A LIFE SPENT IN SEARCH OF JUSTICE—AMAZING LEGAL MIND FORGED IN OLD SHANGHAI

Laurence Tribe is regarded as one of the foremost constitutional law experts in the United States. The Jewish professor's books on the subject are compulsory reading for aspiring—and practicing—lawyers.

He was once voted the most admired living alumni of the Harvard Law School where he is a professor while one of his former research assistants was none other than US presidential hopeful Barack Obama.

Tribe's life has been filled with achievements and accolades—and much of it may have to do with his early years in Shanghai. He may have lived here for just five and a half years, but all of these years later Tribe readily acknowledges it was a special experience that helped shape his life.

After more than six decades, the premier scholar and lawyer recently returned to his birthplace for the first time during the Harvard Alumni Association's Global Conference in Shanghai.

It was an incredible return to the city, he tells Shanghai Daily in an exclusive interview. ''It was an amazing homecoming,'' he says with some emotion.

Tribe was born in Shanghai in 1941 and remained here until his family moved to the United States at the end of World War II.

His father George Israel Tribe was a Russian American who had lived in Harbin, capital of China's northeastern Heilongjiang Province, where he met his wife Polia Diatlovitsky during the war.

For safety reasons, the family moved south to Shanghai. But just one day after the Japanese occupation of the city, George Tribe was taken away by Japanese soldiers due to his American citizenship and thrown into a concentration camp.

Only as the end of the war approached were young Tribe and his mother allowed to visit his father at the camp which he recalls was located on Suzhou Creek, near a tobacco factory.

''I was quite struck by physical features of the camp,'' Tribe recalls. ''My sense of justice rose . . . he didn't do anything wrong, why should he be in such a place?''

Obviously Tribe was too young to understand what American citizenship meant at the time and, being a little boy, he simply felt it was unfair that his father had been thrown behind bars.

''Maybe that influenced my decision many years later to become a lawyer interested in human rights,'' he says.

Tribe, 66, is widely regarded as the leading practitioner and scholar of US constitutional law. He has helped draft the constitutions of countries including Russia, South Africa, the Czech Republic and the Marshall Islands.

At Harvard, where he has taught since 1968, Tribe achieved a tenure professorship before the age of 30 and he was ranked the most admired law professor still living in a survey of more than 13,000 Harvard Law School alumni.

Tribe, who is also a fellow of the American Academy of Arts and Sciences, says he has taught more than 25,000 students over the past 40 years. Among them are John Roberts, the US chief justice, and Obama, a current US presidential candidate who worked as Tribe's research assistant for a year.

''Amazing'' seemed to be the most frequent word used by Tribe during his visit to Shanghai last month. Not just because of the extraordinary development of the city but more importantly, because he got the chance to track down the residences where he once lived.

While having dinner at a friend's house, Tribe came across a lady who helped his vague recollections of Shanghai when she produced the 1941 Shanghai Directory.

The historic document recording members of the Jewish community in Shanghai clearly showed that the Tribe family had lived on Lafayette Avenue (now Fuxing Road) before later moving in to the Picardie Apartments (now the Hengshan Hotel) on Hengshan Road.

Records also showed Tribe attended kindergarten at the Shanghai American School at that time—all places he visited.

''It's so amazing to find buildings are still there in a city of such dynamic development,'' the Jewish scholar says after visiting his former residences.

''Some of the things are a little bit familiar, but I was very small at that time (to remember everything).

''Many things have changed at Picardie but I definitely remember the balcony. I remember standing there looking at the street when I was about four,'' Tribe adds, his eyes lighting up.

What is even more amazing is that Tribe even managed to find the name of his grandfather in the old Shanghai directory and got the chance to visit his grandparents' former home on Seymour Road (now Shaanxi Road N.), where he would often visit.

Tribe says he would have liked to have brought his son and daughter and grandchildren to Shanghai, but sadly their busy schedules prevented them from doing so. Both children are accomplished artists and art theorists.

Before coming though, Tribe's daughter gave him a digital camera and asked him to take pictures of the places where he grew up so that he could share the memories with the rest of his family.

''It would still be nice to bring my grandchildren here one day,'' he says. ''I am enormously grateful to Shanghai. I would not exist but for Shanghai. Not only because I was born here but this city welcomed Jews and other refugees at a time when no one else would take them.''

## TRIBUTE TO CONGRESSMAN WILLIAM LOUIS ''BILL'' DICKINSON

Mr. SESSIONS. Mr. President, today I pay tribute to my friend, former Congressman William Louis ''Bill'' Dickinson, who recently passed away after an extended illness. He represented the Second District of Alabama as a Member of Congress from 1965 to 1993.

Bill was born in Opelika, AL, on June 25, 1925. After graduating from Opelika public schools, he enlisted in the Navy, serving from 1943 to 1946 and then joined the Air Force Reserves.

After graduating from the University of Alabama Law School, Bill returned to Opelika where he practiced law before becoming an Opelika city judge. He later served as a judge of the Lee County Juvenile Court, and as a judge for the Fifth Judicial Circuit of Alabama.

In 1964, Bill was elected as a Republican to Congress for the Second District of Alabama. He was known to his colleagues on both sides of the aisle as an honest and collegial statesman and a first-rate legislator. The people of southeast Alabama were proud of Bill's work in representing them in Congress, as evidenced by his election to 14 terms in the U.S. House of Representatives. Bill never wavered from his conservative principles. It would be difficult to count the ways that Alabama and our Nation benefited from Bill's time in Congress. Though we did not serve together, I knew him well, campaigning for him when I was in college and benefiting from his strong support and wise advice since I have been in the Senate.

As a long standing member of the House Armed Services Committee, he worked arduously for our men and women in uniform. His work was decisive in supporting military bases in Alabama that have become strong, enduring installations like Maxwell Air Force Base and Fort Rucker. He was a fixture on the Armed Services Committee, serving 10 years as ranking member. Indeed, it was ironic that if he had chosen to seek another term, he would have been the chairman of the House Armed Services Committee. As the committee's leading Republican, he gave his support to President Reagan's defense buildup in the 1980s which helped to bring down the Soviet Union. Our Nation's military continues to reap the benefits of programs and policies adopted under his watch.

There are times when our Nation has to defend itself and Bill Dickinson fully understood that reality. That knowledge made him a steadfast advocate for the proposition that the best way to peace was through strength.

Finally, despite all of his accomplishments, Bill's family and his many friends will miss his wit and humor. As we say in the South, he was ''good company''. People loved to hear him speak. The smiles on the faces of the audience would start even before he reached the podium. His humor and a realistic approach to life were surely great assets to his work.

He is survived by his wife, Barbara, four children, and grandchildren. They have all been superb citizens, and I am proud to say that his son, Bill, worked for me when I was attorney general doing a great job for the people of the State of Alabama.

Our State and our Nation are better places because of Bill Dickinson's leadership. Let his service be an example for those of us who continue to serve in public office.

## TRIBUTE TO SANDER LURIE

Ms. STABENOW. Mr. President, today I pay tribute to a truly remarkable person. Sander Lurie came to my office as legislative director in 2001, and was an integral member of my staff for 7 years, including serving as my chief of staff.

Sander was pivotal in getting my office up and running as I made the transition from the U.S. House of Representatives to the U.S. Senate in 2001. I could not have asked for a better person to direct my legislative efforts; with his support I was able to hit the ground running and work for the great people of the State of Michigan from the very start.

Prior to joining my staff in 2001, Sander spent 10 years working for the honorable Senator from the State of New Jersey, Mr. FRANK LAUTENBERG, including serving as his chief of staff prior to Senator LAUTENBERG's retirement in 2000. When I asked Senator LAUTENBERG about Sander and his contributions to his office, Senator LAUTENBERG told me, ''Sander was an integral part of my team for many years and played a large role in our successes during that time. He is a smart, natural leader with a real dedication to public service.'' I could not agree more. For the 7 years he spent on my staff no one was more tireless, more hardworking, or more dedicated to helping the citizens of Michigan and the citizens of the United States. He was a constant source of motivation and inspiration.

Sander has always been the kind of person whose first priority is to improve the lives of those around him. This was clearly evident during his time in Senator LAUTENBERG's office. He was instrumental in assisting Senator LAUTENBERG's push for major reforms in tobacco and was very helpful to the state attorneys general who took on the tobacco industry. Sander played a key role in the Senator's successful battle to reduce drunken driving deaths by making the .08 blood alcohol level the law of the land. Amidst all this, Sander was able to work with Senator LAUTENBERG and help craft the historic 1997 Balanced Budget Agreement that helped to produce the budget surpluses of the late 1990s.

As he made his way to my office, Sander used his experience with the balanced budget agreement to become the go-to person on my staff regarding the budget, and all of us here in the Senate can attest to the complexity that comes along with it. Sander always prided himself in knowing the ins and outs of the budget process and he never ceased to amaze me with his ability to recall rules and regulations at will. His work and knowledge was a pivotal part of my ability to be a leader and contributor to the budget committee, and I cannot thank him enough.

Sander was born in Warwick, RI, and raised for most of his early life in Milwaukee, WI. He earned his bachelor's degree from the University of Wisconsin-Madison, and following that he earned his master's degree in public administration from the Lyndon B. Johnson School of Public Affairs at the University of Texas-Austin. Sander's priority of working for the people in his community and his commitment to public service began at a young age before he ever made his way to Washington. He spent time working for both the Wisconsin State Assembly and the Texas Employment Commission, making sure to give back to the States that he called home. This selflessness followed him to Washington as he spent the last 17 years of his life serving the citizens of Michigan and New Jersey.

Sander has now begun a new chapter in his life. And though everyone in my office and those that know him best were saddened to see him leave, we are all incredibly proud of the work he has done and are deeply grateful for the positive impact he has had on all of our lives.

Today, Sander resides in Washington, DC, with his wonderful wife Dorian Friedman, and their beautiful daughter Mara. As Sander continues on in what will certainly be an illustrious career, I wish him well. He is sorely missed, but I, and everyone around him, know that the same selflessness that brought him to public service will follow him to whatever path he chooses, and he will undoubtedly continue to improve the lives of those around him. I am honored to have had Sander serve as my chief of staff, and I wish him only the best in the years ahead.

# ADDITIONAL STATEMENTS

## 100TH ANNIVERSARY OF THE CITY OF BURLINGAME

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 100th anniversary of the city of Burlingame, located in San Mateo County, CA.

The city of Burlingame was incorporated into the State of California on June 6, 1908. This year, we celebrate its centennial anniversary. Also known as the ''City of Trees'' because of its 18,000 public trees, the city of Burlingame has fascinated and charmed visitors for decades.

Situated in eastern San Mateo County near San Francisco Bay, Burlingame is named after diplomat Anson Burlingame, the former U.S. Minister to

China who stopped in the bay area on his way to China in 1866 and purchased 1,043 acres in what is currently Burlingame and Hillsborough. In the mid-1860s, a railroad line was built down the Peninsula, with many wealthy San Franciscans building secondary homes south of San Francisco. When the great earthquake devastated much of San Francisco in 1906, many people looking to escape the dangers and hardships of the city also moved south, this time permanently.

In 1894, the Burlingame Train Station was built to service the Burlingame Country Club, which was founded in 1893. This station, which was financed largely by country club members, was built to resemble the style of California's missions. Today, the Burlingame Train Station is on the National Register of Historic Places and has also been designated a State historic landmark.

For 100 years, the city of Burlingame has not only served as a historical wonderland for those visiting the city but a place to call home for its more than 28,000 residents. I commend Burlingame for maintaining the natural beauty and historical significance of this fine city.

The city of Burlingame's vision and commitment to protecting its small piece of California history should be commended. I congratulate the city of Burlingame for its hard work on this special occasion and I look forward to future generations having the opportunity to visit and enjoy this unique city for another 100 years.●

## 125TH ANNIVERSARY OF JAMESTOWN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to honor a community in North Dakota that is celebrating its 125th anniversary. From June 28 to July 6, the residents of Jamestown will come together to celebrate their community and its historic founding.

Founded in 1883 on the intersection of the Pipestem and James Rivers, Jamestown was named by GEN Thomas La Fayette Rosser whose hometown was Jamestown, VA, which was also located on a James River. In 1883 and again in 1932, the city of Jamestown made an attempt, though unsuccessful, to become the capital of the State. Jamestown is known as the ''Pride of the Prairie''—and it has much to be proud of.

The city's dedication to promoting both conservation and tourism resulted in the construction of the World's Largest Buffalo. This massive 60-ton monument, which began as an art project of students from Jamestown College, draws visitors from all over the country. The buffalo is the center of the Frontier Village, a gathering of genuine Frontier-era buildings and the National Buffalo Museum—all of these together attracting over 100,000 visitors a year.

Adding to Jamestown's celebrity is the presence of two of only a few albino bison in North America. The first, known as White Cloud, gave birth to an albino calf this last year, bringing another albino bison to the herd tended by the National Buffalo Museum. The rarity of this occurring is immense and has added to interest in the city.

Jamestown has also helped shape the direction of North Dakota. And, for many, as the city that brought us Louis L'Amour and Peggy Lee, Jamestown has helped shape a generation. Coming into its 125th year, I am certain that Jamestown will continue in its role to provide leadership to many of our communities for years to come.

Jamestown will be commemorating this special occasion with over a week of fireworks, car shows, races, banquets, socials, air shows, golf tournaments, school reunions, presentations, and parades.

Mr. President, I ask the U.S. Senate to join me in congratulating Jamestown, ND, and its residents on their 125th anniversary and in wishing them well for the future. By honoring Jamestown we keep the pioneering, frontier spirit alive for future generations. It is places such as Jamestown that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Jamestown has a proud past and a very bright future.●

## 125TH ANNIVERSARY OF VALLEY CITY, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 11–15, the residents of Valley City will gather to celebrate their community's history and founding.

Founded by the Northern Pacific Rail Road in 1872, this community went through an assortment of names before settling on Valley City. After being known as Second Crossing, Fifth Siding, Wahpeton, and Worthington, Valley City was chosen to describe this beautiful town located in the Sheyenne River Valley.

Because the community was developed around the winding Sheyenne River, its eight historic bridges have become an integral part of Valley City's rich history. This ''City of Bridges'' offers many one of a kind and original bridge designs, including the Valley City State University suspension footbridge and the concrete arched Rainbow Bridge.

Valley City has a lot to offer its residents and visitors alike. With its antiques, crafts and collectables Valley City offers a distinctive shopping experience. Some of its hidden treasures include a visitor's center, the Barnes County Museum, and the Sheyenne River Valley National Scenic Byway. The scenic byway stretches 63 picturesque miles along the Sheyenne River, following ancient Native American foot paths. The area has become a magnet for hunters, fisherman, and outdoor enthusiasts of all kinds. It is also the proud hometown of our Congressman, EARL POMEROY.

Valley City is the ideal location for its residents to grow and prosper together. To celebrate its 125th anniversary, the city will hold a rubber duck race, a street dance, a craft fair, a parade and fireworks.

Mr. President, I ask the U.S. Senate to join me in congratulating Valley City, ND, and its residents on their first 125 years and in wishing them well in the future. It is places such as Valley City, North Dakota that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Valley City has a proud past and a bright future.●

## TRIBUTE TO LINDA NELSON

● Mr. HARKIN. Mr. President, there is an old saying that no exercise is better for the human heart than reaching down to lift up a child. Whenever I think about Linda Nelson, that saying comes to mind because she had devoted her life to nurturing and educating and lifting up children.

Likewise, for the past 4 years, as president of the Iowa State Education Association, Linda Nelson has devoted herself to lifting up the teaching profession in the State of Iowa. She has fought for better pay and professional development, for more generous funding for public education, and for commonsense reforms to the No Child Left Behind Act. She has done an exceptional job for Iowa's teachers and education support professionals. However, I know that she is looking forward to returning next fall to her real love, which is the classroom at Carter Lake Elementary School and the students she has missed so much.

Linda Nelson has led and served ISEA with true distinction. Under her leadership, membership has increased and local associations have been strengthened. She tirelessly crisscrossed the State of Iowa to visit schools and to consult with teachers and support professionals. I am told that she has been away from home so much that her cats no longer recognize her.

Mr. President, I have always loved what Lee Iacocca said about teachers. ''In a completely rational society,'' he said, ''the best of us would be teachers, and the rest would have to settle for something less.'' Fortunately, in Iowa, so many of our best do go into teaching. And Linda is one of those truly outstanding classroom professionals.

She graduated from the University of Nebraska at Lincoln and has taught for more than 30 years. She has been an active member of ISEA throughout her career. She has held leadership positions at the local, State, regional, and national levels. In 1992, the National Education Association recognized her outstanding contributions to public education with the Charles F. Martin Award.

As I said, Linda's first love is the classroom. But she is committed to securing a quality education for every child, not just those in her classroom, and this has led her to activism in the broader public and political arenas. She was elected to the Iowa House of Representatives in 1992 and served for 4 years as an outspoken champion of quality public schools for all of Iowa's children.

As a teacher, Linda Nelson is a consummate professional, and she speaks with that special authority that can only come from decades of classroom experience. She has been an association president, a mentor, a leader, a legislator. But of the many titles she has worn during her long and distinguished career, she prizes none more highly than the simple title of ''teacher.''

Linda Nelson is one of the many reasons why Iowa public schools are among the most respected and highest achieving in the Nation. We are blessed with an extraordinary cadre of talented teachers, and this is a real point of pride among Iowans. We honor our teachers. We are grateful for their keen minds and generous hearts. We appreciate the long hours they devote to their work—their service above and beyond the call of duty.

Linda Nelson has made a very real difference for the good as president of the Iowa State Education Association. As she returns to Carter Lake, I join with educators across Iowa in thanking Linda for her service, and wishing her the very best in the years ahead.●

## IN HONOR OF DR. JERRY BEASLEY

● Mr. ROCKEFELLER. Mr. President, we all know that college can be a wonderful, eventful, and sometimes overwhelming time in the life of a young person. With new doors opening and a plethora of choices ahead, the years that young people devote to their college education shape the person they grow to be. We should all hope that when our loved ones set out on this journey that they encounter role models and mentors like Dr. Jerry Beasley. He has steered Concord University since 1985, in which time he has had an immeasurable impact on the institution and its students. In the time I have been allotted, I cannot do justice to the great service Dr. Beasley has dedicated to Concord University, but through the examples I can provide I hope to at least honor these selected accomplishments.

From the beginning of his career at Concord, Dr. Beasley has embodied the university's mission of learning and service. Traditionally, university presidents hold elegant ceremonies and inauguration parties in order to celebrate themselves and their achievements before beginning work. Dr. Beasley is not one of these presidents. He preferred to donate the funds usually allocated for such ceremonies to the support of student scholarships, setting a precedent of selflessness he continued throughout his tenure. He taught his students that giving and service were the foundation of citizenship, and renewing Concord's commitment to social responsibility.

As many of you know, access to technology is an issue of particular importance to me. I have committed myself to the enhancement of technology resources for students in West Virginia, a commitment which Dr. Beasley and I share. During his tenure as president and thanks, in part, to his oversight, the $13.9 million Rahall Technology Center is now complete and open for student use. Its 24-hour facilities provide students with access to technology ranging from high-speed internet to computer science courses.

Our society today is becoming increasingly dependent on technology. As we become integrated into a global marketplace, the values of knowledge and service have become even more important. The expansion of our resources and influence demands that we all develop a greater understanding of the world we live in and the people we share it with. Under Dr. Beasley's leadership, Concord University has met these challenges headon. The student body has grown significantly reaching an all-time peak enrollment of 3,055 students in the fall of 2001. The student body has also become incredibly diverse, with representatives from 27 States, 22 countries, and the District of Columbia. The diversity of faces and backgrounds at Concord is also complemented by a diverse range of study abroad opportunities, with scholarships available for study in Europe, South America, and around the world.

Dr. Beasley not only enhanced the diversity of the Concord student body, but also broadened the resources available on campus. Since the early 1930s, a goal of an interfaith chapel has been kept alive on the Concord campus, but, for many years, the project was left unfinished. Dr. Beasley has shepherded the project, which is now nearing completion. The building will mark not only the campus's concern for multicultural understanding, but also of Dr. Beasley's ambition to this end.

Concord University students can now enjoy a wealth of opportunities without fearing the exorbitant financial burdens of education. Financial aid and scholarships are now more available than ever with more than 90 percent of Concord's students receiving some form of educational assistance. Dr. Beasley was instrumental in the effort to bring programs such as the Bonner Scholars program to campus.

What I admire the most about Dr. Beasley, though, is his personal commitment to public service, and the inspirational example he has set for his children, his students, and all of us. He has dedicated his career to improving education, and for that we owe him our sincerest thanks. Dr. Beasley, I am very grateful for your contributions to Concord University, and I wish you well in a peaceful retirement.●

## STOWE WEEKEND OF HOPE

● Mr. SANDERS. Mr. President, the State of Vermont is proud of the people in our state who organize the annual Stowe Weekend of Hope, one of the most inspiring and educational events for cancer survivors in the United States.

''We believe that the Stowe Weekend of Hope is unique, as it covers all cancers, reveals the generosity of an entire community, and has enhanced the lives of thousands of past attendees and their loved ones,'' said Jo Sabel Courtney, the chair and cofounder of the uplifting event. ''Our mission,'' she explained, ''is to inspire, educate, and celebrate the lives of people living with cancer.''

Altogether, some 900 participants from 21 States, the U.S. Virgin Islands, and Canada participated in this year's events presented by the Stowe Area Association and the Vermont Cancer Center. The Stowe Area Association's lodging properties donated 312 complimentary rooms to cancer survivors and their loved ones.

Jo Sabel Courtney would be the first to tell you that making the weekend a tremendous success is a team effort. The Stowe Weekend of Hope Organizing Committee she chairs includes Leslie Anderson of Stowe; Trine Brink, Stowe; David Cranmer, Shelburne; Sandy Devine, Stowe; Jenn Ingersoll, Burlington; Kimberly Luebbers, Burlington; Kathleen McBeth, Stowe; Valerie Rochon, Stowe; Susan Rousselle, Elmore; Terry Smith, Stowe, and emeritus member and cofounder, Patti O'Brien, M.D.

We in Vermont are very proud of the efforts that all of these people put into organizing this annual event for the education and enlightenment of cancer patients, cancer survivors and their families, and I have very much enjoyed visiting with them over the last several years.

This year's participants in the Stowe Weekend of Hope included people with 46 different cancers, people who are confronting complex physical, emotional, spiritual, and financial challenges.

Nationally renowned oncology specialists from around New England, as well as leading oncologists and researchers from the Vermont Cancer Center, and the University of Vermont and Fletcher Allen Health Care Division of Hematology and Oncology were present at this year's eighth annual Stowe Weekend of Hope to provide up-to-date information to both the patients and their loved ones.

The weekend also included hands-on workshops, informational and support group gatherings, recreation opportunities, inspirational music, ecumenical services, motivational talks designed to heighten the emotional experience of healing and growth, and a time for relaxation and reflection.

On Sunday morning, participants gathered to dedicate the Flags of Hope and Healing that they had created. The

closing ceremony also included prayer, dance, song and remembrances.

The Stowe Weekend of Hope was founded in 2001. Since its inception, the event has grown locally and nationally to continue its focus its mission of support, education and inspiration.

It makes me proud of Vermont.●

## HONORING SAFE HANDLING, INC.

● Ms. SNOWE. Mr. President, today I wish to celebrate the remarkable achievements of a small Maine company that is doing business in an incredibly forward-thinking way. Safe Handling, Inc., of Auburn, is a cutting-edge transporter of industrial products, and both the firm and its president, Ford Reiche, have earned significant recognition, culminating in Mr. Reiche being named the U.S. Small Business Administration's 2008 Maine Small Business Person of the Year.

Founded in 1989, Safe Handling offers businesses the convenience of both bulk product transportation and logistics, as well as toll processing, to enable them to more efficiently move their goods. Significantly, Safe Handling is responsible for both sensitive and hazardous materials. To safely handle these products, the firm runs the largest rail-to-truck transloading facilities in both New England and western Pennsylvania, where it has an additional transload yard and warehouse. Safe Handling presently manages roughly a half million tons of products every year which translates to nearly 4,000 railcars and 12,000 truckloads of raw materials annually. It also operates the only ethanol terminal in Maine.

Transporting such perilous materials requires Safe Handling to be mindful of many concerns, and the company has risen to the top as a leader in environmental safety by exceeding Federal and State requirements on a regular basis. Most recently, the company became the first Maine-owned business to earn both the ISO14001 and Responsible Care certifications, which address a host of health, safety, environmental, and security concerns. Of all its initiatives, Safe Handling has most visibly led the way in reducing transportation emissions. The company ships dry products that it transfers into liquids, uses tri-axle trucks, provides long-haul rail services, and utilizes biodiesel fuel, all of which reduce discharge. Not surprisingly, the firm placed first in the Governor's Carbon Challenge, by voluntarily reducing its carbon emissions by 75 percent. Safe Handling has additionally instituted an Employee Green Idea Reward Program that gives $100 to each employee who saves the company money through an environmentally friendly idea.

Because of its innovative practices and proven track record, Safe Handling has garnered three prestigious awards this year alone. In March, Mainebiz magazine declared Ford Reiche its Executive of the Year in its large business category. Less than a month later, the Maine International Trade Center recognized Safe Handling as its Maine Innovative Company of the Year Award for the company's energy saving methods and customer savings. Additionally, the U.S. Small Business Administration presented Mr. Reiche with its prestigious 2008 Maine Small Business Person of the Year for his ''business expertise, commitment, creativity and community involvement.'' Mr. Reiche's dedication and knowledge inspire the nearly 100 employees of Safe Handling, and the company is a better place for his profound leadership skills.

Safe Handling is truly a company of which all Mainers can be proud. Consistently seeking greater energy efficiency while never sacrificing its loyalty to its customers, Safe Handling promises to make the Lewiston-Auburn area—and Maine—a better place in every way. I am particularly impressed with the passion and enthusiasm of Mr. Reiche, who I was fortunate enough to meet with just a few weeks ago. His desire to create jobs and opportunities in Central Maine truly shined through during our time together. I congratulate Ford Reiche and everyone at Safe Handling for their amazing accolades and pioneering enterprises, and wish them more of the success that they have already demonstrated.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## TEXT OF A PROPOSED AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR COOPERATION IN THE FIELD OF PEACEFUL USES OF NUCLEAR ENERGY—PM 48

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the ''Act''), the text of a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement, and a Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement (in accordance with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately). The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The proposed Agreement provides a comprehensive framework for peaceful nuclear cooperation with Russia based on a mutual commitment to nuclear non-proliferation. It has a term of 30 years, and permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It does not permit transfers of Restricted Data, and permits transfers of sensitive nuclear technology, sensitive nuclear facilities, and major critical components of such facilities by amendment to the Agreement. In the event of termination, key non-proliferation conditions and controls continue with respect to material and equipment subject to the Agreement.

The Russian Federation is a nuclear weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons. Like the United States, it has a ''voluntary offer'' safeguards agreement with the International Atomic Energy Agency (IAEA). That agreement gives the IAEA the right to apply safeguards on all source or special fissionable material at peaceful nuclear facilities on a Russia-provided list. The Russian Federation is also a party to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the use, storage, and transport of nuclear material. It is also a member of the Nuclear Suppliers Group, whose non-legally binding Guidelines set forth standards for the responsible export of nuclear commodities for peaceful use. A more detailed discussion of Russia's domestic civil nuclear program and its nuclear nonproliferation policies and practices, including its nuclear export policies and practices, is provided in the NPAS and

in the classified annex to the NPAS submitted to the Congress separately.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Agreement and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and House Foreign Affairs Committee as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123d. shall commence.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 12, 2008*.

## MESSAGES FROM THE HOUSE

### ENROLLED BILL SIGNED

At 12:45 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2929. An act to temporarily extend the programs under the Higher Education Act of 1965.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 6:37 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that pursuant to section 1853(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110–53), the Minority Leader appoints Mr. Henry Sokoloski of Arlington, Virginia, and Mr. Stephen Rademaker of McLean, Virginia, to the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

The message further announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 3221) moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation, with amendments, in which it requests the concurrence of the Senate.

## MEASURES READ THE FIRST TIME

The following joint resolution was read the first time:

S.J. Res. 32. Joint resolution limiting the issuance of a letter of offer with respect to a certain proposed sale of defense articles and defense services to the Kingdom of Saudi Arabia.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 13, 2008, she had presented to the President of the United States the following enrolled bill:

S. 2929. An act to temporarily extend the programs under the Higher Education Act of 1965.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6133. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tebuconazole; Pesticide Tolerances'' (FRL No. 8364–6) received on May 12, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6134. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Interstate Movement of Fruit from Hawaii'' (Docket No. APHIS–2007–0050) received on May 7, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6135. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus firmus isolate 1582; Exemption from the Requirement of a Tolerance'' (FRL No. 8362–7) received on May 7, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6136. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Robert D. Bishop, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6137. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Christopher A. Kelly, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6138. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral Kevin J. Cosgriff, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–6139. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Vice Admiral Mark J . Edwards, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–6140. A communication from the Principal Deputy, Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report on the use of Aviation Continuation Pay during fiscal year 2007; to the Committee on Armed Services.

EC–6141. A communication from the Director, Defense Procurement, Acquisition Policy, and Strategic Sourcing, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Excessive Pass-Through Charges'' (DFARS Case 2006–D057) received on May 12, 2008; to the Committee on Armed Services.

EC–6142. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, an annual report on the National Guard Challenge Program for fiscal year 2007; to the Committee on Armed Services.

EC–6143. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Bruce A. Wright, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6144. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the Department's evaluation of the TRICARE Program Fiscal Year 2008 Report; to the Committee on Armed Services.

EC–6145. A communication from the Assistant Secretary of State, transmitting, pursuant to law, a report relative to the measures that are being taken to successfully complete the mission in Iraq; to the Committee on Armed Services.

EC–6146. A communication from the Acting General Counsel of the Department of Defense, transmitting legislative proposals relative to military spousal benefits; to the Committee on Armed Services.

EC–6147. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy in the position of Secretary, received on May 12, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6148. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of the designation of an acting officer for the position of President of the Government National Mortgage Association, received on May 12, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6149. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to Pemex projects in Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–6150. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to an export to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–6151. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to stabilization of Iraq that was declared in Executive Order 13303 of May 22, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–6152. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of the designation of an acting officer for the position of Secretary, received on May 7, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6153. A communication from the Chief Counsel, Federal Emergency Management

Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (73 FR 20807) received on May 2, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6154. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule for Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan'' (RIN0648–AU32) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6155. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of the Recreational Red Snapper Fishery in the Gulf of Mexico'' (RIN0648–XG40) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6156. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Withdrawal of Inseason Trip Limit Reduction for the Commercial Fishery for Golden Tilefish for the 2008 Fishing Year'' (RIN0648–XG34) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6157. A communication from the Acting Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Approval of Georges Bank Cod Fixed Gear Sector Operations Plan and Agreement, and Allocation of GB Cod Total Allowable Catch'' (RIN0648–AW17) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6158. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' (RIN0648–XH35) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6159. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands'' (RIN0648–XH36) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6160. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Coast Groundfish; Biennial Specifications and Management Measures; Inseason Adjustments'' (RIN0648–AW58) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6161. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Trip Limit Reduction for Georges Bank Yellowtail Flounder in the U.S./Canada Management Area'' (RIN0648–XH45) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6162. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Tilefish Permit Category C to Directed Tilefish Fishing'' (RIN0648–XF92) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6163. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Postponement of Effective Date of Portions of Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan'' (RIN0648–AU32) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6164. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Framework Adjustment 5 to the Monkfish Fishery Management Plan'' (RIN0648–AW33) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6165. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2008 Management Measures and a Temporary Rule for Emergency Action'' (RIN0648–AW60) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6166. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final List of Fisheries for 2008'' (RIN0648–AV54) received on May 12, 2008; to the Committee on Commerce, Science, and Transportation .

EC–6167. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's annual report for calendar year 2007; to the Committee on Energy and Natural Resources.

EC–6168. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Annual Report relative to its health and safety activities during calendar year 2007; to the Committee on Energy and Natural Resources.

EC–6169. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a quarterly report relative to the status of the Commission's licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–6170. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the status of the reports of the Chief of Engineers that have not received recommendations from the Secretary yet; to the Committee on Environment and Public Works.

EC–6171. A communication from the Assistant Secretary of Commerce (Legislative and Intergovernmental Affairs), transmitting a draft bill entitled, ''Economic Development Administration Reauthorization Act of 2008''; to the Committee on Environment and Public Works.

EC–6172. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Hazardous Air Pollutants from Mobile Sources: Early Credit Technology Requirement Revision'' ((RIN2060–AO89)(FRL No. 8564–3)) received on May 7, 2008; to the Committee on Environment and Public Works.

EC–6173. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; States of South Dakota and Wyoming; Interstate Transport of Pollution'' (FRL No. 8563–6) received on May 7, 2008; to the Committee on Environment and Public Works.

EC–6174. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Notice 2008–50) received on May 12, 2008; to the Committee on Finance.

EC–6175. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Transfers of Assets or Stock Following a Reorganization'' ((RIN1545–BH52)(TD 9396)) received on May 12, 2008; to the Committee on Finance.

EC–6176. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of an application for a license for the export of defense articles to India to provide Operational Support and Maintenance of F404 Aircraft Engines; to the Committee on Foreign Relations.

EC–6177. A communication from the Director, Office of Standards, Regulations and Variations, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Sealing of Abandoned Areas'' (RIN1219–AB52) received on May 12, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6178. A communication from the Commissioner of Food and Drugs, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a study on the inclusion of toll-free adverse event reporting numbers in advertisements; to the Committee on Health, Education, Labor, and Pensions.

EC–6179. A communication from the Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Labor Condition Applications for E-3 Visas in Specialty Occupations for Australian Nonimmigrants'' (RIN1205–AB43) received on May 12, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6180. A communication from the Administrator, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Publication of UIPL 9–08 in the Federal Register'' (UIPL–9–08) received on May 12, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6181. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting , pursuant to law, the report of a rule entitled ''Use of Materials Derived from Cattle in Human Food and Cosmetics'' ((RIN0910–AF47)(Docket No. 2004N–0081)) received on May 7, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6182. A communication from the Administrator, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Publication of UIPL 14–08 in the Federal Register'' (UIPL 14–08) received on May 12, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6183. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, two reports on Occupational Safety and Health Inspections; to the Committee on Homeland Security and Governmental Affairs.

EC–6184. A communication from the Secretary of Commerce, transmitting a draft bill relative to the 2010 Decennial Census; to the Committee on Homeland Security and Governmental Affairs.

EC–6185. A communication from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of the designation of an acting officer for the position of Deputy Director for State, Local and Tribal Affairs, received on May 12 , 2008; to the Committee on the Judiciary.

EC–6186. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a change in previously submitted reported information for the position of U.S. Attorney (Southern District of Indiana), received on May 12, 2008; to the Committee on the Judiciary.

EC–6187. A communication from the Principal Deputy Under Secretary (Policy), transmitting, pursuant to law, a report relative to National Guard Counterdrug Schools Activities; to the Committee on the Judiciary.

EC–6188. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Assistant Attorney General, received on May 12, 2008; to the Committee on the Judiciary.

EC–6189. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of U.S. Marshal (Eastern District of Wisconsin), received on May 12, 2008; to the Committee on the Judiciary.

EC–6190. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Annual Report of the Office of Community Oriented Policing Services for fiscal year 2007; to the Committee on the Judiciary.

EC–6191. A communication from the Director of Regulations Management, Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''VA Veteran-Owned Small Business Verification Guidelines'' (RIN2900–AM78) received on May 12, 2008; to the Committee on Small Business and Entrepreneurship.

EC–6192. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Seal and Insignia'' (RIN3245–AF68) received on April 29, 2008; to the Committee on Small Business and Entrepreneurship.

EC–6193. A communication from the Director, Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Provision of Hospital Care and Medical Services During Certain Disasters or Emergencies'' (RIN2900–AM40) received on May 12, 2008; to the Committee on Veterans' Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 3010. A bill to reauthorize the Route 66 Corridor Preservation Program; to the Committee on Energy and Natural Resources.

By Mr. CORNYN:

S. 3011. A bill to amend the Palo Alto Battlefield National Historic Site Act of 1991 to expand the boundaries of the historic site, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. SPECTER, Ms. MIKULSKI, Mr. SHELBY, Mr. HATCH, and Mr. OBAMA):

S. 3012. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2012; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. STEVENS, Mr. INOUYE, and Ms. MURKOWSKI):

S. 3013. A bill to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. KYL, and Mr. VITTER):

S. 3014. A bill to amend title 18, United States Code, to strengthen penalties for child pornography offenses, child sex trafficking offenses, and other sexual offenses committed against children; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. DORGAN, Mr. CASEY, Ms. KLOBUCHAR, and Mr. SANDERS):

S.J. Res. 32. A joint resolution limiting the issuance of a letter of offer with respect to a certain proposed sale of defense articles and defense services to the Kingdom of Saudi Arabia; read the first time.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLARD (for himself, Mr. SALAZAR, Mr. BENNETT, Mr. CRAPO, Mr. HAGEL, and Mr. NELSON of Nebraska):

S. Res. 561. A resolution commemorating the 50th anniversary of the North American Aerospace Defense Command; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. BIDEN, Mr. BROWN, Mr. MENENDEZ, Ms. MIKULSKI, Mr. CRAIG, Mr. WHITEHOUSE, Mr. BAUCUS, Mr. DODD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. LAUTENBERG, Mrs. LINCOLN, Mr. NELSON of Florida, Mr. PRYOR, Mr. SMITH, Ms. STABENOW, Mr. STEVENS, Mr. TESTER, and Mr. THUNE):

S. Res. 562. A resolution honoring Concerns of Police Survivors as the organization begins its 25th year of service to family members of law enforcement officers killed in the line of duty; considered and agreed to.

By Mr. ALLARD (for himself and Mrs. CLINTON):

S. Res. 563. A resolution designating September 13, 2008, as ''National Childhood Cancer Awareness Day''; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 449

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 449, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

S. 675

At the request of Mr. HARKIN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 675, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 799

At the request of Mr. HARKIN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 799, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1102

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to expedite the application and eligibility process for low-income subsidies under the Medicare prescription drug program and to revise the resource standards used to determine eligibility for an income-related subsidy, and for other purposes.

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1102, supra.

S. 1107

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1107, a bill to amend title XVIII of the Social Security Act to reduce cost-sharing under part D of such title for certain non-institutionalized full-benefit dual eligible individuals.

S. 1186

At the request of Mr. FEINGOLD, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1186, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

S. 1332

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1332, a bill to amend the Public Health Service Act to revise and extend projects relating to children and violence to provide access to school-based comprehensive mental health programs.

S. 1376

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr.

INOUYE) was added as a cosponsor of S. 1376, a bill to amend the Public Health Service Act to revise and expand the drug discount program under section 340B of such Act to improve the provision of discounts on drug purchases for certain safety net provides.

S. 1437

At the request of Ms. STABENOW, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 1437, a bill to require the Secretary of the Treasury to mint coins in commemoration of the semicentennial of the enactment of the Civil Rights Act of 1964.

S. 1906

At the request of Mr. BAUCUS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1906, a bill to understand and comprehensively address the oral health problems associated with methamphetamine use.

S. 1907

At the request of Mr. BAUCUS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1907, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to understand and comprehensively address the inmate oral health problems associated with methamphetamine use, and for other purposes.

S. 2059

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2059, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 2102

At the request of Mr. BINGAMAN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Maine (Ms. COLLINS) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 2102, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 2154

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2154, a bill to amend the Social Security Act and the Internal Revenue Code of 1986 to exempt certain employment as a member of a local governing board, commission, or committee from social security tax coverage.

S. 2188

At the request of Mr. BINGAMAN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Ms. STABENOW) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2188, a bill to amend title XVIII of the Social Security Act to establish a prospective payment system instead of the reasonable cost-based reimbursement method for Medicare-covered services provided by Federally qualified health centers and to expand the scope of such covered services to account for expansions in the scope of services provided by Federally qualified health centers since the inclusion of such services for coverage under the Medicare Program.

S. 2300

At the request of Mr. KERRY, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2300, a bill to improve the Small Business Act, and for other purposes.

S. 2314

At the request of Mr. SALAZAR, the names of the Senator from New Hampshire (Mr. SUNUNU), the Senator from Maine (Ms. SNOWE) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2314, a bill to amend the Internal Revenue Code of 1986 to make geothermal heat pump systems eligible for the energy credit and the residential energy efficient property credit, and for other purposes.

S. 2389

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2389, a bill to amend the Internal Revenue Code of 1986 to increase the alternative minimum tax credit amount for individuals with long-term unused credits for prior year minimum tax liability, and for other purposes.

S. 2414

At the request of Mr. ENSIGN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2414, a bill to amend title XVIII of the Social Security Act to require wealthy beneficiaries to pay a greater share of their premiums under the Medicare prescription drug program.

S. 2433

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 2433, a bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

At the request of Mr. OBAMA, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2433, supra.

S. 2460

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2460, a bill to extend by one year the moratorium on implementation of a rule relating to the Federal-State financial partnership under Medicaid and the State Children's Health Insurance Program and on finalization of a rule regarding graduate medical education under Medicaid and to include a moratorium on the finalization of the outpatient Medicaid rule making similar changes.

S. 2465

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2465, a bill to amend title XIX of the Social Security Act to include all public clinics for the distribution of pediatric vaccines under the Medicaid program.

S. 2505

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2505, a bill to allow employees of a commercial passenger airline carrier who receive payments in a bankruptcy proceeding to roll over such payments into an individual retirement plan, and for other purposes.

S. 2579

At the request of Mr. INOUYE, the names of the Senator from Ohio (Mr. BROWN), the Senator from Illinois (Mr. DURBIN), the Senator from Idaho (Mr. CRAIG), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Utah (Mr. BENNETT), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Kansas (Mr. ROBERTS) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2585

At the request of Mr. HARKIN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2585, a bill to provide for the enhancement of the suicide prevention programs of the Department of Defense, and for other purposes.

S. 2619

At the request of Mr. COBURN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2619, a bill to protect innocent Americans from violent crime in national parks.

S. 2645

At the request of Mr. STEVENS, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2645, a bill to require the Commandant of the Coast Guard, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, to conduct an evaluation and review of certain vessel discharges.

S. 2666

At the request of Ms. CANTWELL, the names of the Senator from New York

(Mr. SCHUMER) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2666, a bill to amend the Internal Revenue Code of 1986 to encourage investment in affordable housing, and for other purposes.

S. 2719

At the request of Mrs. DOLE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2719, a bill to provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes.

S. 2860

At the request of Mr. CASEY, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2860, a bill to diminish predatory lending by enhancing appraisal quality and standards, to improve appraisal oversight, to ensure mortgage appraiser independence, to provide for enhanced remedies and enforcement, and for other purposes.

S. 2899

At the request of Mr. HARKIN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2899, a bill to direct the Secretary of Veterans Affairs to conduct a study on suicides among veterans.

S. 2912

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2912, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 2921

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2921, a bill to require pilot programs on training and certification for family caregiver personal care attendants for veterans and members of the Armed Forces with traumatic brain injury, to require a pilot program on provision of respite care to such veterans and members, and for other purposes.

S. RES. 520

At the request of Mrs. FEINSTEIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 520, a resolution designating May 16, 2008, as ''Endangered Species Day''.

S. RES. 559

At the request of Mr. GRAHAM, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. Res. 559, a resolution designating May 15, 2008, as ''National MPS Awareness Day''.

AMENDMENT NO. 4737

At the request of Mr. DOMENICI, his name was added as a cosponsor of amendment No. 4737 proposed to S. 2284, an original bill to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 4737 proposed to S. 2284, supra.

At the request of Mr. REID, the names of the Senator from Virginia (Mr. WEBB), the Senator from Arkansas (Mr. PRYOR) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 4737 proposed to S. 2284, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 3010. A bill to reauthorize the Route 66 Corridor Preservation Program; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, today I rise to introduce legislation to continue the restoration and preservation of the unique cultural resources along the famous Route 66. Passage of the Route 66 Corridor Preservation Reauthorization Act would carry on the wonderful work of the Park Service's Route 66 program over the past decade. As in the past, I am joined in this effort by my colleague from New Mexico, Senator BINGAMAN.

In 1990, I introduced the Route 66 Study Act, which directed the National Park Service to determine the best ways to preserve, commemorate and interpret Route 66. As a result of that study, I later introduced legislation authorizing the National Park Service to join with Federal, State and private efforts to preserve various aspects of historic Route 66, the Nation's most important thoroughfare for east-west migration during the 20th century.

The Route 66 program is a collective effort by private property owners; nonprofit organizations; and local, State, Federal, and tribal governments to identify and address preservation needs along the historic route. The program offers grants for the restoration of significant properties dating all the way back to the mid 1920s.

The bill authorizes funding over 10 years and supports grassroots efforts to preserve aspects of this historic highway. Designated in 1926, the 2,200-mile stretch from Chicago to Santa Monica, California, the Mother Road, as it was called, rolled through eight American states, and in New Mexico, it passed through the communities of Tucumcari, Santa Rosa, Albuquerque, Grants and Gallup. New Mexico added to the aura of Route 66, giving new generations of Americans their first experience of our colorful culture and rich heritage. Route 66 allowed travelers to see firsthand previously remote areas and experience the traditions and natural beauty of the Southwest and West.

The bill authorizes the National Park Service to support State, local and private efforts to preserve the Route 66 corridor by providing technical assistance, participating in cost-sharing programs, and making grants. Since 1990, the Park Service has acted as a clearinghouse for communication among Federal, State, local, private and American Indian entities interested in the preservation of America's Main Street. Congresswoman HEATHER WILSON of Albuquerque, New Mexico, has introduced a similar bill in the House of Representatives, and I hope Congress will act promptly in passing this important legislation.

I thank my colleagues for considering the Route 66 Corridor Preservation Reauthorization Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 3010

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Route 66 Corridor Preservation Program Reauthorization Act''.

**SEC. 2. ROUTE 66 CORRIDOR PRESERVATION PROGRAM.**

Section 4 of Public Law 106–45 (16 U.S.C. 461 note; 113 Stat. 226) is amended by striking ''2009'' and inserting ''2019''.

By Mr. LEAHY (for himself, Mr. SPECTER, Ms. MIKULSKI, Mr. SHELBY, Mr. HATCH, and Mr. OBAMA):

S. 3012. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend the authorization of the Bulletproof Vest Partnership Grant Program through fiscal year 2012; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am proud to introduce a bill today to reauthorize the Bulletproof Vest Partnership Grant Act for 3 years, through 2012. This legislation has enjoyed strong bipartisan support in Congress since it was enacted in 1998, and I thank Senators SPECTER, MIKULSKI, SHELBY and HATCH for joining me in today's introduction. I am also glad to be joined by Congressmen VISCLOSKY who will introduce this bill in the House of Representatives today as well.

Since 1999, the Bureau of Justice Assistance at the Department of Justice has distributed $234 million to State and local jurisdictions. Those grants have resulted in the purchase of an estimated 818,000 vests. Since its enactment, over 11,900 State and local jurisdictions have participated in this program. Congress can be proud of the fact that this legislation has directly provided life-saving equipment to so many law enforcement officers. I know that when State and local jurisdictions receive the matching grants through this program, their budgets can go farther in fighting crime in their communities.

Today, the Senate Judiciary Committee held a hearing on the importance of the Bulletproof Vest Partnership Program. We heard from a law enforcement officer who was shot in the

chest at pointblank range during an auto theft investigation. He lived to tell the committee and others his story, thanks to the bulletproof vest he was wearing. In my home state of Vermont, the program has allowed the Vermont police to purchase over 350 sets of armor in the last 10 years. The program has had a tremendous impact on the ability of States and localities to give our law enforcement officers the protection they deserve while serving the needs of our communities.

As a Nation, we ask much of our law enforcement officers. Men and women who serve face constant and unknown risks, and too often make the ultimate sacrifice. During this week in Washington, law enforcement officers from around the country will remember those officers who died in the line of duty while protecting their fellow citizens. Unfortunately, an ongoing trend of rising violent crime in the U.S. underscores the continuing need of this program that has had such a positive impact on the safety of law enforcement officers. Reauthorizing and funding this program is the right thing to do, and it is something I hope all Senators will support. Every additional officer who is able to put on a vest today as a result of this grant program means that one more officer may survive a violent attack. Protecting the men and women who protect all Americans should be a priority for Congress and we have a chance to advance that priority with the continuation of this important program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3012

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Bulletproof Vest Partnership Grant Act of 2008''.

**SEC. 2. REAUTHORIZATION.**

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2009'' and inserting ''2012''.

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By Mr. AKAKA (for himself, Mr. STEVENS, Mr. INOUYE, and Ms. MURKOWSKI):

S. 3013. A bill to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I join with my good friends Senators TED STEVENS, DANIEL INOUYE, and LISA MURKOWSKI to introduce legislation to ensure retirement equity for Federal workers in Hawaii, Alaska, and the U.S. territories. For years, Federal employees in my home state of Hawaii and in other non-foreign areas have been disadvantaged when it comes to their retirement due to a lack of locality pay. Federal workers in those areas may receive a nonforeign cost of living allowance, COLA, based on the differences in the cost of living between those areas and the District off Columbia, but this amount does not count for retirement purposes. Furthermore, while locality rates generally increase, nonforeign COLAs have been gradually declining. This lack of retirement equity has resulted, in several lawsuits against the Federal Government and hinders efforts to recruit and retain Federal workers in those areas.

On August 17, 2000, the U.S. District Court of the Virgin Islands approved the settlement of Caraballo v. United States, which was a class-action lawsuit in which employees in the nonforeign areas contested the methodology used by the Office of Personnel Management to determine COLA rates. However, on January 30, 2008, Judge Phillip M. Pro in the U.S. District Court in Honolulu ruled against the Federal employees in Matsuo v. the Office of Personnel Management, which held that excluding Alaska and Hawaii from locality pay did not violate the equal protection clause and substantive due process under the Fifth Amendment. Judge Pro acknowledged the disparity in his ruling saying that Congress ''discharged its legislative responsibilities imperfectly'' and recommended that Congress ''correct the incongruity made so evident by this case.''

While this issue has been discussed for years, a solution seemed out of reach given the lack of support for various proposed solutions. Last year, the Administration announced a legislative proposal to phase-out non-foreign COLA and phase-in locality pay. In May 2007 the Administration's draft bill was submitted. The draft bill would freeze nonforeign COLA rates at their current rates at their current rates and OPM would no longer conduct COLA surveys. Over the 7 years following the enactment of the proposal, locality pay would be phased in for General Schedule, GS, employees while nonforeign COLA is phased out. According to OPM, preliminary data indicates that the locality pay rate for Hawaii would be 20 percent. At the end of the 7 year period, if the locality pay rate is less than the amount of nonforeign COLA for a particular area, employees would continue to receive the difference in nonforeign COLA and locality pay until the locality rate reaches the COLA amount. Only at that time would employees no longer receive non-foreign COLA. However, the proposal did not address the impact such a change would have on postal employees, employees who receive special rates, members of the Senior Executive Service, and others who are in agency specific personnel systems or those who do not receive locality pay, such as employees under the National Security Personnel System at the Department of Defense.

Knowing of the growing interest in this proposal, I sent staff from my Federal Workforce Subcommittee to Hawaii last July to meet with employees and hear their questions and concerns about the Administration's proposal. Based on the questions and comments I have received, I submitted questions to OPM and other Federal agencies to obtain additional information. I also posted information on the Administration's proposal on my website, a link to a calculator created by OPM for Federal employees to determine exactly how their pay and retirement will be impacted by the proposal, and the agencies' response to my questions. Since then, I have received numerous letters and phone calls from constituents and Federal employees in the nonforeign areas about this issue. While there are still divergent views on this proposal, the vast majority of employees who I have heard from are supportive of a change to locality pay.

The legislation I introduce today is a collective effort of Senators STEVENS, INOUYE, MURKOWSKI, and myself to find an equitable solution to a difficult and divided issue. The Non-Foreign Area Retirement Equity Assurance Act is not to be seen as the last word, only the latest step forward toward determining the best way to ensure retirement equity for Federal workers in the nonforeign areas. Our bill seeks to provide answers to the questions raised by the administration's proposal and to cover all employees. Most importantly, our bill seeks to protect employee's take home pay. During this current economic climate, we must be careful to do no harm.

Over the Memorial Day recess my subcommittee plans to hold a series of meetings in Hawaii on the Administration's proposal and this bill to hear remaining questions and concerns. I also plan to hold a hearing on these proposals in Honolulu on May 29, 2008. I continue to encourage employees in Alaska, Hawaii, and in the territories to write us with their questions and concerns on these proposals. My ultimate goal remains to ensure that Federal workers in the nonforeign areas are not disadvantaged when it comes to their pay and retirement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3013

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2008 or the Non-Foreign AREA Act of 2008''.

**SEC. 2. EXTENSION OF LOCALITY PAY.**

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304(f)(1) of title 5, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section

5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands shall be included within a pay locality; and''.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) of this subsection shall be the cost-of-living allowance rate in effect on December 31, 2008, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2008.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2009; and

''(B) on January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 4(2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2009 and each calendar year thereafter, the applicable percentage under section 4(1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2008; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

**SEC. 3. ADJUSTMENT OF SPECIAL RATES.**

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 4 of this Act, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 9 of this Act.

(b) DEPARTMENT OF VETERANS AFFAIRS.—Each special rate of pay established under section 7455 of title 38, United States Code, and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the Secretary of Veterans Affairs that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2011, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

**SEC. 4. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.**

Notwithstanding any other provision of this Act or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this Act, for each nonforeign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2009, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2010, by using ⅔ of the otherwise applicable comparability payment approved by the President for each nonforeign area; and

(3) in calendar year 2011 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each nonforeign area.

**SEC. 5. SAVINGS PROVISION.**

(a) IN GENERAL.—The application of this Act to any employee may not result in the amount of the decrease in the amount of pay attributable to special rate pay and the cost-of-living allowance as in effect on the date of enactment of this Act exceeding the amount of the increase in the locality-based comparability payments paid to that employee.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the application of this Act to any employee should not result in a decrease in the take home pay of that employee.

**SEC. 6. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.**

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on—

(I) the day before the date of enactment of this Act—

(aa) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(bb) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(II) or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(ii) except as provided under paragraph (2), is not covered under—

(I) section 5941 of title 5, United States Code, (as amended by section 2 of this Act); and

(II) section 4 of this Act; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any provision of title 5, United States Code, for purposes of this Act (including the amendments made by this Act) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code, (as amended by section 2 of this Act) and section 4 of this Act apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this Act shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this Act including section 5941 of title 5, United States Code, (as amended by section 2 of this Act) may be reduced on the basis of the performance of that employee.

(b) POSTAL SERVICE EMPLOYEES IN NONFOREIGN AREAS.—Section 1005(b) of title 39, United States Code, is amended by inserting ''and the Non-Foreign Area Retirement Equity Assurance Act of 2008'' after ''Section 5941 of title 5''.

**SEC. 7. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.**

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 4 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2009 through December 31, 2011; and

(3) who files and election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a)(1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2011.

(c) COMPUTATION OF ANNUITY.—For purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2009 through the first applicable pay period ending on or after December 31, 2011, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if that subsection had been in effect during that period; and

(ii) employee contributions that were actually deducted and withheld from pay under

section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

**SEC. 8. ELECTION OF COVERAGE BY EMPLOYEES.**

(a) IN GENERAL.—Notwithstanding any other provision of this Act, an employee may make an irrevocable election in accordance with this section, if—

(1) that employee is paid an allowance under section 5491 of title 5, United States Code, during a pay period in which the date of the enactment of this Act occurs; or

(2) that employee—

(A) is a covered employee as defined under section 6(a)(1); and

(B) during a pay period in which the date of the enactment of this Act occurs is paid an allowance—

(i) under section 1603(b) of title 10, United States Code;

(ii) under section 1005(b) of title 39, United States Code; or

(iii) based on section 5941 of title 5, United States Code.

(b) FILING ELECTION.—Not later than 60 days after the date of enactment of this Act, an employee described under subsection (a) may file an election with the Office of Personnel Management to be treated for all purposes—

(1) in accordance with the provisions of this Act (including the amendments made by this Act); or

(2) as if the provisions of this Act (including the amendments made by this Act) had not been enacted, except that the cost-of-living allowance rate paid to that employee shall be the cost-of-living allowance rate in effect on December 31, 2008 for that employee without any adjustment after that date.

(c) FAILURE TO FILE.—Failure to make a timely election under this section shall be treated in the same manner as an election made under subsection (b)(1) on the last day authorized under that subsection.

(d) NOTICE.—To the greatest extent practicable, the Office of Personnel Management shall provide timely notice of the election which may be filed under this section to employees described under subsection (a).

**SEC. 9. REGULATIONS.**

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this Act, including—

(1) rules for special rate employees described under section 3;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2011; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2011.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this Act with respect to employees in such pay system, consistent with the regulations issued by the Office under subsection (a).

**SEC. 10. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided by subsection (b), this Act (including the amendments made by this Act) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 2 and the provisions of section 4 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2009.

Mr. STEVENS. Mr. President, I join my friend from Hawaii in introducing the Non-foreign Area Retirement Equity Act. I thank Senator AKAKA for his hard work on this important legislation that finally brings retirement equity to the thousands of Federal employees in Alaska and Hawaii.

Alaska and Hawaii are the only States in which Federal employees do not receive locality pay. Instead, they receive what is called a nonforeign cost of living allowance, or COLA. COLA was put in place in 1949, before Alaska and Hawaii were States. It is based on the cost of living in an area compared to the cost of living in Washington, DC. COLA was not available to employees in the lower 48 States.

When locality pay was established to benefit Federal employees in the lower 48, Alaska and Hawaii were not included because they were already under the COLA system. Locality pay brings Federal salaries closer to private industry salaries in an area.

The key difference between these two systems is how it affects a Federal employee's retirement. As you know, a Federal employee's retirement is based on their ''high 3'' years of service, usually the final 3 years of their base pay salary.

COLA is nontaxable income that cannot exceed 25 percent of the base pay. It is currently being reduced in Alaska and Hawaii by 1 percent each year. Because COLA is not taxed, it is not considered as part of an employee's base pay for retirement purposes. This means an employee in Alaska retires with a much lower ''high 3'' than an equivalent position in the lower 48.

Locality pay is taxable income, but is also considered part of an employee's base pay for retirement purposes. This makes a big difference in the amount of retirement benefits an employee receives.

Alaska has one of the highest costs of living in the Nation. Our Federal employees need to know they can continue to afford living in the State they call home on the money they receive in their retirement benefits. Many Alaskan Federal employees nearing retirement relocate to the lower 48 in order to receive locality pay for their ''high 3.'' This puts my State at a disadvantage because we are losing highly skilled, seasoned employees.

This is an inequitable and outdated system. It is time to bring retirement equity to all States. The bill Senator AKAKA and I introduce today with Senators INOUYE and MURKOWSKI will do just that. Simply put, this bill will convert Federal employees in our States from the COLA system to the locality pay system. This conversion will not only benefit the Federal employees in these States, it will also save the Government money.

The COLA system requires that a survey be conducted every 3 years to determine an area's COLA. Our bill would eliminate these expensive and time consuming surveys. By changing to a locality pay system, employees will pay taxes on income they now receive tax free. Federal employees in Alaska and Hawaii have filed lawsuits to fight the inequity of the COLA system. With this change, the Government will not have to spend time and resources defending against this litigation.

The Office of Personnel Management supports replacing COLA with locality pay for all of these reasons.

This bill addresses several employee groups with unique circumstances, including postal employees. I am confident we can work closely with the U.S. Postal Service and the postal employee unions to ensure that postal employees in Alaska and Hawaii are protected.

Senator AKAKA and I hope that all groups affected by this change will contact us so that we can ensure this bill takes everyone's concerns into consideration. Senator AKAKA will be holding a hearing on this issue in Hawaii this month. Feedback from that hearing will be vital to improving our bill.

It is important we pass this bill before the end of this Congress to bring equality in retirement to all of our Federal employees. I urge Senators to support this bill.

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By Mr. GRASSLEY (for himself, Mr. KYL, and Mr. VITTER):

S. 3014. A bill to amend title 18, United States Code, to strengthen penalties for child pornography offenses, child sex trafficking offenses, and other sexual offenses committed against children; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I come to the floor to discuss with my colleagues an issue that has hit home over the last few years for all Americans, and that issue is crimes against children. We have all heard stories of children, our most innocent population, being victimized and abused by predatory criminals. While it is true we have made great strides passing Federal legislation against criminal predators, more work needs to be done. That is why I am here today to introduce a bill that I entitled the Prevention and

Deterrence of Crimes Against Children Act of 2008. I am pleased to be joined by Senator KYL and Senator VITTER who have cosponsored this bill with me.

This is a very important bill that will protect our children from the vilest forms of abuse and will send a strong signal to criminals that we as a society will not tolerate such behavior and that their predatory actions have real significant consequences.

I wish to take a moment to talk about the murder of a girl from my home State of Iowa, Jetseta Marrie Gage. On March 24, 2005, Jetseta, a 10-year-old girl from Cedar Rapids, IA, went missing from her home. Within 12 hours of her disappearance, Iowa law enforcement agents arrested a registered sex offender, Roger Bentley, for the crime. He had been previously convicted of committing lascivious acts with a minor.

Regrettably, this criminal served just over a year in prison for his previous sex crime conviction. Two days after her disappearance, an AMBER Alert tip led officials to the location of her body. She was found stuffed in a cabinet in an abandoned mobile home. The autopsy revealed she had been sexually assaulted and suffocated with a plastic bag.

I can't help but wonder whether Jetseta would still be alive today had her killer received stricter penalties for his first offense. It breaks everybody's heart to hear about cases such as this, but it is even more demoralizing when you know that it might have been prevented with adequate sentencing.

Last week, I honored two extraordinary law enforcement officers who helped put away another one of Jetseta's abusers: James Bentley. Unbelievably, James Bentley is the brother of Roger Bentley who was responsible for the rape and murder of Jetseta. A year prior to her murder, James Bentley took nude photos of 9-year-old Jetseta and her 13-month-old little sister Leonna.

After the child abuse prosecution of James Bentley stalled in State court due to sixth amendment concerns, U.S. Postal Inspector Troy Raper and Cedar Rapids Police Department Investigator Charity Hansel followed up on child pornography allegations that eventually led to James Bentley's conviction on Federal child pornography charges.

These investigators worked tirelessly to find nine previous victims of James Bentley. Only two of the nine victims testified, but their courage and their accounts of abuse by this man were very powerful. As a result, these testimonies influenced the district court's decision to use higher sentencing guidelines to put him away in Federal prison for 100 years. I am truly thankful for the public service that Inspector Troy Raper and Investigator Charity Hansel have done for Iowa's kids.

In doing our part, we in Congress have not sat idly by. Two years ago we passed into law the Adam Walsh Child Protection Safety Act. This important legislation made great strides in protecting America's children against violent sexual predators. Among its many components, this act standardized the National Sex Offender Registry, eliminated the statute of limitations for sex crimes against children, provided grants for electronic devices used for monitoring sex offenders and, lastly, established more severe criminal punishment for certain crimes committed by sex offenders.

As part of the Adam Walsh Act, we were able to include the Jetseta Gage Assured Punishment for Violent Crimes Against Children amendment. The amendment created mandatory minimum terms of imprisonment for criminals who commit murder, kidnapping, or serious bodily harm against children.

We are on the right path, but I still say this is not enough—not enough punishment for people who commit these despicable crimes. There is still a lot of work that needs to be done on this serious issue.

This bill I am introducing today will help change this by protecting children in four ways. It will increase mandatory minimum sentences, boost penalties for certain crimes against children, control the use of passports by convicted sex offenders, and strengthen the process for removing criminal aliens who commit sex offenses.

The first section of the bill increases the penalties for child pornography offenses and elevates the mandatory minimum punishment for criminals who commit exploitation crimes against children. I know some of my colleagues have concerns about mandatory minimums, especially in the context of drug sentences. I understand that concern, but in light of the Supreme Court's decision in the Booker case, something must be done to ensure that sexual predators receive the type of sentences appropriate for their crimes.

In Booker, the Court held that the Federal Sentencing Guidelines are no longer mandatory, thus Federal judges have unfettered discretion in sentencing. I am very worried judges are not doing their job to protect children. As a matter of fact, Deputy Attorney General Laurence E. Rothenberg testified to the Senate Judiciary Committee last year that since the Booker decision, Federal judges have significantly increased the number of downward departures for those convicted of possession of child pornography.

To counter this trend, my bill establishes the following mandatory minimums for exploitation crimes against children: One, where a crime involves child pornography, the offender will receive 20 years to life; two, where the crime deals with sexual exploitation of a minor by a parent or guardian, the offender will receive no less than 3 years to life.

The second section of the bill increases penalties for child sex trafficking and child prostitution. The penalties for these crimes need to be adjusted to adequately reflect the gravity of these crimes and the damage that they do to children.

The third section of the bill will ensure harsh penalties for criminals convicted of child sex offenses resulting in death, repeated child sex crimes, and forcible rape of children. These crimes involve the most violent types of sex offenders, and justice for these crimes should be dealt out with the strongest available prison sentences.

The final section of the bill has to do with not permitting these sex offenders to travel outside the country. If we know someone is a convicted child molester, we have the responsibility to not allow them travel to Asia or Europe or anywhere to exploit and harm other kids in other lands.

The bill provides for the following: When the sex offender has been convicted of a sex offense, the issuance of passports shall be refused. Secondly, if a passport has already been issued, the use of a passport may be restricted if the passport was used in the furtherance of a sex offense. Lastly, any alien convicted of a sex offense shall be placed immediately in removal proceedings.

The provisions of this bill are designed to protect our children by locking up violent sexual predators. I doubt that the Members of this body, many of whom have young children of their own, will have any objection to ensuring that violators of crimes against children receive tougher penalties for their acts.

It is unfortunate that it took the murder of girls such as Jetseta Gage for a law with severe penalties to be proposed, but I strongly believe a vote for this bill could save the lives of children in the future. We have an obligation as legislators to protect our citizens, including our most vulnerable populations, and we have an obligation as adults to protect our young people. We have a commitment as parents to protect our children and ensure that they are given the opportunity to grow up free from the dangers that violent sex offenders pose. I urge my colleagues to join me and Senator KYL and Senator VITTER in strengthening our laws so that no child becomes a victim of a repeat offender.

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By Mr. SCHUMER (for himself, Mr. DORGAN, Mr. CASEY, Ms. KLOBUCHAR, and Mr. SANDERS):

S.J. Res. 32. A joint resolution limiting the issuance of a letter of offer with respect to a certain proposed sale of defense articles and defense services to the Kingdom of Saudi Arabia; read the first time.

Mr. SCHUMER. Mr. President, I rise to discuss rising energy prices. I remind President Bush, as he leaves for his trip to the Middle East, his ally, Saudi Arabia, holds the key to reducing gasoline prices at home in the short term.

I, along with my colleagues, Senator DORGAN of North Dakota, Senator CASEY of Pennsylvania, Senator KLOBUCHAR of Minnesota, and Senator SANDERS of Vermont plan to submit a Senate resolution that would block all four pending arms deals to Saudi Arabia, which together total $1.4 billion, unless Saudi Arabia shows that our friendship is a two-way street and increases its oil production by 1 million barrels per day above the January 2008 output levels.

Because these weapons have not yet been delivered to Saudi Arabia, Congress still has the power to block these four deals as leverage to get the world's larger oil producer to bring its production back to historical levels, an action that would have the single greatest impact of lowering gas prices in the short term.

I am very proud that we today voted to prevent continued oil going into the SPR as Senator DORGAN, the sponsor and somebody who has pushed this issue a long time and done it well, has noted that will probably reduce prices about a nickel. There is more. It is a good first step, as he would be the first to say, but we can do more.

If Saudi Arabia would increase production by 1 million barrels a day, the price of gasoline would go down 50 cents a gallon almost immediately. It is a short-term fix.

As my colleagues across the aisle and the administration continue to side with big oil, we have no other choice because, right now, it is Big Oil and OPEC that are benefitting and American families are losing. It is unfortunate we are at this point. Eight years of poor stewardship over our Nation's energy policy has left us with alternatives. And my Republican colleagues have blocked every attempt at real energy reform that would help alleviate the rising energy prices in this country.

In the 110th Congress alone, my colleagues on the other side of the aisle have blocked four different attempts by Democrats to extend the alternative tax provisions, and not only for a year or two but many.

On June 21 of last year, the extension of energy credits received 57 votes; on December 7, it received 53 votes; on December 13, it received 59 votes; and on February 6, 58 votes.

Each time, Republicans put up roadblocks requiring 60 votes in order to pass the bill. Each time the overwhelming majority of Democrats voted for the bill, the overwhelming majority of Republicans voted against.

President Bush opposed the bills because each would have ended tax breaks for big oil, as if they needed more tax breaks given their record profitability.

Meanwhile, Americans continue to spend more and more on gasoline, as prices at the pump have skyrocketed upward to record heights. Although our President was not aware that gasoline prices were predicted to top $4 a gallon this summer, American households already faced with rising fiscal burdens incurred as a result of the subprime foreclosure crisis and the financial credit crunch are being squeezed further by record-high prices at the pump.

In a sign that high prices will continue unabated, the Department of Energy recently forecasted that gasoline prices would average $3.66 per gallon across the U.S. this summer, 25 percent higher than last summer's average.

So I, along with several of my colleagues, think it is time to get the President's attention and the attention of the leaders of Saudi Arabia. The resolution we have introduced today, which Senator REID will rule to move on to the calendar this afternoon, requires Saudi Arabia to increase their oil production by 1 million barrels a day or jeopardize their $1.4 billion of pending arms deals with the United States.

One of those deals includes the sale of JDAMs, Joint Direct Attack Munitions, which makes conventional bombs into smart bombs that can be aimed through the window of a house. The administration has warned us that Saudi Arabia needs to use these weapons in their fight against terrorism.

But how are they going to use laser-guided bombs to fight terrorists in their midst? Saudi Arabia very much wants these smart bombs. So our resolution sends a strong signal to the administration and to Saudi Arabia that friendship with the United States is a two-way street. If the Saudis want to see their weapons, we need to see an increase in crude oil production within the next 30 days. As we all know, the principal cause underlying the rise in gasoline prices has been a spike in crude oil prices, now over $120 a barrel, a 100–percent increase over the crude price at this point last year. A significant portion of this price rise is due to supply decisions made by OPEC. The largest member of OPEC, Saudi Arabia, controls one-fifth of the world's crude reserves and constitutes more than 10 percent of daily production of crude oil.

In the past, Saudi Arabia has kept crude oil prices high by limiting supply, producing anywhere from 1 to 5 million barrels per day below capacity. Currently, they are producing 2 million barrels a day below capacity. Why? Why right now, when crude prices are at an historic high, are the Saudis continuing to cut back on production? Does it make any sense? It does if you are a member of OPEC. It does if you are ExxonMobil. But it doesn't if you are almost everybody else. With crude oil at the highest price ever, Saudi Arabia and other members of OPEC are making record profits, and Saudi Arabia is not alone. Last month big oil companies announced some of the best profits in recorded history. Exxon made almost $11 billion in profit last quarter. So we know OPEC has no incentive to increase their production right now, since that would decrease their profits. In fact, if Saudi Arabia were to increase its production by 1 million barrels per day, that translates to a reduction of 20 percent to 25 percent in the price of crude oil. Crude oil prices would fall by more than $25 a barrel from the current level of $126. In turn, that would lower the price of gasoline between 13 and 17 percent or by more than 62 cents off the expected summer price, if the Saudis would simply produce the amount of oil they used to produce when they were far more responsible. Yet Saudi Arabia's oil minister said there was no need to increase supplies by even one barrel of oil.

But even as they are saying no, no, no to the United States, they are saying yes, yes, yes to China. They are doubling oil production for China. This is galling. When the President goes to Saudi Arabia and acts as if the Saudi King and the Saudi leadership are our good friends, he ought to look the American family in the eye and say that and say Saudi Arabia is a loyal ally. To most Americans, a well-armed Saudi Arabia is far less important than a reasonable price for gasoline, heating oil, and all other products upon which oil is based.

The Saudis have to understand this is a two-way street. The President has to understand that the one-way street relationship with Saudi Arabia has to end. We provide them weapons. Our troops provide them protection. Then they rake us over the coals when it comes to the price of oil. Just as Saudi Arabia feels a need to protect itself with high-tech, laser-guided missiles, American consumers and our economy need protection from record high oil prices, exacerbated by OPEC's stranglehold on supply. The administration needs to use all of the leverage it has to influence the OPEC cartel to stop manipulating the world's oil supply to its member nations' own wealth advantage. It is time we stop treating a cartel that would be illegal in the United States with kid gloves. That is what our resolution does. It reminds the Saudis there are consequences for keeping oil prices high at a time when American families are hurting. It reminds Saudi Arabia that it can't take American support for granted. They can choose record oil profits or American weapons, but they can't have both.

I would like any Member of this Chamber and President Bush to look the average American family in the eye and say: There is nothing we can do to get Saudi Arabia to be responsible.

There are things we can do; we just refuse to do them. This resolution has us step to the plate. The resolution is not the final answer, of course, to the problem of rising gas prices. That is why I am a proud cosponsor of S. 2991, the Consumer First Energy Act of 2008 that we Democrats will offer on the floor before Memorial Day. That bill addresses underlying causes that are

driving up energy prices and forces big oil to reinvest some of their record-breaking profits into alternative and renewable sources of energy that are both good for the environment, the consumer, and break our dependence on foreign oil.

Our bill will also attack the broader bill's speculation, punish price gouging, and put additional pressure on the OPEC cartel. I urge my colleagues on both sides of the aisle to support it. I am hopeful we can move on this resolution as soon as possible so American consumers no longer have to carry the heavy burden of high energy prices all by themselves.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 561—COMMEMORATING THE 50TH ANNIVERSARY OF THE NORTH AMERICAN AEROSPACE DEFENSE COMMAND

Mr. ALLARD (for himself, Mr. SALAZAR, Mr. BENNETT, Mr. CRAPO, Mr. HAGEL, and Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agreed to:

S. RES. 561

Whereas, on May 12, 1958, the United States and Canada signed an official agreement creating the bi-national North American Aerospace Defense Command (NORAD) and formally acknowledged their mutual commitment to defending their citizens from air attacks;

Whereas 2008 marks the 50th anniversary of the creation of the North American Aerospace Defense Command and the outstanding efforts of American and Canadian service men and women defending North America;

Whereas the North American Aerospace Defense Command is a unique and fully integrated bi-national United States and Canadian command;

Whereas the North American Aerospace Defense Command is headquartered at Peterson Air Force Base in Colorado Springs, Colorado, and administered by the United States Air Force, with 3 subordinate regional centers located at Elmendorf Air Force Base, Alaska, Tyndall Air Force Base, Florida, and Canadian Forces Base, Winnipeg, Manitoba;

Whereas the mission of the North American Aerospace Defense Command is to ''prevent air attacks against North America, safeguard the sovereign airspaces of the United States and Canada by responding to unknown, unwanted, and unauthorized air activity approaching and operating within those airspaces, and provide aerospace and maritime warning for North America'';

Whereas, through joint support arrangements with other commands, the North American Aerospace Defense Command, including United States Strategic Command at Offutt Air Force Base, Nebraska, detects, validates, and warns of attacks against North America whether by aircraft, missile, or space vehicle;

Whereas the North American Aerospace Defense Command and United States Northern Command (USNORTHCOM) joint command center serves as a central collection and coordination site for a worldwide system of sensors designed to provide the commander and the governments of Canada and the United States with an accurate picture of any aerospace threat;

Whereas the commander of the North American Aerospace Defense Command provides integrated tactical warning and attack assessments to the governments of the United States and Canada;

Whereas the North American Aerospace Defense Command uses a network of satellites, ground-based and airborne radar, fighters and helicopters, and ground-based air defense systems to detect, intercept, and, if necessary, engage any air-breathing threats to North America;

Whereas North American Aerospace Defense Command assists in the detection and monitoring of aircraft suspected of illegal drug trafficking;

Whereas the Alaskan NORAD Region located at Elmendorf Air Force Base is supported by both the Eleventh Air Force and Air National Guard units;

Whereas the May 2006 North American Aerospace Defense Command Agreement renewal added a maritime warning mission to its slate of responsibilities, which entails a shared awareness and understanding of the ongoing activities conducted in United States and Canadian maritime approaches, maritime areas, and inland waterways;

Whereas the horrific events of September 11, 2001, demonstrated the North American Aerospace Defense Command's continued relevance to North American security;

Whereas, since 2001, the Continental NORAD region, which is divided into 2 defense sectors–the Western Defense Sector, with its headquarters located at McChord Air Force Base, Washington, and the Eastern Defense Sector, with its headquarters located at Rome, New York–has been the lead agency for Operation Noble Eagle, an ongoing mission to protect the continental United States from further airborne aggression from inside and outside of America's borders;

Whereas, in the spring of 2003, North American Aerospace Defense Command fighters based at Tyndall Air Force Base, Florida, intercepted 2 hijacked aircraft that originated in Cuba and escorted them to Key West, Florida;

Whereas the continued service with valor and honor of American and Canadian men and women serving at the North American Aerospace Defense Command is central to North America's ability to confront and successfully defeat threats of the 21st century; and

Whereas the continuation of the longstanding and successful relationship between the United States and Canada through the North American Aerospace Defense Command is paramount to the future security of the people of the United States and Canada: Now, therefore, be it

*Resolved,* That the Senate—

(1) recognizes the contributions made by the North American Aerospace Defense Command to the security of North America; and

(2) commemorates 50 years of excellence and distinctive service to the United States and Canada.

### SENATE RESOLUTION 562—HONORING CONCERNS OF POLICE SURVIVORS AS THE ORGANIZATION BEGINS ITS 25TH YEAR OF SERVICE TO FAMILY MEMBERS OF LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY

Ms. MURKOWSKI (for herself, Mr. BIDEN, Mr. BROWN, Mr. MENENDEZ, Ms. MIKULSKI, Mr. CRAIG, Mr. WHITEHOUSE, Mr. BAUCUS, Mr. DODD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. LAUTENBERG, Mrs. LINCOLN, Mr. NELSON of Florida, Mr. PRYOR, Mr. SMITH, Ms. STABENOW, Mr. STEVENS, Mr. TESTER, and Mr. THUNE) submitted the following resolution; which was considered and agreed to:

S. RES. 562

Whereas Concerns of Police Survivors has showed the highest amount of concern and respect for tens of thousands of family members of officers killed in the line of duty;

Whereas those families bear the most immediate and profound burden of the absences of their loved ones;

Whereas Concerns of Police Survivors is starting its 25th year as a bedrock of strength for the families of the Nation's lost heroes;

Whereas it is essential that the Nation recognize the contributions of Concerns of Police Survivors to those families; and

Whereas National Police Week, observed each year in the week containing May 15, is the most appropriate time to honor Concerns of Police Survivors: Now, therefore, be it

*Resolved,* That the Senate—

(1) recognizes and thanks Concerns of Police Survivors for assisting in the rebuilding of the lives of family members of law enforcement officers killed in the line of duty across the United States;

(2) honors Concerns of Police Survivors and recognizes the organization as it begins its 25th year of service to the families of the fallen heroes of the Nation;

(3) urges the people of the United States to join with the Senate in thanking Concerns of Police Survivors; and

(4) recognizes with great appreciation the sacrifices made by police families and thanks them for providing essential support to one another.

### SENATE RESOLUTION 563—DESIGNATING SEPTEMBER 13, 2008, AS ''NATIONAL CHILDHOOD CANCER AWARENESS DAY''

Mr. ALLARD (for himself and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 563

Whereas more than 10,000 children under the age of 15 in the United States are diagnosed with cancer annually;

Whereas every year more than 1,400 children under the age of 15 in the United States lose their lives to cancer;

Whereas childhood cancer is the number one disease killer and the second overall leading cause of death of children in the United States;

Whereas 1 in every 330 children under the age of 20 will develop cancer, and 1 in every 640 adults aged 20 to 39 has a history of cancer;

Whereas the 5-year survival rate for children with cancer has increased from 56 percent in 1974 to 79 percent in 2000, representing significant improvement from previous decades; and

Whereas cancer occurs regularly and randomly and spares no racial or ethnic group, socioeconomic class, or geographic region: Now, therefore, be it

*Resolved,* That Congress—

(1) designates September 13, 2008, as ''National Childhood Cancer Awareness Day'';

(2) requests that the Federal Government, States, localities, and nonprofit organizations observe the day with appropriate programs and activities, with the goal of increasing public knowledge of the risks of cancer; and

(3) recognizes the human toll of cancer and pledges to make its prevention and cure a public health priority.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4750. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table.

SA 4751. Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) proposed an amendment to the bill H.R. 980, supra.

SA 4752. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 980, supra; which was ordered to lie on the table.

SA 4753. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 980, supra; which was ordered to lie on the table.

SA 4754. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, supra; which was ordered to lie on the table.

SA 4755. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, supra.

SA 4756. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 980, supra; which was ordered to lie on the table.

SA 4757. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 980, supra; which was ordered to lie on the table.

SA 4758. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 980, supra; which was ordered to lie on the table.

SA 4759. Mr. LEAHY (for himself, Mrs. CLINTON, Mr. CARDIN, and Mr. OBAMA) proposed an amendment to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, supra.

SA 4760. Mr. ALEXANDER (for himself and Mr. CORKER) proposed an amendment to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, supra.

SA 4761. Mr. CORKER proposed an amendment to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, supra.

## TEXT OF AMENDMENTS

**SA 4750.** Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their subdivisions; which was ordered to lie on the table; as follows:

In section 8(b), insert after ''under this Act,'' the following: ''individuals employed by the office of the sheriff in States that do not provide the rights and responsibilities described in section 4(b) for law enforcement officers prior to the date of enactment of this Act''.

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**SA 4751.** Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) proposed an amendment to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2008''.

**SEC. 2. DECLARATION OF PURPOSE AND POLICY.**

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State, or political subdivision of a State, that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PERSON.—The term ''person'' means an individual or a labor organization.

(9) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(10) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(11) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact-finding.

(12) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

**SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.**

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a

subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

**SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

**SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.**

(a) PROHIBITION.—An employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

(b) MANDATORY TERMS AND CONDITIONS.—It shall not be a violation of subsection (a) for a public safety officer or labor organization to refuse to carry out services that are not required under the mandatory terms and conditions of employment applicable to the public safety officer or labor organization.

**SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.**

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

**SEC. 8. CONSTRUCTION AND COMPLIANCE.**

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides greater or comparable rights and responsibilities than the rights and responsibilities described in section 4(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on the employee's own behalf with respect to the employee's employment relations with the public safety agency involved;

(4) to preempt or limit any State law in effect on the date of enactment of this Act that provides for the rights and responsibilities described in section 4(b) solely because such State law excludes from its coverage employees of a State militia or national guard;

(5) to permit parties in States subject to the regulations and procedures described in section 5 to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours;

(6) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full-time employees; or

(7) to preempt or limit the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) solely because such law does not require bargaining with respect to pension, retirement, or health benefits.

For purposes of paragraph (6), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—

(1) ACTIONS OF STATES.—Nothing in this Act or the regulations promulgated under this Act shall be construed to require a State to rescind or preempt the laws or ordinances of any of its political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4(b).

(2) ACTIONS OF THE AUTHORITY.—Nothing in this Act or the regulations promulgated under this Act shall be construed to preempt—

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4(b);

(B) the laws or ordinance of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4(b) with respect to certain categories of public safety officers covered by this Act solely because such rights and responsibilities have not been extended to other categories of public safety officers covered by this Act; or

(C) the laws or ordinances of any State or political subdivision of a State that provides for the rights and responsibilities described in section 4(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) LIMITED ENFORCEMENT POWER.—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 5 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4(b).

(4) EXCLUSIVE ENFORCEMENT PROVISION.—Notwithstanding any other provision of the Act, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this Act with respect to employees of a State or political subdivision of a State.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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**SA 4752.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—RIGHT TO WORK**

**SEC. __01. SHORT TITLE.**

This title may be cited as the ''National Right-to-Work Act''.

**SEC. __02. AMENDMENTS TO THE NATIONAL LABOR RELATIONS ACT.**

(a) RIGHTS OF EMPLOYEES.—Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking ''except to'' and all that follows through ''authorized in section 8(a)(3)''.

(b) UNFAIR LABOR PRACTICES.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended—

(1) in subsection (a)(3), by striking '': *Provided*, That'' and all that follows through ''retaining membership'';

(2) in subsection (b)—

(A) in paragraph (2), by striking ''or to discriminate'' and all that follows through ''retaining membership''; and

(B) in paragraph (5), by striking ''covered by an agreement authorized under subsection (a)(3) of this section''; and

(3) in subsection (f), by striking clause (2) and redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

**SEC. __03. AMENDMENT TO THE RAILWAY LABOR ACT.**

Section 2 of the Railway Labor Act (45 U.S.C. 152) is amended by striking paragraph Eleven.

**SEC. __04. PUBLIC SAFETY OFFICER RIGHT-TO-WORK.**

Section 4(b) of the Public Safety Employer-Employee Cooperation Act of 2007 is amended by adding at the end the following:

''(6) Forbidding any public safety employer from negotiating a contract or memorandum of understanding that requires the payment of any fees to any labor organization as a condition of employment.''.

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**SA 4753.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—SECRET BALLOT PROTECTION**

**SEC. __01. SHORT TITLE.**

This title may be cited as the ''Secret Ballot Protection Act of 2008''.

**SEC. __02. FINDINGS.**

Congress makes the following findings:

(1) The right of employees under the National Labor Relations Act (29 U.S.C. 151 et seq.) to choose whether to be represented by a labor organization by way of secret ballot election conducted by the National Labor Relations Board is among the most important protections afforded under Federal labor law.

(2) The right of employees to choose by secret ballot is the only method that ensures a choice free of coercion, intimidation, irregularity, or illegality.

(3) The recognition of a labor organization by using a private agreement, rather than a secret ballot election overseen by the National Labor Relations Board, threatens the freedom of employees to choose whether to be represented by a labor organization, and severely limits the ability of the National Labor Relations Board to ensure the protection of workers.

**SEC. __03. NATIONAL LABOR RELATIONS ACT.**

(a) RECOGNITION OF REPRESENTATIVE.—

(1) IN GENERAL.—Section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) is amended by inserting before the colon the following: ''or to recognize or bargain collectively with a labor organization that has not been selected by a majority of such employees in a secret ballot election conducted by the National Labor Relations Board in accordance with section 9''.

(2) APPLICATION.—The amendment made by paragraph (1) shall not apply to collective bargaining relationships in which a labor organization with majority support was lawfully recognized prior to the date of enactment of this Act.

(b) ELECTION REQUIRED.—

(1) IN GENERAL.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) to cause or attempt to cause an employer to recognize or bargain collectively with a representative of a labor organization that has not been selected by a majority of such employees in a secret ballot election conducted by the National Labor Relations Board in accordance with section 9.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall not apply to collective bargaining relationships that were recognized prior to the date of enactment of this Act.

(c) SECRET BALLOT ELECTION.—Section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)), is amended—

(1) by striking ''Representatives'' and inserting ''(1) Representatives'';

(2) by inserting after ''designated or selected'' the following: ''by a secret ballot election conducted by the National Labor Relations Board in accordance with this section''; and

(3) by adding at the end the following:

''(2) The secret ballot election requirement under paragraph (1) shall not apply to collective bargaining relationships that were recognized before the date of the enactment of the Secret Ballot Protection Act of 2008.''.

**SEC. __04. REGULATIONS AND AUTHORITY.**

(a) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the National Labor Relations Board shall review and revise all regulations promulgated prior to such date of enactment to implement the amendments made by this title.

(b) AUTHORITY.—Nothing in this title (or the amendments made by this title) shall be construed to limit or otherwise diminish the remedial authority of the National Labor Relations Board.

**SEC. 5. PUBLIC SAFETY SECRET BALLOT.**

Section 4(b)(2) of the Public Safety Employer-Employee Cooperation Act of 2007 is amended by inserting before the period the following: ''*Provided*, That the labor organization is selected by a majority of employees in a secret ballot election supervised by a governmental body or agency''.

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**SA 4754.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table; as follows:

At the appropriate place in section 8(a) of the amendment, insert the following:

''(__) to apply to a public safety agency that is established prior to the date of enactment of this Act under applicable State law that has a chief law enforcement officer who has the authority to, in a manner independent of other State and local entities, establish and maintain its own budget and levy taxes for the operation of such agency (the term 'chief law enforcement officer' as used in this paragraph means an elected sheriff who is identified in State law as the ex-officio Chief Law Enforcement Officer of a law enforcement district);''.

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**SA 4755.** Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; as follows:

At the end of section 2, add the following:

(5) Public safety officers frequently endanger their own lives to protect the rights of individuals in their communities. In return, each officer deserves the optimal protection of his or her own rights under the law

(6) The health and safety of the Nation and the best interests of public security are furthered when employees are assured that their collective bargaining representatives have been selected in a free, fair and democratic manner.

(7) An employee whose wages are subject to compulsory assessment for any purpose not supported or authorized by such employee is susceptible to job dissatisfaction. Job dissatisfaction negatively affects job performance, and, in the case of public safety officers, the welfare of the general public.

**SEC. 2A. PUBLIC SAFETY OFFICER BILL OF RIGHTS.**

(a) IN GENERAL.—A State law described in section 4(a) shall—

(1) provide for the selection of an exclusive bargaining representative by public safety officer employees only through the use of a democratic, government-supervised, secret ballot election upon the request of the employer or any affected employee;

(2) ensure that public safety employers recognize the employees' labor organization, freely chosen by a majority of the employees pursuant to a law that provides the democratic safeguards set forth in paragraph (1), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding; and

(3) provide that—

(A) no public safety officer shall, as a condition of employment, be required to pay any amount in dues or fees to any labor organization for any purpose other than the direct and demonstrable costs associated with collective bargaining; and

(B) a labor organization shall not collect from any public safety officer any additional amount without full disclosure of the intended and actual use of such funds, and without the public safety officer's written consent.

(b) APPLICABILITY OF DISCLOSURE REQUIREMENTS.—Notwithstanding any other provision of law, any labor organization that represents or seeks to represent public safety officers under State law or this Act, or in accordance with regulations promulgated by the Federal Labor Relations Authority, shall be subject to the requirements of title II of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 432 et seq.) as if such public safety labor organization was a labor organization defined in section 3(i) of such Act (29 U.S.C. 402(i)).

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

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**SA 4756.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table; as follows:

At the appropriate place in section 6, insert the following:

(__) The term ''chief law enforcement officer'' means an elected sheriff who is identified in State law as the ex-officio Chief Law Enforcement Officer of a law enforcement district.

At the appropriate place in section 8(a), insert the following:

''(__) to apply to a public safety agency that is established prior to the date of enactment of this Act under applicable State law that has a chief law enforcement officer who has the authority to, in a manner independent of other State and local entities, establish and maintain its own budget and levy taxes for the operation of such agency;''.

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**SA 4757.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.**

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

**''§ 926D. Reciprocity for the carrying of certain concealed firearms**

''Notwithstanding any provision of the law of any State or political subdivision thereof:

''(1) A person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and is carrying a valid license or permit which is issued pursuant to the law of any State and which permits the person to carry a concealed firearm, may carry in any State a concealed firearm in accordance with the terms of the license or permit, subject to the laws of the State in which the firearm is carried concerning specific types of locations in which firearms may not be carried.

''(2) A person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and is otherwise than as described in paragraph (1) entitled to carry a concealed firearm in and pursuant to the law of the State in which the person resides, may carry in any State a concealed firearm in accordance with the laws of the State in which the person resides, subject to the laws of the State in which the firearm is carried concerning specific types of locations in which firearms may not be carried.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18 is amended by inserting after the item relating to section 926C the following:

''926D. Reciprocity for the carrying of certain concealed firearms.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

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**SA 4758.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**TITLE ___—LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2008**

**SEC. 01. SHORT TITLE.**

This title may be cited as the ''Law Enforcement Officers Safety Act of 2008''.

**SEC. 02. AMENDMENTS TO LAW ENFORCEMENT OFFICERS SAFETY PROVISIONS OF TITLE 18.**

(a) IN GENERAL.—Section 926B of title 18, United States Code, is amended by adding at the end the following:

''(f) For purposes of this section, a law enforcement officer of the Amtrak Police Department or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.''.

(b) RETIRED LAW ENFORCEMENT OFFICERS.—Section 926C of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (3)(A), by striking ''was regularly employed as a law enforcement officer for an aggregate of 15 years or more'' and inserting ''served as a law enforcement officer for an aggregate of 10 years or more'';

(B) by striking paragraphs (4) and (5) and inserting the following:

''(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers as set by the officer's former agency, the State in which the officer resides or, if the State has not established such standards, a law enforcement agency within the State in which the officer resides;''; and

(C) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(2) in subsection (d)—

(A) in paragraph (1), by striking ''to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or'' and inserting ''to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm or''; and

(B) in paragraph (2)(B), by striking ''that indicates that the individual has, not less recently than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.'' and inserting ''or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less recently than 1 year before the date the individual is carrying the concealed firearms, been tested or otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met—

''(i) the active duty standards for qualification in firearms training as established by the State to carry a firearm of the same type as the concealed firearm; or

''(ii) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.''; and

(3) by adding at the end the following:

''(f) In this section, the term 'service with a public agency as a law enforcement officer' includes service as a law enforcement officer of the Amtrak Police Department or as a law enforcement or police officer of the executive branch of the Federal Government.''.

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**SA 4759.** Mr. LEAHY (for himself, Mrs. CLINTON, Mr. CARDIN, and Mr. OBAMA) proposed an amendment to amendmend SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; as follows:

At the end of the amendment, insert the following:

**TITLE ___—BULLETPROOF VEST PARTNERSHIP GRANT AND HARDSHIP WAIVER FOR MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS**

**SEC. 01. REAUTHORIZATION OF BULLETPROOF VEST PARTNERSHIP GRANT .**

(a) SHORT TITLE.—This section may be cited as the ''Bulletproof Vest Partnership Grant Act of 2008''

(b) REAUTHORIZATION.—Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2009'' and inserting ''2012''.

**SEC. 02. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.**

Section 2501(f) of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll(f)) is amended by inserting at the end the following:

''(3) WAIVER.—The Director may waive, in whole or in part, the requirement of paragraph (1) in the case of fiscal hardship, as determined by the Director.''.

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**SA 4760.** Mr. ALEXANDER (for himself and Mr. CORKER) proposed an amendment to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; as follows:

At the appropriate place, insert the following:

**SEC. ___. GUARANTEEING PUBLIC SAFETY AND LOCAL CONTROL OF TAXES AND SPENDING.**

Notwithstanding any State law or regulation issued under section 5, no collective-bargaining obligation may be imposed on any political subdivision or any public safety employer, and no contractual provision may be imposed on any political subdivision or public safety employer, if either the principal administrative officer of such public safety employer, or the chief elected official of such political subdivision certifies that the obligation, or any provision would be contrary to the best interests of public safety; or would result in any increase in local taxes, or would result in any decrease in the level of public safety or other municipal services.

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**SA 4761.** Mr. CORKER proposed an amendment to amendment SA 4751 proposed by Mr. REID (for Mr. GREGG (for himself and Mr. KENNEDY)) to the bill H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; as follows:

At the appropriate place, insert the following:

**SEC. ___. STATE EXEMPTION.**

Notwithstanding any other provision of this Act, the provisions of this Act shall not apply to a State (or political subdivision) that, within 1 year of the date of enactment of this Act, enacts a law that specifically refutes the provisions of this Act.

## NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled. The hearing will be held on Tuesday, May 20, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on Energy and Related Economic Effects of Global Climate Change Legislation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to gina_weinstock@energy.senate.gov.

For further information, please contact Gina Weinstock at (202) 224–5684 or Jonathan Black at (202) 224–6722.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to advise you that the hearing scheduled before the Senate Committee on Energy and Natural Resources, for Tuesday, May 20, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building regarding the Territorial Energy Assessment as updated pursuant to EPACT 05 has been postponed.

For further information, please contact Allen Stayman at (202) 224–7865 or Rosemarie Calabro at (202) 224–5039.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, May 13, 2008, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, May 13, 2008, at 9:45 a.m., in room SD366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 13, 2008 at 10 a.m. in room 406 of the Dirksen Senate Office Building to hold a hearing entitled, ''Hearing on Mercury Legislation.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, May 13, 2008, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''Cracking the Code—Tax Reform for Individuals''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 13, 2008, at 10:15 a.m., in room 407 of the Capitol Building, to conduct a closed briefing titled ''U.S. Policy Towards Sudan.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, May 13, at 2:30 p.m. in Room 562 of the Dirksen Senate Office Building to conduct a hearing entitled ''The Successes and Shortfalls of Title IV of the Indian Self-Determination and Education Assistance Act: Twenty Years of Self-Governance''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled ''The Bulletproof Vest Partnership Program: Protecting Our Nation's Law Enforcement Officers'' on Tuesday, May 13, 2008, at 9:30 a.m., in room SD–226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 13, 2008, at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

## 50TH ANNIVERSARY OF THE NORTH AMERICAN AEROSPACE DEFENSE COMMAND

Mr. SANDERS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 561, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 561) commemorating the 50th anniversary of the North American Aerospace Defense Command.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLARD. Mr. President, I rise to commemorate the 50th anniversary of the signing of the North American Aerospace Defense Command Agreement between the United States and Canada. For my State of Colorado, today is an especially proud and gratifying occasion as it is home to the headquarters of the North American Aerospace Defense Command, located at Peterson Air Force Base in Colorado Springs.

On May 12, 1958, the United States and Canada signed an official agreement creating the unique and fully integrated binational North American Aerospace Defense Command, commonly known as NORAD. Administered by the United States Air Force in conjunction with Canadian Forces, NORAD is a premier military command that uses the most innovative technology and equipment to secure our skies. Today, 50 years after its inception, we honor NORAD and pay tribute to the men and women who have served and continue to serve NORAD's mission with humility and distinction. To these American and Canadian servicemembers, I say thank you.

For five decades, NORAD's mission has been to prevent air attacks against North America and safeguard the sovereign airspaces of the United States and Canada by responding to unknown, unwanted and unauthorized air activity approaching or operating within our airspaces. In more recent years, NORAD's mission has evolved to include collaborative efforts with civilian law enforcement officers to detect

and monitor aircraft suspected of trafficking illegal drugs to North America. In addition, NORAD has developed a system to help our homeland defense and security partners observe North American seas and to warn of encroaching maritime threats. In pursuit of these missions, NORAD has achieved remarkable success.

Over the years NORAD has strengthened the venerable relationship between the United States and Canada. It has been a source of stability for our two nations during good times and bad. Throughout the turbulent Cold War, and now in the midst of the war on terror, NORAD is responsible for continually bringing together bright and courageous minds to help detect, deter and defend against lethal threats to the North American continent. Furthermore, NORAD has become a model for international defense cooperation. It has allowed for the necessary enhancement of information and intelligence sharing between Canadian and American militaries, intelligence agencies, and other security organizations. Twenty four hours a day, 7 days a week, NORAD units all over North America are alert, prepared and equipped to take action to defend our continent and to safeguard our freedoms.

Throughout my nearly 18 years in the U.S. Congress, I have spent quite a bit of time with the commanders at NORAD, and each time we visit I am encouraged by their efforts and reminded of why America is, and will always be, great. With the safety and security of America entrusted to institutions like NORAD and to the brave men and women of our armed forces, I am confident that America will be protected for generations to come.

Especially since the horrific events of September 11, 2001, and the launch of the war on terror, the continued resolve of the United States and Canada to pay any cost to face any foe is more relevant than ever. If we are to remain sovereign and free, America and Canada must continue to adapt to a changing world and respond effectively to evolving threats. I am confident in our ability to do so. Through NORAD and other binational partnerships, America and Canada will jointly and efficiently combat any threat we confront in the 21st century.

Today, as a nation, we honor the legacy and achievements of the North American Aerospace Defense Command, and we look forward to another half century of this successful partnership so that NORAD can continue to provide for the protection of our airspace and our homeland. I offer my sincere congratulations to the North American Aerospace Defense Command for 50 years of extraordinary service to the United States and Canada.

Mr. SANDERS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 561) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 561

Whereas, on May 12, 1958, the United States and Canada signed an official agreement creating the bi-national North American Aerospace Defense Command (NORAD) and formally acknowledged their mutual commitment to defending their citizens from air attacks;

Whereas 2008 marks the 50th anniversary of the creation of the North American Aerospace Defense Command and the outstanding efforts of American and Canadian service men and women defending North America;

Whereas the North American Aerospace Defense Command is a unique and fully integrated bi-national United States and Canadian command;

Whereas the North American Aerospace Defense Command is headquartered at Peterson Air Force Base in Colorado Springs, Colorado, and administered by the United States Air Force, with 3 subordinate regional centers located at Elmendorf Air Force Base, Alaska, Tyndall Air Force Base, Florida, and Canadian Forces Base, Winnipeg, Manitoba;

Whereas the mission of the North American Aerospace Defense Command is to ''prevent air attacks against North America, safeguard the sovereign airspaces of the United States and Canada by responding to unknown, unwanted, and unauthorized air activity approaching and operating within those airspaces, and provide aerospace and maritime warning for North America'';

Whereas, through joint support arrangements with other commands, the North American Aerospace Defense Command, including United States Strategic Command at Offutt Air Force Base, Nebraska, detects, validates, and warns of attacks against North America whether by aircraft, missile, or space vehicle;

Whereas the North American Aerospace Defense Command and United States Northern Command (USNORTHCOM) joint command center serves as a central collection and coordination site for a worldwide system of sensors designed to provide the commander and the governments of Canada and the United States with an accurate picture of any aerospace threat;

Whereas the commander of the North American Aerospace Defense Command provides integrated tactical warning and attack assessments to the governments of the United States and Canada;

Whereas the North American Aerospace Defense Command uses a network of satellites, ground-based and airborne radar, fighters and helicopters, and ground-based air defense systems to detect, intercept, and, if necessary, engage any air-breathing threats to North America;

Whereas North American Aerospace Defense Command assists in the detection and monitoring of aircraft suspected of illegal drug trafficking;

Whereas the Alaskan NORAD Region located at Elmendorf Air Force Base is supported by both the Eleventh Air Force and Air National Guard units;

Whereas the May 2006 North American Aerospace Defense Command Agreement renewal added a maritime warning mission to its slate of responsibilities, which entails a shared awareness and understanding of the ongoing activities conducted in United States and Canadian maritime approaches, maritime areas, and inland waterways;

Whereas the horrific events of September 11, 2001, demonstrated the North American Aerospace Defense Command's continued relevance to North American security;

Whereas, since 2001, the Continental NORAD region, which is divided into 2 defense sectors—the Western Defense Sector, with its headquarters located at McChord Air Force Base, Washington, and the Eastern Defense Sector, with its headquarters located at Rome, New York—has been the lead agency for Operation Noble Eagle, an ongoing mission to protect the continental United States from further airborne aggression from inside and outside of America's borders;

Whereas, in the spring of 2003, North American Aerospace Defense Command fighters based at Tyndall Air Force Base, Florida, intercepted 2 hijacked aircraft that originated in Cuba and escorted them to Key West, Florida;

Whereas the continued service with valor and honor of American and Canadian men and women serving at the North American Aerospace Defense Command is central to North America's ability to confront and successfully defeat threats of the 21st century; and

Whereas the continuation of the longstanding and successful relationship between the United States and Canada through the North American Aerospace Defense Command is paramount to the future security of the people of the United States and Canada: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the contributions made by the North American Aerospace Defense Command to the security of North America; and

(2) commemorates 50 years of excellence and distinctive service to the United States and Canada.

## HONORING CONCERNS OF POLICE SURVIVORS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 562, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 562) honoring Concerns of Police Survivors as the organization begins its 25th year of service to family members of law enforcement officers killed in the line of duty.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, our Nation is blessed by the selfless service of more than 26 million Americans who come to the aid of their fellow citizens through countless volunteer organizations at the national, State and local levels. Some of these organizations are household names, like the American Legion, Scouting, the American Red Cross, and the American Cancer Society. Others perform their good work in relative obscurity.

This week, on the occasion of National Police Week, I rise to acknowledge the good work of a voluntary organization that few outside the law enforcement community may ever have heard of. But for those in the law enforcement community, it is the organization to which families turn in times

of tragedy. I am referring to Concerns of Police Survivors, C.O.P.S. It serves some 15,000 surviving family members of law enforcement tragedies.

Last year, 181 law enforcement officers were killed in the line of duty. Their names are being added to the National Law Enforcement Officers Memorial on Judiciary Square this week, bringing the total number of names on that memorial to 18,274. This evening, the annual candlelight vigil is being held at the memorial to honor our fallen law enforcement officers and on Thursday, Peace Officers Memorial Day, another ceremony will be held at the Capitol. These ceremonies are visible to all of us. They are attended by law enforcement officers from around the Nation and the surviving family members of our fallen law enforcement officers.

But there is another event that occurs every year during National Police Week that few know about. That event is the National Police Survivors Seminar which is underway at a hotel in Alexandria, VA. I had the privilege of visiting the National Police Survivors Seminar one Saturday morning in 2006. It is a peaceful place and a safe place where families of fallen law enforcement officers can laugh, cry, grieve, and heal in the presence of others who have suffered similar losses. There are special programs for children of fallen law enforcement officers known as ''C.O.P.S. Kids'' and ''C.O.P.S Teens.''

The National Police Survivors Seminar is the outgrowth of a dinner that occurred 25 years ago on May 14, 2003. At this dinner 10 widows of fallen law enforcement officers came together to ask the question, ''What about us?'' During the National Police Week gatherings, everyone focuses on the loved one whose life is lost, but it also is important to focus on the needs of survivors who must rebuild their lives from the ashes.

One year later, the first National Police Survivors Seminar was convened. It drew 110 law enforcement survivors. Concerns of Police Survivors was created at that first seminar. Suzie Sawyer was selected to be the first Executive Director of Concerns of Police Survivors, a position she still holds today. Some things have changed though. The National Police Survivors Seminar no longer draws hundreds now it draws thousands. That is both a tragedy and a blessing. It is a tragedy that so many law enforcement families have been touched by a line of duty death. It is a blessing that the volunteers of Concerns of Police Survivors are there looking out for them. This is but one of many programs that Concerns of Police Survivors offers to survivors throughout the year.

Tomorrow marks the 25th anniversary of that dinner meeting that launched Concerns of Police Survivors. I rise today to offer a resolution commemorating the 25th anniversary of that meeting and to honor Concerns of Police Survivors for the quarter century of service it has provided to law enforcement families that have suffered a line of duty death.

I know first hand of two Alaska families whose lives have been touched by the good works of Concerns of Police Survivors. They have touched families in every one of our States. Concerns of Police Survivors does not seek recognition for its good works and it's not a household name. But it has certainly earned our respect and admiration. On the occasion of its 25th anniversary I am pleased to call this organization's fine work to the attention of the Senate and the American people.

Mr. SANDERS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 562) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 562

Whereas Concerns of Police Survivors has showed the highest amount of concern and respect for tens of thousands of family members of officers killed in the line of duty;

Whereas those families bear the most immediate and profound burden of the absences of their loved ones;

Whereas Concerns of Police Survivors is starting its 25th year as a bedrock of strength for the families of the Nation's lost heroes;

Whereas it is essential that the Nation recognize the contributions of Concerns of Police Survivors to those families; and

Whereas National Police Week, observed each year in the week containing May 15, is the most appropriate time to honor Concerns of Police Survivors: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes and thanks Concerns of Police Survivors for assisting in the rebuilding of the lives of family members of law enforcement officers killed in the line of duty across the United States;

(2) honors Concerns of Police Survivors and recognizes the organization as it begins its 25th year of service to the families of the fallen heroes of the Nation;

(3) urges the people of the United States to join with the Senate in thanking Concerns of Police Survivors; and

(4) recognizes with great appreciation the sacrifices made by police families and thanks them for providing essential support to one another.

## MEASURE READ THE FIRST TIME—S.J. RES. 32

Mr. SANDERS. Mr. President, I understand that S.J. Res. 32, introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S.J. Res. 32) limiting the issuance of a letter of offer with respect to a certain proposed sale of defense articles and defense services to the Kingdom of Saudi Arabia.

Mr. SANDERS. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time on the next legislative day.

## ORDERS FOR WEDNESDAY, MAY 14, 2008

Mr. SANDERS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, May 14; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business for up to 1 hour, with the time to be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; further, I ask that following morning business, the Senate resume consideration of H.R. 980, collective bargaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANDERS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:39 p.m., adjourned until Wednesday, May 14, 2008, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

JOHN R. BEYRLE, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE RUSSIAN FEDERATION.

ROSEMARY ANNE DICARLO, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

ROSEMARY ANNE DICARLO, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

CAROL ANN RODLEY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF CAMBODIA.

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

*To be lieutenant*

JEFFREY R. PLATT

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

*To be lieutenant commander*

EILEEN M. LUTKENHOUSE

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

*To be major*

MARY J. BERNHEIM
KIMBERLEY W. COLEMAN
KELLI C. MACK

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

*To be colonel*

JAMES E. OSTRANDER

*To be major*

LEE A. BAGGOT
RICHARD B. BRINKER
SCOTT L. DIERING
CURTIS W. GALES
RAYMOND R. GILBERT
BRUNO KALDE
FRANK J. NOCILLA

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS A CHAPLAIN UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

JAMES K. MCNEELY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

DAVID R. EGGLESTON

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

KATHERINE A. ISGRIG

*To be commander*

ROBERT W. STOUSE
PAUL J. TECH

*To be lieutenant commander*

DANEIL K. CLOUSER
JOHN D. DOTSON
JASON C. KEDZIERSKI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

ROBERT D. YOUNGER

*To be lieutenant commander*

KENNETH A. FORD
MATTHEW T. GEISER
KAREN L. LITTLE
NANCY H. OSBORNE
JEFFREY W. WILLIS

# EXTENSIONS OF REMARKS

## HONORING THE BALTIMORE BLAST

### HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the team members of the Baltimore Blast, who recently defeated the Monterey La Raza to win the Major Indoor Soccer League, MISL, 2008 Championship.

The Major Indoor Soccer League was formed in 2001 and consists of anywhere between 10 and 15 teams from across the Nation each season. Since the formation of the MISL, the Baltimore Blast has captured four championship titles—in 2003, 2004, 2006, and now 2008.

The Baltimore Blast's winning philosophy is their famous defense. The team has every player defend, and throughout the regular season, the Blast gave up the fewest points in the League. Players on the team are proud to play for the number one organization in the league.

During the off-season, the championship-winning team members of the Baltimore Blast hold summer soccer camps for young soccer players between the ages of 5 and 13 throughout the Baltimore metropolitan area. The young players are taught individual skills as well as teamwork.

Madam Speaker, I ask that you join with me today to honor the Baltimore Blast. Their winning records and multiple championship titles ensure their legacy as a team to be dealt with. It is with great pride that I congratulate the team members of the Baltimore Blast on their fourth MISL Championship win.

## HONORING OUTSTANDING PROVIDENCE HOSPITAL DOCTORS

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. NORTON. Madam Speaker, I rise today to congratulate the outstanding doctors of Providence Hospital right here in our Nation's Capital for the recognition they received from the Washingtonian Magazine this April in its annual issue listing the Washington area region's top doctors. I particularly want to thank Providence Hospital for assisting the most medically underserved and vulnerable members in our metropolitan area with a full range of inpatient and outpatient services. These services range from women's obstetrics and gynecological health, which cater to the health and wellness of mothers and babies, to assisting our elderly community via Carroll Manor Nursing and Rehabilitation Center and the three Senior Wellness Centers the Hospital operates.

Providence's concern for all human life and dignity of each person leads the organization to provide medical services to all people regardless of creed, national origin, economic status, or their ability to pay. As a community hospital that serves the entire community, I am proud to recognize these outstanding physicians including Earl M. Armstrong (pulmonology); Michael E. Batipps (neurology); Kathy S. Brennerman (geriatrics); Kenneth M. Brown (gastroenterology); Inder M. Chawla (rehabilitation); Ramville S. Clark (psychiatry); Pamela W. Coleman (urology); Cameron Ghafouri (ophthalmology); Mary G. Hall (plastic surgery); Steven Blair Hopping (plastic surgery); Beverly Johnson (dermatology); Leslie W. Kingslow (pulmonology); Neal W. Kurzok (neurology); Lewis W. Marshall (infectious diseases); John E. McKnight (oncology/hematology); David G. Moore (neurology); William E Morris (opththalmology); Abbas Motazedi (endocrinology); James A. Mutcheson, Jr. (allergy/immunology); Thomas Pinder (cardiology); Octavius D. Polk (pulmonology); Joseph A. Quash (cardiology); E. Anthony Rankin (orthopedics); James C. Robertson II (rheumatology) and Kirk D. Williams (otolaryngology).

I am particularly proud that earlier this year, the American Academy of Orthopedic Surgeons elected its first African American President. A graduate of Lincoln University in Jefferson City, Missouri and the Meharry Medical College in Nashville, Tennessee, Dr. Rankin completed his internship and residency at Walter Reed Army Medical Center, and is currently Chief of Orthopedic Service at Providence Hospital. As a five-time recipient of a certificate of commendation from the government of the District of Columbia, Dr. Rankin has received many more honors and awards including the prestigious Bronze Star Award and the Army Commendation Medal.

## IN REMEMBRANCE OF RICHARD M. HERMAN

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KUCINICH. Madam Speaker, I rise today in remembrance of Richard M. Herman, and to honor a life spent in service to his community and family.

Richard Herman earned his degree in engineering and was an innovative and dedicated worker. He spent eighteen years at General Electric Company as a mechanical engineer and later founded his own company, Valley Automation, Inc, in 1987. Valley Automation, Inc. is a custom equipment design company and he served as President until his passing.

Mr. Herman had a love of the outdoors and in 1998, he semi-retired to pursue his passions and hobbies. He especially enjoyed fly-fishing, hiking and kayaking. Mr. Herman is survived by his high school sweetheart, Sally, to whom he was married for forty-four years and his three children; Richard Herman, Ronald Herman, and Donna Riviera. He will be fondly remembered by his four beautiful grandchildren, Nathaniel and Isabel Herman and Ryan and Christopher Riviera.

Madam Speaker and colleagues, please join me in celebrating the life of Richard M. Herman, and to honor his commitment to his passions, work and family. May his exemplary life serve as an example for us all to follow.

## CONGRATULATING NEW ULM, MINNESOTA ON BEING NAMED MINNESOTA'S HONORARY CAPITAL FOR A DAY

### HON. TIMOTHY J. WALZ

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. WALZ of Minnesota. Madam Speaker, it is with great pleasure that I congratulate the city of New Ulm on being selected to serve as the Honorary Capital of Minnesota on May 15th, 2008.

This year, Minnesota celebrates 150 years of statehood. Over 10,000 Minnesotans participated in selecting cities to serve as Capital for a Day throughout the week of May 11th–18th to commemorate Minnesota's Sesquicentennial.

I am very pleased that the city of New Ulm was selected for this honor.

New Ulm was settled by German immigrants in the 1850's and throughout its early history served as an important trading center for steamboats carrying goods up the Minnesota River.

New Ulm was once considered the Polka Capital of the Nation and is home to the Minnesota Music Hall of Fame, where visitors can view the music memorabilia of national and local artists.

The city is also home to the famous Hermann Monument, a monument to German-Americans and the cultural influence German immigrants have had on the region. The monument, which was dedicated in 1897, overlooks New Ulm from Hermann Heights Park.

Today, New Ulm is a center for agriculture and business and enjoys a thriving tourism industry. Throughout its history, New Ulm has undergone many changes, but it has not lost the historical roots that make it such a wonderful city.

I am pleased to join the State of Minnesota in congratulating New Ulm, Minnesota on this occasion. And I wish them continued growth and success for the next 150 years.

## IN HONOR OF PHILIP G. BARDOS

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. DREIER. Madam Speaker, I rise today to recognize and celebrate the remarkable career and accomplishments of Philip G. Bardos, born into a Greek immigrant family on March 14, 1927. His life has been one of service to our nation, to the State of California and to every community in which he has lived. He deserves our honor for his military service, contributions to our space program and defense technologies, entrepreneurial success, work as an educational leader and untiring efforts as a volunteer for innumerable organizations and worthy programs.

Born in Pennsylvania to George and Victoria Bardos, an immigrant couple from the island of Rhodes, Phil is the eldest of their six children. Toward the close of the Second World War, Phil was drafted into the United States Army and at the end of the war, was appointed to the United States Military Academy by Congressman Thomas F. Morgan, former chairman of the House Foreign Affairs Committee.

On June 24, 1950, after graduation from West Point with a bachelor of science degree, the new second lieutenant of infantry married the beautiful Sandra Mitchell, the lady who has been his support and inspiration ever since. But the call to duty came early in their marriage. From late 1951 to 1953, Phil saw combat and was wounded in the Korean War.

After recovery from his wounds, Phil served as an aide-de-camp to LTG William Lawton, Chief of Staff of the Far East Command. On his return to the United States, he served in the President's Honor Guard, 3rd Infantry Regiment at Fort Myer, Washington DC., from 1956 to 1958. During these years he was one of the officers assigned to duties in President Eisenhower's office and as an aide at State dinners.

Although Phil resigned from the Army in January 1960, he continued to serve in the Army Reserves and retired after thirty five years of service as a lieutenant colonel. Long after Phil and others of his West Point class had retired, he authored Cold War Warriors, a book published in 2000 that chronicles the accomplishments and achievements of the Class of 1950.

In the 1960s, Phil put his West Point science and engineering training to work in the burgeoning field of space and defense technology. From 1960 to 1963, he was employed by Bendix Corporation in North Hollywood, California as an assistant chief engineer for the Mercury program, the first man-in-space program. From 1963 to 1965, he was employed by Northrop Corporation as manager of the Tactical Analysis group for drones. And then, from 1965 to 1967, he worked at the Bell & Howell subsidiary, Consolidated Electrodynamics Corporation, in Pasadena, California.

In the next stage of his career, Phil became an entrepreneur, forming a highly successful management consulting business, Bardos & Associates, in 1967. Later, he purchased a small high technology company, Torr Vacuum Products, built it up and then sold it to a large conglomerate in 1986.

Despite the intense pressures of business life, Phil has always found time for involvement in public affairs. After an unsuccessful run for Congress in 1964, he threw himself into volunteer activities for the GOP. Working closely with the indomitable Margaret Brock, he served as president of a Republican volunteer organization for Los Angeles County and as chairman of various fundraising events, including a dinner for Ronald Reagan in Los Angeles in 1965.

In 1971, Phil was elected to the Los Angeles Unified School District Board and re-elected in 1975. He twice served as president of the board and is credited by many with steering L.A. schools through one of their most difficult periods. Those who worked with him on the Board remember his calming influence and his ability to develop balanced solutions when emotions were running high.

Phil served as president of the Great Western Council of the Boy Scouts of America from 1974 to 1979, and was honored with the prestigious Silver Beaver award. He was appointed by Governor George Deukmejian to the Board of Trustees of the California Community Colleges in 1987. Appointed by Governor Pete Wilson to the Committee of Bar Examiners in 1989, he was elected to serve as chairman of the body, the only non-lawyer ever to do so. In 1992, he was Vice President for planning of the organizing committee for the United States World Cup Soccer. And, most recently, he has served as a volunteer member of the Operation First Response for assisting U.S. wounded military personnel.

Phil's career is a chronicle of accomplishment and success, but it is his family that has always been closest to his heart. He is immensely proud of the two sons, Tom and Paul, whom he and Sandy raised, and right to be so, for they have followed in his footsteps. Both were Eagle Scouts and both are successful entrepreneurs and owners of their own businesses. And now, Phil has the pleasure of seeing his grandchildren launch their careers.

Madam Speaker, this country will always be great so long as we have individuals of the caliber of Phil Bardos to dedicate themselves to a life of service to their Nation, state and community.

## ST. PETERSBURG, FLORIDA, AIRMAN EXCEEDS 10,000 FLIGHT HOURS

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. YOUNG of Florida. Madam Speaker, Air Force SMSgt Robert Fisher of St. Petersburg, Florida, achieved a milestone on March 29 when he surpassed his 10,000 flight hour.

Sergeant Fisher is a flight engineer with the 380th Air Expeditionary Wing's 908th Expeditionary Air Refueling Squadron at McGuire Air Force Base, New Jersey. He achieved this milestone while flying a KC–10 Extender mission.

Madam Speaker, following my remarks I will include for my colleagues a story from The Pinellas News, one of Sergeant Fisher's hometown newspapers, about this great achievement and about his dedicated service to our Nation in uniform.

Sergeant Fisher enlisted in the Air Force in 1981 and has been flying tanker aircraft since 1986. He has served in Operations Desert Storm, Enduring Freedom and Iraqi Freedom.

LTC Tim White, the commanding officer of the 908th Squadron, paid Sergeant Fisher the highest compliment when he said, "For Sergeant Fisher to eclipse 10,000 hours is a reflection of great dedication to the mission and the art of flying. Sergeant Fisher is one of the greatest assets in the KC–10 community, and his work ethic speaks for itself."

Madam Speaker, please join me in commending Sergeant Fisher for this great flying achievement and in thanking him for his service to our Nation and to the cause of freedom throughout the world.

[From the Pinellas News, Apr. 25, 2008]

10,000 FLIGHT HOURS

(By Sr. Armn. Ross M. Tweten, American Forces Press Service)

SOUTHWEST ASIA.—A flight engineer with the 380th Air Expeditionary Wing's 908th Expeditionary Air Refueling Squadron surpassed 10,000 flight hours during a KC–10 Extender mission on March 29. Senior Master Sgt. Robert Fisher, a St. Petersburg native home-stationed at McGuire Air Force Base, N.J., ended his landmark flight with 10,003 flight hours.

"The most difficult part about achieving this milestone is just being around long enough to do it," he said with a chuckle. "It feels excellent to be among such a rarified group of people."

The 10,000-flight-hour community is small, and achieving this milestone is all about longevity, he said.

Fisher has been flying the line since 1986. He has been in the air as a flight engineer on the C–141 Starlifter and the KC–10 Extender, and has served in operations Desert Storm, Enduring Freedom and Iraqi Freedom.

"When I first came into the Air Force, there were a lot of 10,000-hour crew members around, and I thought, "Wow, I'd like to do that," Fisher said. "But as the years went by, I felt like I'd never get there because, well, our airplanes fly much faster. So I figured 5,000 would be nice. Then, after I reached that, I figured I could probably do about 7,500."

Fisher continued to exceed his goals and reset them. "So when I passed 8,500, it finally hit me that I was really close to my goal of 10,000, and that maybe I could do this, so here I am."

Lt. Col. Tim White, who commands the 908th, said most flyers accumulate 3,000 to 5,000 hours in the span of a career.

"For Sgt. Fisher to eclipse 10,000 hours is a reflection of great dedication to the mission and the art of flying," he said. "If one were to fly around the world for 10,000 hours, he or she would circle the planet over 300 times, or go back and forth to the moon nine times. Sgt. Fisher is one of the greatest assets in the KC–10 community, and his work ethic speaks for itself."

Fisher has had a long bird's-eye view of much of the globe, and he gives most of that credit to the Air Force.

"I've been really lucky in my life, in that the Air Force has given me the opportunities to see a lot of really excellent places and travel the world," he said. "When I enlisted in '81, the recruiter said, 'Hey, join the Air Force, see the world,' and the Air Force has kept up its end of the bargain on that one."

"I'd like to say that I've given the Air Force all these wonderful things," he continued, "but to be honest, the Air Force has given Bob Fisher way more than Bob Fisher has given the Air Force."

## A TRIBUTE TO THE SONS OF THE REVOLUTION IN THE STATE OF CALIFORNIA

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. SCHIFF. Madam Speaker, I rise today to congratulate the Sons of the Revolution in the State of California for 115 years of outstanding service to the people of the State of California and this great Nation.

For more than a century, the American Heritage Library and Museum has been operated for the purpose of acquisition, conservation, study, exhibition, and educational interpretation of historical artifacts of the colonial and early periods of America's history. The American Heritage Library and Museum has preserved precious documents by focusing on historic figures who contributed to the history of the State of California, including but not limited to archival records, histories, books, rolls, documents, artifacts and works of art that increase and diffuse knowledge into these periods of history for the enrichment of the citizens of California.

The preservation of our Nation's military heritage has always been of a primary concern of the Sons of the Revolution. When the Sons of the Revolution was formed, a National Archive did not exist. Originally, each branch and agency of the U.S. Government was responsible for maintaining its own documents, which often resulted in the loss and destruction of records. For almost 150 years, the Federal Government had virtually no method or place to safeguard historically important records. As a result, on November 8, 1810, fire destroyed most of the records of the American Army and Navy of the American Revolution in the custody of the War Department.

As part of a national organization, composed solely of the posterity of those venerable men who, by their acts or counsel between April 19, 1775, when the Revolutionary War commenced, and April 19, 1783, when that conflict ceased, in the military, naval or marine service of the United States, or in the service of the Continental Congress or the congress of any of the original 13 Colonies, helped achieve America's independence, these members of the Sons of the Revolution lobbied Congress for the passage of a law that directed the War Department to establish a national collection of both American Revolution and War of 1812 records.

Today, the main National Archives Building holds the original copies of the three main formative documents of the United States and its Government: The Declaration of Independence, the Constitution, and the Bill of Rights, as well as Magna Carta. These are displayed to the public in the main chamber, called the Rotunda for the Charters of Freedom. The National Archives Building also exhibits other important American historical documents such as the Louisiana Purchase and the Emancipation Proclamation, as well as other historically and culturally significant American artifacts.

The Sons of the Revolution's national efforts to preserve America's priceless heritage was not limited to the establishment of the National Archives. In the intervening years since the establishment of the National Archives, the Sons of the Revolution in the State of California and its members continued their efforts to preserve the records of both National and State significance and have assembled a collection of some 35,000 volumes of books and manuscripts which have been described as one of the best in its field. And, in keeping with the purpose of the Society, "to collect and secure for preservation the rolls, records and other documents relating to that period," for over a century, the members of the Sons of the Revolution, through their patriotic spirit, love of country, and devotion to the principles on which our Nation was founded, have operated and maintained the American Heritage Library and Museum for the benefit and enjoyment of the people of California.

It is because of these numerous accomplishments I rise today to recognize the Sons of the Revolution in the State of California for its 115 years of service to the people of the State and I ask all Members of Congress to join me in congratulating the Sons of the Revolution for its outstanding service to the city of Glendale and surrounding communities.

## HONORING SERGEANT MERLIN GERMAN

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mrs. LOWEY. Madam Speaker, I rise today to pay tribute to Marine SGT Merlin German, who passed away on April 11, more than 3 years after surviving a roadside blast in Iraq.

Merlin, a graduate of Woodlands High School, was a dedicated friend, son, brother, and citizen. Those who met him could not deny his big heart, entrepreneurial spirit, and great sense of humor. The youngest of eight children born to Dominican immigrants, he and his siblings were not allowed to play with toy guns in the house. Yet this did not prevent him from realizing his childhood goal of serving in the military, and he enlisted in the Marines in September 2003.

Merlin German became part of a weapons platoon for convoy security in Iraq in the fall of 2004 and was charged with spotting improvised explosive devices. On February 20, 2005, a bomb exploded next to his vehicle. Merlin survived the blast, but began his own battle for survival.

Over 97 percent of his body was burned in the explosion, and he was given just a 3 percent chance of survival. Merlin proved to be a true fighter who, despite undergoing more than 100 operations over the next three years, maintained his positive outlook. He cracked jokes and mentored new patients at the Brooke Army Medical Center, where he was an inpatient. While recovering, he started a charitable foundation, Merlin's Miracles, to help burned children.

Sergeant German passed away last month, more than 3 years after returning from Iraq. Only 22 years old, Merlin was a true patriot and inspiration to all. A recipient of the Purple Heart, he fought valiantly on behalf of our country. He continued his fight to improve the lives of others, in his efforts to assist burn victims, upon his return to the U.S. Our Nation is blessed to have dedicated, talented men and women like Merlin German serving in our armed services.

Madam Speaker, I ask my colleagues to join me in honoring the memory of SGT Merlin German, along with all of our Nations' other fallen heroes.

## INTRODUCTION OF THE RECOGNITION OF THE PEARL HARBOR NAVAL SHIPYARD'S 100TH ANNIVERSARY

### HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. ABERCROMBIE. Madam Speaker, I rise today to recognize the Pearl Harbor Naval Shipyard on its 100th anniversary. On this important centennial, I would like to commemorate the men and women who have served and continue to serve in the shipyard. In their honor, I have introduced H. Res. 1193.

Congress established the Pearl Harbor Naval Shipyard on May 13, 1908, and it has grown from a "coaling and repair station" to being known as the "No Ka Oi Shipyard" and a national treasure that is strategically important to our Nation and equally vital to Hawaii. During World War II, shipyard workers earned the motto, "We keep them fit to fight", by resurrecting the United States Pacific Fleet from the bottom of Pearl Harbor, helping turn the tide of the war at Midway, and maintaining the ships that would ultimately win victory at sea and sail triumphantly into Tokyo Bay.

Throughout the decades, the shipyard has demonstrated its diverse capabilities by supporting America's space exploration, Antarctic expeditions, and national missile defense. It continues to support the United States Pacific Fleet as the largest ship repair facility between the western coast of the United States and the Far East, providing full-service maintenance for Pacific Fleet ships and submarines throughout the Asia-Pacific theater.

The shipyard has become the largest single industrial employer in Hawaii and is the largest fully integrated military-civilian workforce involved in full-service shipyard work in the United States. The shipyard has a direct annual economic impact of more than $600,000,000 in Hawaii, and through its apprentice, engineer co-op, and other student-hire programs, provides extraordinary training, employment, and career opportunities for residents. Moreover, the shipyard has earned multiple national awards for its dedicated environmental stewardship and excellent safety programs, such as the prestigious Occupational Safety and Health Administration's Star award in May 2007.

On this historic day, I would like to recognize the 100th anniversary of the Pearl Harbor Naval Shipyard and congratulate the men and women who provide exceptional service to our military and keep our Pacific Fleet "fit to fight."

## PAYING TRIBUTE TO BILL O'NEILL

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. LARSON of Connecticut. Madam Speaker, I rise today to pay great honor to

William A. O'Neil, who passed away on November 24, 2007. Bill O'Neill was Governor of the State of Connecticut from 1980 until 1991. Before he held Connecticut's highest office, during his Governorship, and after, he was a mentor and friend.

I had the great honor to serve in Connecticut's General Assembly with Bill O'Neill when he was Governor of the State of Connecticut. Bill and Nikki O'Neill were long time friends of East Hartford. Nikki was an educator in my hometown of East Hartford and Bill and I shared a longstanding political friendship from his time in the House of Representatives, where he rose to majority leader, to State party chairman, Lieutenant Governor, and then, of course, Governor of the State.

He was the embodiment of decency and humility. When my father passed away in 1988, Governor and Nikki O'Neill stood in line for more than 2 hours to pay their respects. Though offered countless times to come to the front of the line, he said politely, "I'll stand here with others who are waiting to pay their final respects." His actions made him forever revered in the Larson family and were legendary in East Hartford.

It is a great honor for me to submit for the CONGRESSIONAL RECORD the words spoken at the funeral services of Connecticut's Governor who, like the sweater he wore in his television ads, made us feel comfortable and at home with a man who understood the everyday problems of the citizens he served so nobly.

The eloquence of the funeral remarks captures the sentiment in St. Patrick's Church that day in East Hampton and all across Connecticut. I submit them as a tribute to Governor O'Neill and his loving wife Nikki. The following are the eulogies of Governor Jodi Rell, James Wade, George Hannon, and the lyrics to the song "We'll Meet Again," during which the entire congregation joined Nikki in a final goodbye:

IN MEMORY OF GOVERNOR WILLIAM A. O'NEILL

To Nikki and to all of Governor O'Neill's family and friends, on behalf of the State of Connecticut I certainly want to offer our deepest condolences.

Nikki, you and Bill were truly a team, a real team. It was always Bill and Nikki, Nikki and Bill. You shared an incredible love; you shared so much, including the ups and downs of life and politics. You shared laughter, memories and friends, and a beloved hideaway home right here. You were fortunate to have each other, and to share your lives with each other. And you were blessed with a great many friends, true friends, real friends—not just acquaintances—that became a family.

The Governor's Irish Gang, including Wade and Hannon is legendary. In fact, some of those tales told at the Capitol of their exploits have become bigger and bigger. A lot of them were told this week, like fish stories, they do keep getting bigger and bigger with each retelling. But like all of us we continue to laugh at the end of each, as if we had never heard them before.

And that's how many of us will remember Bill O'Neill, with a fond smile and a little wry laughter. We will also remember his humanity, his common touch, and his uncommon leadership. He steadied the state at a time when its heart was broken. He led us through difficult financial times and he blazed many a path for equity and advancement. He made a lasting contribution to our education system, our transportation infrastructure, healthcare and veterans issues.

His accomplishments were many and they were far reaching and they were lasting. And he never lost himself in the glare of being Governor.

He was simply Bill O'Neill, he was someone who loved politics and loved public service. A guy from East Hampton who was honored to be elected to office by his friends and neighbors. A guy who fiercely protected that public trust throughout his entire career. He was a man of his word and he was a man of integrity. Someone who too often was underestimated and frankly too often underappreciated. Someone who never ever dreamed of being Lieutenant Governor or Governor of this great state of Connecticut, but was both and was darned good at it.

His legacy will last for generations and his successes and contributions will last for longer, much longer than that. I received a card this morning in my mail and it really just kind of hit me and it was someone who knew Bill O'Neill briefly; I just wanted to share a couple of points with you. He said dear Governor Rell, I was greatly saddened with the passing of Governor O'Neill this past weekend. I will never forget how gracious and passionate he was during my ten years as a summer tourism supervisor for the Dept. of Economic Development. I remember especially an August day in 1990 when I had a photo session with him, saluting my ten years with the State of Connecticut as just a part timer. I remember he had unusually large hands as he squeezed my right hand, the bond we shared during those ten years was both real and present at that moment. I only hope that I am so gracious as the Governor was to me in his retiring year, just as his loss is huge I salute both him and the Office of the Governor on this day.

Many people talk about Bill O'Neill just the common man, here's a man who met him just once for a photo-op, shook his hand, had his picture taken with him and remembers it this many years later. That's the kind of man Bill O'Neill was.

I'm just going to tell you one quick story, and I promise I will never try to compete with Wade and Hannon. I had the occasion to meet Governor O'Neill at an event after I was sworn in as Governor; and I said to him, Nikki was there, I said,"Governor, I just want to tell you, I want to apologize for anything I ever said bad about you, or to you, because you don't know what it's like being Governor until you're on that side of the desk, and he looked at me and said, Jodi, you never said anything bad about me, that I can remember. And I know that you never said anything bad to me. Good luck." And I thanked him.

I want to say thank you to you Nikki, for sharing him with us, he absolutely adored you and that is evident in his life and love of you.—Governor M. Jodi Rell

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Bill O'Neill was not a proud person. Modest, humble, self-effacing—now those are words you would associate with Bill O'Neill. But never proud.

During his years as governor, his pollster, Al Unger, would periodically take the pulse of the electorate to see how he was doing with them. He would ask the voter, "If you could describe Bill O'Neill in a single word, what would it be?" Year after year the unsuggested responses came back: "Honest," "Reliable," "Trustworthy".As Al said,"Not a bad set of words to describe how you are perceived by your fellow citizens."

Not a proud man, but what I call a "proud of' man. By that, I mean he was proud of the people, the institutions and the places he served that molded his character.

For example, Bill O'Neill was proud of being Irish. As you know, his mother was born in Ireland. On some of his trips there he would visit his mother's home town of Port Laiose and spend time with the locals just to absorb the atmosphere that helped shape his mother, her thoughts and ideas. On one trip, he went to a rugby match and wound up the evening in a rugby club in Limerick full of rowdy, laughing, singing rugby players.O'Neill broke into a ballad called "Til We Meet Again" in a pure tenor voice. He brought the place to silence with not a dry eye in the house. Now there was a side of BillO'Neill that the Connecticut public never saw.

He was proud of being Catholic. It was a quiet, ingrained faith that he did not wear on his sleeve or drag out in an election year to pick up a few votes. Rather, it gave him an abiding moral code which impacted his entire life and decision-making process.

And, of course, he was proud of being a Democrat. He directed that every single piece of political material that bore his name should also bear the title—Democrat. He saw himself as being cut from the Roosevelt, Truman, Kennedy, Ribicoff, Grasso line of Democrats. He was fiscally conservative, yet had a social conscience that led him to believe the little guy should enjoy the same opportunity to get ahead in life as he had. As Democratic State Chairman, following the death of John M. Bailey, he personally held the party together as it went through a spasm of rule changes and reapportionment. And, of course, it was the climactic vote before the Democratic State Central Committee whereby he was re-elected State Chairman that solidified his role as a political figure in his own right.

He was proud of the state of Connecticut. He saw his fellow Nutmeggers as hard-working and industrious people who would follow his lead. On the campaign trail, he would repeat his mantra that "I am not a show horse, I am a work horse." The people of Connecticut believed that because it was true and returned him to office twice.

He was proud of the Office of Governor. He believed it was a mantle of trust, given to him by the people of his state and that he was duty bound not only to wear that mantle with distinction but to return it in as good a condition as he received it. So, he was forever conscious of how his conduct would reflect on that office, a consciousness that stood him in good stead.

He was proud of his accomplishments as Governor, not as much for what these accomplishments said about him, but because of what they meant in the daily lives of the people he was elected to serve. Shelter for the homeless. A job for the unemployed. Safe roads and bridges for the traveler. Care for the elderly and infirm. Education for a child. A hand up. Not a hand-out.

He was proud of being a politician. He saw it as a calling from which he did not shrink. For him, a politician's word was his bond. He recognized that in America the people who built our nation and our states were politicians. Thomas Jefferson, Abe Lincoln, FDR, the people whom we revere, were all politicians. And, he loved the hurly burly of politics. Whether he was counting votes to gain the nomination at a state convention or challenging attacks on him as a candidate, O'Neill had no peer. His political instincts and street savvy were dead on. And, oh, did he love a parade. George Hannon used to say that a lot of men relax by playing golf or watching a ball game, but, give O'Neill a parade and he was happy as a clam—especially if the parade fell on March 17th.

He was proud of East Hampton. If you wanted to find the tap root of Bill O'Neill, you need to look no further than this community where he grew up, was educated, lived and died. His little house on Lake Pocotopaug was Shangri-La as far as Bill was concerned. Old Home Day was an event

not to be missed, regardless of his gubernatorial duties. And, of course, O'Neill's Tavern was the spot where old friends gathered and new friends were made.

He was proud of the people he appointed who formed part of the O'Neill administration. He did not seek to be surrounded by yes men or women, but rather by people who had the confidence to carry out their tasks with the knowledge that they were fulfilling the O'Neill goal of providing a better place for the people of Connecticut. Tony Milano, who guided him through the budgetary process in good financial times and bad. Bill Burns who carried out the largest highway infrastructure program in the country. Jay Jackson, his peerless and trusted attorney. Chad McCollam who provided years of good counsel as his Chief of Staff, followed by his successor, David McQuade. His loyal secretary, Anne DeNoia, and the woman who ran the scheduling for the governor's mansion, Ruth Sharaf, all helped shape the O'Neill years. And, Tim Bannon, Tax Commissioner, speech writer, advisor and office wit—all roles that Bill O'Neill relied on. So many others.

He also was proud of the prominent roles in government that he filled for the first time with members of ethnic and minority groups and women. Bill O'Neill appointed the first female State Treasurer, the first female Attorney General, the first African-American Associate Justice and the first female Chief Justice to serve on the Connecticut State Supreme Court. He also appointed the first Chief Justices of the Supreme Court of Polish and Italian extraction. He opened the door to strong and capable individuals and the doors he opened will never be closed again.

I'm not sure he was proud of George Hannon, Jack Mahaney and me, but we made him laugh so he kept us around. And, every now and then, we managed to get in a word of advice that he actually followed. As a result of the several political battles that we fought together, it can be said with confidence, that the four of us became: ''We few, we happy few, we band of brothers.''

He was proud of the Troopers who drove him and protected him—Rick Perdue, Jim Gaylord and Al Lane. They were the sons he never had. In his final days at the Nursing Home when he could not help himself, Al and Jim were there feeding him. What does tell you about friendship and loyalty?

And, finally, he was proud of his wife, Natalie—known to all of us as Nikki. What a team! In every election in which he ran, she was there plotting strategy, rounding up votes, thanking donors and workers. Like Bill, her political sonar was dead on. He listened to her, to her counsel and followed her advice. He was proud of the grace and charm that she shared with the people of Connecticut as its First Lady. The two were a pair that couldn't be beaten—and, by the way, never were.

So, there you have it. Bill O'Neill—Reliable, Honest and Trustworthy.

And, Old Pal, because you lived your life and ran your administration by that code, the people of Connecticut were proud of you.

And, if I can indulge myself in a little hubris, I am proud I was able to call you my friend.—James Wade

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Governor Rell, Senators, Representatives, I haven't seen this many politicians under one roof since an O'Neill fundraiser in 1986. I'll not speak to you about the many accomplishments of Bill O'Neill; they are well documented in Connecticut history. I'll tell you about the Bill O'Neill I met in 1967 and beyond. I refer to them as recollections and reflections; 41 years ago this month Bill O'Neill was elected to the Connecticut General Assembly, you couldn't miss him, his tight dark curly red hair, trimmed perfectly, his cadet-like erectness, neat and natty of dress, except for what turned out to be his favorite trademark, a hounds-tooth sports jacket that contained at least 19 colors. We found out over a period of years the jacket would just not wear out. Some of us asked, no begged, Nikki, his wife of then four years, to have the jacket burned. She just wouldn't or couldn't do the deed.

The jacket was a staple at the Capital from 1967 to 1970, but as fate would have it, O'Neill and his jacket appeared in a campaign photo with Gubernatorial Candidate Emilio Daddario in 1970, the good news was, that 0 'Neill won reelection, the bad news was that Mim didn't. Now I'm not saying that the jacket had anything to do with Mim's loss, but you never know.

Bill was not a culinary trail blazer. What he wanted, Nikki cooked. When asked by a few of us if he would join a small group for dinner, he demurred saying, Nikki's cooking a pot roast. Secretly, we kept track of his subsequent refusals. They added up in one year to 87 pot roasts, 32 meatloafs, and 19 hot dog dinners. In 1991, after Bill and his lovely wife Nikki retired to the lake, he would often call during the summer and ask what Sue and I were doing for dinner. The four of us would meet at the Governor's Tavern, the successor to O'Neill's tavern. Now dinner and cocktails for four is not very complicated, Bill made it even less complicated. When menus were handed out, Nikki turned and whispered to Sue and me, ''I don't know why they're giving him a menu, he orders the same thing every time. A half order of tenderloin tips and a side of mashed potato.'' Nikki was right, over the next four years, every time we gathered, Bill would take his menu and look at it from cover to cover. And then order a half order of tenderloin tips and a side of mashed potatoes.

Back in '82 during the gubernatorial campaign we hired what we considered to be the best pollster and the best media guru. We launched a massive number of cocktail parties, many at the homes of his ardent supporters. It was an undertaking that would push Bill and Nikki into multiple appearances in an evening and weekends. I was asked and I won't say by whom, I was asked, late in the campaign, why we needed so many cocktail parties, my response was, ''because we are in an aggressive and people oriented campaign''. The person shook his or her head and said, ''Well, we may win the election, but I hope Bill and Nikki will outlast that.'' They did and O'Neill won.

Bill has a church full of relatives, friends, admirers honoring him today. I see faces in the crowd today of people who served with him, those who worked for him and of course his beloved people from East Hampton, who he never forgot. As I express my feelings towards him, I know they are also yours. He was my dear friend before he was governor, he was my dear friend when he was my governor, he was my dear friend after he became retired. I remember the phone would ring when it was his turn to call me in Naples, and when I answered, when it was him, I knew what he was going to say, ''how are you old pal?''

Men are not usually known for their long friendships with other men, women do a much better job with long term friendships. But I am now, and will be forever grateful and touched by the relationship between Bill and me. Like all celebrations, this one will end soon. Nikki, asked me to tell you a brief story about Bill's favourite chanteuse, now Irish kids don't get a chance to use that word, chanteuse, very often. Well if you got your dictionary handy, chanteuse is a singer of folk narratives with simple stanzas. Bill's chanteuse of choice was a Brit, circa 1940's, her name was Vera Lynn. She's best known for her rendition of ''White Cliff's of Dover'' during World War II. But lesser know, and Bill's favourite, was her rendition of ''We'll Meet Again''. Soon, we leave this church today, remember well the simple and true words of Vera Lynn, ''we'll meet again, goodbye for now Bill.''—George Hannon

WE'LL MEET AGAIN

(By Vera Lynn)

We'll meet again,
Don't know where,
Don't know when
But I know we'll meet again some sunny day.
Keep smiling through,
Just like you always do
Till the blue skies drive the dark clouds far away

So will you please say ''Hello''
To the folks that I know
Tell them I won't be long
They'll be happy to know
That as you saw me go
I was singing this song

We'll meet again,
Don't know where
Don't know when.
But I know we'll meet again some sunny day.
[We'll meet again,
Don't know where,
Don't know when
But I know we'll meet again some sunny day.

Keep smiling through
Just like you always do,
'Til the blue skies
Drive the dark clouds far away
So will you please say ''Hello''
To the folks that I know.
Tell them it won't be long.
They'll be happy to know
That as you saw me go,
I was singin' this song.

We'll meet again,
Don't know where,
Don't know when
But I know we'll meet again some sunny day.

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## IN HONOR OF PRESIDENT IADAROLA

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### HON. JOE SESTAK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. SESTAK. Madam Speaker, I rise today to honor the career of Dr. Antoinette ''Toni'' Iadarola, president of Cabrini College in Delaware County in Radnor, Pennsylvania. On June 30th of this year, Dr. Iadarola will retire after 16 years as president of the College.

During a tenure which comprises more than 30 percent of the College's 50-year history, Dr. Iadarola has led Cabrini to expand academic offerings, construct state-of-the-art facilities, and raise its regional and national profile. The College's academic standing was enhanced, SAT scores and grade-point-averages of incoming students increased, and full-time undergraduate enrollment grew from 763 in 1992 to 1,650 in 2008.

Under her leadership, the College completed $100 million in capital improvements, and the endowment and reserves increased from $3 million to $30 million. During her tenure, Cabrini's annual operating budget went from $12.3 million to more than $60 million.

With a history of preparing students for engaged citizenship, Cabrini was among the first

institutions of higher learning nationally to implement community service into its core curriculum, and was the first in Pennsylvania to require community service of all its students. For the second year in a row, the College was named to the President's Higher Education Community Honor Roll with Distinction for General Community Service. In 2005, Cabrini became the first college in the country to sign an agreement with Catholic Relief Services to support the organization's global outreach program.

As a founding member of the Southeastern Pennsylvania Consortium for Higher Education (SEPCHE), Dr. Iadarola helped procure more than $20 million from private and government sources for the eight-school consortium.

Dr. Iadarola serves on the U.N. Commission on Disarmament Education, Conflict and Peace; on the board of the Association of Independent Colleges and Universities; and on the board of Pennsylvania Campus Compact. In 2001, she was named "One of the 30 Most Powerful People on the Main Line" by Main Line Life Magazine, and in 2006, she was named a Woman of Distinction by the Philadelphia Business Journal and the National Association of Women Business Owners.

Her extraordinary tenure as president is more than double the national average for private-college presidents, as measured by the American Council on Education.

## HONORING CARROLL HIGH SCHOOL FOR WINNING THE GIRLS UIL 5A STATE SOCCER CHAMPIONSHIP

### HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MARCHANT. Madam Speaker, I rise today to extend my congratulations to the 2008 Carroll High School girls' soccer team. On Saturday, April 12, 2008 they earned the UIL 5A State Championship title and finished their season with an impressive 24–4–4 record.

On the afternoon of April 12, 2008, in Round Rock, Texas, the Carroll High School girls soccer team was determined not to let the past few years of history repeat itself. Under Head Coach Matt Colvin and his staff, the Lady Dragons posted an amazing 24 shutouts during the season. In the playoff opener the Lady Dragons shutout the 2005 state champions in regulation before winning in overtime with a score of 2–1. Utilizing the amazing strength of the Carroll defense, the Lady Dragons went on to shut out their next five opponents in the playoffs by an 8–0 margin.

Leadership, discipline, and accountability were the driving forces that took the Lady Dragons to the pitch every match. The team's resilience, fortitude, and determination to overcome challenges helped propel the Lady Dragons to an amazing season capped off with 2–1 victory in the state title match.

The Lady Dragons have proven themselves to be gifted not only on the soccer field but in the classroom. The team exemplifies the enthusiasm and determination it takes to succeed in academics and athletics.

It is a distinct honor to represent Carroll High School in Congress, and I congratulate the players, coaches, fans and family members who made the 2008 season such a memorable one.

## CELEBRATING ISRAEL'S 60TH ANNIVERSARY AND THE STRONG TEXAS-ISRAEL RELATIONSHIP

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. SESSIONS. Madam Speaker, I rise today to celebrate Israel's 60th Anniversary and to recognize the strong partnership between my home State of Texas and Israel. Israel has made tremendous strides since its establishment in 1948—and today it is a strong security and trading partner with the United States. Israel's growing business sector has benefited the United States as a whole and the State of Texas.

Because of this growing partnership, the Texas-Israel Chamber of Commerce was established in Richardson, Texas. Texas is Israel's third largest U.S. trading partner—exporting over $1 billion in goods in 2007. The State's low taxes, affordability and strategic trade location make Texas is a great place for Israeli companies to do business. Additionally, Texas's reputation as a leader in telecommunications, energy and security technologies make the State very attractive to Israel. With the second highest number of companies on NASDAQ and strong investment incentives, Israel is equally attractive to U.S. investment. Israel boasts an extremely high level of skilled engineers and is the world leader in medical device patents.

Through the State's Department of Agriculture, the Texas-Israel Exchange program has encouraged the development of business relationships and joint technology research for agriculture and natural resources.

The strong ties Texas shares with Israel are reflective of our Nation's valued friendship with the Jewish community. I am grateful for the bonds our two countries share and I will continue to work to strengthen our relationship for the next generation.

## INTRODUCING NATIONAL APHASIA AWARENESS MONTH RESOLUTION

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MARKEY. Madam Speaker, I rise to reintroduce legislation to designate June as National Aphasia Awareness Month. Aphasia is a disease that causes the loss of the ability to produce and/or comprehend language. It can also impair a person's ability to read and write. Each case is different depending on the severity of the stroke or brain trauma. This condition is a result of damage to the left hemisphere of the brain. The main cause of aphasia is stroke, but other causes of aphasia include blows to the head, gunshot wounds, and brain tumors. Strokes are the third leading cause of death and disability in the United States today, and the effects of aphasia are borne not only by the victim but also by the victim's family and friends.

Currently there is research being done on how to help people with aphasia enjoy a better quality of life. Aphasia does not cause any kind of disability in thinking or learning but can affect expressive and receptive language, as well as impair a person's ability to read and write. People who suffer from aphasia are able to function in everyday life, but they need assistance and attention. Moreover, further research is needed to improve our understanding of how to identify the risk factors that cause aphasia, prevent the occurrence of aphasia and improve the ability to function of those with the disease.

There are currently about one million cases of aphasia in the United States, and about 80,000 people are afflicted with the disease every year. By working with vocational specialists, speech-language pathologists and family and friends, many of those with aphasia may be able to obtain some sense of normalcy and regain some of their skills.

I am introducing this resolution as I did last year to support the goals of National Aphasia Awareness Month with the hope that it will bring more attention to this disease and give a voice to those who suffer from aphasia who often cannot speak for themselves. Last year when we honored June as National Aphasia Awareness Month it meant a great deal to the groups and doctors working on preventative measures and conducting new research for this disease.

This resolution recognizes June 2008 as National Aphasia Awareness Month in hopes of drawing more attention to this illness and in hopes that more recognition will highlight the importance of research and compassion for the daily struggle faced by those affected by aphasia.

## HONORING THE HARFORD DAY SCHOOL DESTINATION IMAGINATION TEAM

### HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor Harford Day School's Destination ImagiNation, DI, team, who recently won first place in the "Chorific Improv" competition at the statewide Destination ImagiNation competition and is headed to the national finals this month in Tennessee.

Destination ImagiNation is a place where kids take what they know and what they excel at and learn to apply it to solve challenges, working cooperatively with a team and pushing the limits of imagination. Destination ImagiNation is a community-based, school-friendly program that builds the participants' creativity, problem-solving, and teamwork in enjoyable and meaningful ways. Teams of five to seven members work together to apply critical thinking and their particular talents to solve a Team Challenge. A Destination ImagiaNation Team Challenge is a challenge that is solved over a period of 8 weeks. Each Team Challenge is designed to be open-ended and solvable in many ways and on many levels.

The Harford Day School DI team participated in the Chorific Improv Problem this year. The criteria for the Team Challenge focused on improvisational acting, story development,

theater arts, team work, and sound design. Their challenge was to create a 6-minute improvisational skit about an ordinary, randomly selected chore in just 30 minutes at the Tournament. In addition, they had to integrate a randomly selected famous person into their skit.

The Team's chore was to brush the dog. They created a cardboard dog on a leash, and their setting was a train on which they were riding to a dog show. In their skit, they had to overcome two randomly selected obstacles, which in their case meant the only brush they had was their mother's brush, and the bristles were falling out. Erasmus Darwin was the famous person the Team needed to incorporate into their skit. As he was a poet and a scientist, the team member playing Darwin's character made up a poem to recite. As the scientist, they had their mother's brush evolve into a dog brush and they used the fire from the train engine to melt the bristles in place.

Harford Day School is a private school located in Bel Air, Maryland, which serves students from pre-kindergarten through the eighth grade. The school's team members include Ally Wright, Drew Devanney, Tommy Oursler, Charlotte Molali, Livy Ayd, Sammy Bowen, and Will Bolton. The team is led by managers Donna Peck and Marcy Sparks.

Madam Speaker, I ask that you join with me today to honor Harford Day School's Destination ImagiNation team. Their high scores at the Maryland statewide competition ensure their reputation as a team to be reckoned with in the national finals. It is with great pride that I congratulate the members of the Harford Day School DI team on their success in the statewide competition, and wish the team luck as they progress to the national finals.

## HONORING SAINT AUGUSTINE FOR THEIR 140TH ANNIVERSARY

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. NORTON. Madam Speaker, I ask my colleagues to join me today in recognizing the 140th Anniversary of Saint Augustine.

Saint Augustine Church is the oldest Black Catholic church in the Nation's Capital. As the Mother Church of Black Catholics, Saint Augustine Church continues in the tradition, in which it was founded, as a strong Black Catholic institution which witnesses in faith the Living God, His Son and the Holy Spirit. Saint Augustine will continue to be a center which recognizes, proclaims and preserves our Black Roman Catholic Heritage. It will expand and improve activities to advance the education of our children; to continue work in evangelization, liturgy, music, ecumenism and in efforts towards the achievement of a spiritual, economic and social development of all people.

Saint Augustine Parish traces its heritage to 1858 and the efforts of a group of dedicated emancipated Black Catholics. Faced with a society that was not yet willing to put off the last vestiges of slavery and a church that, at best, tolerated the presence of Black people in its congregation, these men and women founded a Catholic school and chapel on 15th Street under the patronage of Blessed Martin de Porres. In what is perhaps a touch of historical irony, this school was operating 4 years before mandatory free public education of Black children became law in the Nation's Capital.

After operations were briefly interrupted by the Civil War, a new church was built and dedicated to Saint Augustine in 1876. From its beginning, Saint Augustine was the parish of Black Catholics in Washington, DC.

From its earliest years the school was staffed by the Oblate Sisters of Providence, the oldest religious order of Black women in the United States.

The parish continued to grow and flourish with a strong commitment to education and good liturgy. In February 1928, under the pastorship of Father Alonzo alds, the parish purchased the site of the Washington Home for Children at 1715 15th Street, NW., intending it to be the new home of Saint Augustine Parochial School. The school, a rectory and a convent were soon built and the construction of a new church begun. Most of the parish activities and operations were moved to the 15th and S Streets location, while the original church building at 15th and M Streets was maintained and used until 1946, when it was sold by the Archdiocese of Washington.

One of Saint Augustine's neighbors was a large Catholic parish, Saint Paul, whose original membership was primarily of Irish and German descent. With the rise of integration and shifting urban demographics, membership at Saint Paul dwindled steadily until 1961, when Archbishop Patrick O'Boyle decreed that the parishes of Saint Paul and Saint Augustine would be united.

In 1979, the Saints Paul and Augustine parish, through the parish pastoral council, staff and the Archbishop of Washington, made a decision to sell the Saint Augustine property at 15th and S Street. The old Saint Paul buildings at 15th and V Streets would be renovated to house the consolidated schools and other ministries of the parish.

On November 12, 1982, Archbishop James Hickey decreed that the parish of Saints Paul and Augustine, served by the Church at 15th and V Streets NW, would again be called the parish of Saint Augustine. With 2,000 registered members and 3,000 who call it their home church, Saint Augustine is now one of the largest parishes in Washington, DC.

Saint Augustine's proud history continues. In November 1989, Father John F. Payne, OSA, was ordained and named as the first African American associate pastor assigned to the Saint Augustine Parish. In January 1991, Father Russell L. Dillard was installed as the first African American pastor in Saint Augustine's history. Father Dillard was elevated to Reverend Monsignor in May 1991. Father Lowell Case, SSJ, was appointed Pastoral Administrator in February 2003. On February 5, 2005, Father Patrick Smith was installed as Pastor of Saint Augustine Parish.

Now in its 147th year, Saint Augustine Roman Catholic Church and its parish continue to grow, learn, and rejoice in God's love.

## IN REMEMBRANCE OF DONALD ''ACE'' HANNA

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KUCINICH. Madam Speaker, I rise today in remembrance of Donald ''Ace'' Hanna, and to honor a life spent in service to his country, his community, and his family.

Donald Hanna, son of Elmer and Margaret Hanna was a U.S. army veteran and dedicated community member. He is survived by his wife, Trish and was a loving husband, brother, father, uncle, and friend to many in the community, with whom he shared his love, stories, guidance and care. Mr. Hanna enjoyed a close and unique bond with each of his eleven siblings, Francis, Ken, Gil, Marge, Diane, Jerry, Marilyn, Ralph, Karen, Ray and Elmer. He was a dedicated family man and spent much of his time with his wife and only daughter, Christine Zeh-Coyne, whom he will be affectionately remembered by.

Madam Speaker and colleagues, please join me in remembering and honoring the life of Donald ''Ace'' Hanna, for his dedication to his country, family and friends.

## CONGRATULATING WINONA, MINNESOTA ON BEING NAMED MINNESOTA'S HONORARY CAPITAL FOR A DAY

### HON. TIMOTHY J. WALZ

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. WALZ of Minnesota. Madam Speaker, it is with great pleasure that I congratulate the City of Winona on being selected to serve as the Honorary Capital of Minnesota on May 16, 2008.

This year, Minnesota celebrates 150 years of statehood. Over 10,000 Minnesotans participated in selecting cities to serve as Capital for a Day throughout the week of May 11–18 to commemorate Minnesota's Sesquicentennial.

I am very pleased that Winona was chosen for this honor. A river city located in the beautiful bluff country along the Mississippi, Winona was settled in the early 1850s and throughout its early history served as a major port, shipping wheat from southern Minnesota and products from its thriving lumber industry.

Downtown Winona is rich in history, with over 100 buildings listed with the National Register of Historic Places that contribute to the culture of the downtown district.

A number of institutions of higher education also have their home in Winona, including St. Mary's University, Minnesota State College Southeast Technical, and Winona State University, the first public teacher training college located west of the Mississippi.

Today, from the heights of Sugarloaf to the Mississippi River, Winona is a vibrant community in which many local events honor its history.

I am pleased to join the State of Minnesota in congratulating Winona, Minnesota on this occasion. And I wish them continued growth and success for the next 150 years.

## RECOGNIZING MISSISSIPPI SENATE CONCURRENT RESOLUTION NO. 667

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. PICKERING. Madam Speaker, today I submit into the RECORD Concurrent Resolution No. 667 adopted by the Mississippi Senate and House of Representatives. The resolution urges the United States Congress to accept the decision of the United States Air Force concerning the award of the jet tanker contract to Northrop Grumman Corporation and EADS North America. Each day we delay approving this contract, we prevent the Air Force men and women from receiving the equipment necessary to ensure our national security. I encourage my colleagues to review this resolution.

## DEBT CANCELLATION OP-ED

### HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. MOORE of Wisconsin. Madam Speaker, this op-ed, written by Archbishop Desmond Tutu, appeared in the Baltimore Sun last week. Archbishop Tutu's words bring attention to our efforts to promote debt relief here in the House, such as passage of the Jubilee Act last month, and underscore the need for this bill to be passed into law.

[From the Baltimore Sun, May 7, 2008]

DEBT CANCELLATION A VICTORY FOR THE WORLD

(By Desmond Tutu)

Last month, the House of Representatives showed leadership in the fight against global poverty by passing the Jubilee Act for Responsible Lending and Expanded Debt Cancellation, which would extend lifesaving debt cancellation to more poor nations around the globe.

Too many of the world's poor children needlessly starve or go without education because too many impoverished nations—even after the laudable debt relief provided to date—are still funneling scarce resources to multilateral banks instead of paying for needs at home.

The world community has found crushing debt to be akin to a modern-day apartheid, and has responded with debt cancellation. Unjust debt leaves developing nations at the behest of the powerful. Shall we let the children of Africa and Asia die of curable disease, prevent them from going to school and limit their opportunities for meaningful work—all to payoff unjust and illegitimate loans made to their forefathers?

When I think of the crisis of international debt, I think of my African neighbor, Lesotho. Many of Lesotho's people cannot afford basic nourishment. The AIDS epidemic has plagued the nation, but needed medicine is out of reach for too many.

Lesotho's situation shows how debt and extreme poverty create a crisis for children. Children's wards in that nation's hospitals are filled with anxious mothers 24 hours a day, administering medicine and caring for their children as a nurse or doctor might do in my country of South Africa. They have no choice. Lesotho has only 6 pediatricians looking after its 800,000 children.

One-third of Lesotho's children are not in school. Meanwhile, Lesotho's debt repayments equal its entire education budget. Instead of investing in its people, health and development, Lesotho—a nation of 2 million people with external debt of $647 million—sends debt payments to the developed world.

Millions of the world's poorest people suffer hunger and illness as desperately needed resources flow out of their countries in the form of debt payments. Yet many countries, like Lesotho, are not eligible for debt relief because current initiatives are not based on a country's level of poverty or need.

Much of this debt originates from loans made to corrupt and oppressive regimes that did not benefit the population. As a South African, I know firsthand the injustice of this situation as our country continues to repay money that was used to sustain the apartheid system and suppress the movement for racial justice. The Jubilee Act calls for an audit of the odious debts of countries such as South Africa so that the question of whether this money is truly ''owed'' can finally be addressed.

The movement to cancel debt is an ongoing moral campaign that joins religious leaders around the globe under the biblical principle of Jubilee, which says that everything belongs to God. My own Anglican communion has long supported debt relief, calling the continued burden of debt upon the poorest people of the world ''a moral scandal.''

Christian evangelical organizations, including Baptist World Alliance and the Salvation Army, have called on President Bush to support the Jubilee Act. Pope Benedict XVI, who made his first visit to the United States last month as Congress voted on the Jubilee Act, has called for debt cancellation for the poorest countries to be ''continued and accelerated.''

As the Senate now considers the Jubilee Act, it can do its part to help ensure that Africans and Asians are able to use their own resources for their own development. When success comes on expanded debt cancellation, as it did with an end to apartheid, this victory will not be ours alone but will belong to the whole world.

Desmond Tutu is archbishop emeritus of Cape Town, South Africa.

## HONORING METROPOLITAN WASHINGTON YMCA

### HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. WYNN. Madam Speaker, I rise today to honor one of America's outstanding organizations and one of the Washington Metropolitan area's greatest gifts, specifically in the areas that I represent in Prince Georges and Montgomery Counties, the Metropolitan Washington YMCA.

The mission of the YMCA is to "foster the spiritual, mental and physical development of individuals, families and communities according to the ideals of inclusiveness, equality and respect for all." To that end, Madam Speaker:

The YMCA provides child care, before- and after-school care, summer day camp, resident overnight camp, teen camps, youth and adult sports leagues, health and wellness programs, teen activities, community service programs, swim lessons, aquatic wellness programs, youth and family intervention programs, youth leadership clubs, senior health and wellness programs, senior social activities and much more.

Specifically Madam Speaker, I want to honor the YMCA and Camp Letts, a 219-acre retreat center founded in 1906 on the majestic Chesapeake Bay.

With children and campers from all over the country and counselors from all over the world, YMCA Camp Letts is truly a global community promoting tolerance, inclusion and diversity among all its visitors and staff members while providing a safe environment for children to make friends, participate in activities, and have a great time.

Madam Speaker, Camp Letts specializes in the field of recreation with an emphasis on youth development. The diverse staff representing over 20 countries model and teach the YMCA's core values of "Honesty, Caring, Respect and Responsibility."

It all began in 1906, when YMCA Boys Work Director Albert M. Chesley pitched camp on five acres along the South River, initiating what is now the oldest organized resident camp in the Washington area. The camp moved in 1922 to its present location, thanks to the generosity of John Cowen Letts, and today youngsters from the Baltimore-Washington area and beyond flock to this secure and exciting environment to kindle friendships and master new skills—all the while learning more about themselves, their peers and the world in which they live.

This 219–acre peninsula has miles of wooded trails for hiking, horseback riding, and nature discovery; vast green fields for a variety of team sports; tennis courts; an olympic-sized swimming pool, sailboats and small craft; certified nets, balls, racquets, hoops and targets for various sports; and much more to enjoy a broad selection of aquatic, land-based and waterfront activities.

In addition to providing numerous recreational activities for youth and families, the YMCA of Metropolitan Washington, under the steadfast leadership of Angie L. Reese-Hawkins, is the leading human service organization and the largest provider of child care in the greater Washington area, serving over 30,000 children each year.

Under Mrs. Reese-Hawkins's leadership, the YMCA of Metropolitan Washington is the 17th largest YMCA association in North America, with operating revenue of $46 million, and 84,000 individual and family members in a service area of 4 million people.

Today, the Metropolitan Washington YMCA has 17 branches and program centers that touch close to 250,000 lives a year in the District of Columbia, northern Virginia and suburban Maryland. Almost 3,400 volunteers—an increase of 10 percent over 2005—served the YMCA of Metropolitan Washington in 2006.

During 2006 the YMCA of Metropolitan Washington raised $1.1 million in its annual sustaining Building Bridges Campaign and gave out over $2.13 million in financial assistance to more than 12,500 families and individuals, enabling them to participate in child care, after-school and camp programs, membership, wellness, therapeutic and senior services throughout the metropolitan area.

Madam Speaker, how lucky we are to have the YMCA and its committed staff working to improve opportunities for all children, but particularly those in the Metropolitan Washington area.

## INTRODUCTION OF A RESOLUTION EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT THERE IS A CRITICAL NEED TO INCREASE RESEARCH, AWARENESS, AND EDUCATION ABOUT CEREBRAL CAVERNOUS MALFORMATIONS

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. UDALL of New Mexico. Madam Speaker, medical science has made great strides in unlocking the mystery of illnesses that have plagued humanity for centuries. Medical breakthroughs have helped control and eliminate diseases that once threatened the life and health of millions. Yet for all our progress, we still face threats that we do not understand and therefore cannot stop.

One of the lesser known—but no less devastating—diseases is Cerebral Cavernous Malformation, also known as CCM, or Cavernous Angiomas. CCM's are caused by abnormal blood vessels that form clusters, known as angiomas, in the brain or spinal cord. If the angiomas bleed or press up against structures in the central nervous system, they can cause seizures, neurological deficits, hemorrhages, or headaches.

In the general population, 1 in approximately 200 people has a cavernous angioma and about one-third of these affected individuals become symptomatic at some point in their lives. In some Hispanic families, however, the rate of prevalence is significantly higher. It is what is known as an autosomal dominant disease, which means that each child of an affected parent has a 50 percent chance of inheriting it.

And Madam Speaker, tragically, for generations of these Hispanic families, that is exactly what has happened throughout the country, and especially in New Mexico. In New Mexico, this genetic mutation has been traced back to the original Spanish settlers of the 1580's and has now spread down and across at least 17 generations, resulting in what could be tens of thousands of cases of the illness in the state. In fact, New Mexico has the highest population density of this illness in the world.

Unfortunately, and in some cases tragically, many of the carriers of the gene and even the disease are unaware. To make matters worse, New Mexico, and the nation, face a shortage of physicians who are familiar with this illness. This makes it dangerously difficult to receive timely diagnosis and appropriate care and puts potentially thousands of individuals at risk of a stroke, seizures, or even sudden death.

One New Mexico resident, Joyce Gonzales, was diagnosed with an angioma in her cervical spinal cord and had it surgically removed three years ago. But this success story followed 15 years of pain and misdiagnosis. Tragically, Mrs. Gonzales's 9-year-old second cousin was not as fortunate, recently suffering a cerebral hemorrhagic death caused by CCM.

Madam Speaker, much of the misdiagnosis of CCM, the inexact figures, and lack of knowledge in the medical community is attributable to a lack of research of the disease. NIH funds only eight projects on CCM. This, despite recent indications that staff at the National Institute of Neurological Disorders and Stroke believes CCM to be a "paradigm illness," meaning research findings on CCM could apply to other illnesses that have similar characteristics.

It is clear, Madam Speaker, that more education, awareness, and research is necessary on this disease. That is why I am introducing this resolution today to express the sense of the House of Representatives that there is a critical need to do exactly that; expand education, awareness and research of CCM. This is only a preliminary step in the fight against this disease. I believe a Center of Excellence is needed to provide the highest quality medical and surgical care for families with CCM. An expansion of the existing DNA/Tissue and Clinical Database is also needed. The current database is underfunded, which means that they cannot accept all the samples that are offered. I will be working to establish both of those.

In the meantime, Joyce Gonzales, Dr. Leslie Morrison of the University of New Mexico, and Connie Lee, the President of the Angioma Alliance, are on the forefront of the fight against CCM. It is my honor to join them in this fight by introducing this resolution today and I urge my colleagues to help raise awareness of this devastating disease. There is too much at stake to ignore it.

## TRIBUTE TO CELEBRATE THE 60TH BIRTHDAY OF THE STATE OF ISRAEL

### HON. BILL SALI

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. SALI. Madam Speaker, the 60th birthday of the State of Israel is a time of joyous celebration for all who honor hope, dignity and liberty.

Since even before the First World War, Jewish people from all over the globe have traveled back to their historic homeland. The hope of a secure Jewish homeland was a dream worked for by so many for so long. From dispersion and oppression to bitter pogroms and on through the murderous horror of the Holocaust, the Jewish people have endured more than can be put into words.

Still, through it all, they have persisted and persevered, maintaining their identity, traditions and faith.

On that great day some 60 years ago, the State of Israel declared its independence. Only eleven minutes after Israel did so, President Harry Truman declared America's recognition of the new Jewish State. Since this time, all the leaders of the United States have expressed their support for the State of Israel, and the people of both countries have continually nurtured, promoted and developed their shared values and interests.

President Bush recently made a public statement which summarizes my own views on Israel: "The United States will never abandon its commitment to the security of Israel as a Jewish state and homeland for the Jewish people."

I am an uncompromising advocate for Israel's security and freedom. Anything which infringes upon the rights and welfare of the State of Israel is not in America's interests and must never be tolerated. I have served and will continue to serve proudly on the Congressional Israel Allies Caucus. I have co-sponsored legislation to protect this great nation through condemning ongoing Palestinian rocket attacks on innocent Israel civilians, anti-Semitic rhetoric and the glorification of terrorism.

Support for Israel must remain central to American foreign policy. This support is especially essential given the threats Israel continues to face. The brutal terrorist organization Hamas is an ongoing threat to Israel's well-being. Iran continues to shake its potential nuclear sword against Israel, and Al-Qaeda fights for a foothold in Pakistan in order to spread its viral cruelty all the way to Jerusalem. Syria proudly maintains its hostility to the Jewish State, seeming only to be waiting for an opportune moment to pounce.

We must always help Israel keep a well-armed guard up. To do less would be to breach our national interest and our national honor.

For 60 years, the Israelis have strained and endured in their desert home, overcoming in several major wars, endless attacks and terrorism. Amazingly, out of all of this turmoil, pain, and violence, a home has bloomed out of the Middle Eastern sands for these wonderful individuals who only seek a home for themselves and their families.

Sixty years is an anniversary well worth celebrating. While the pain of the past cannot be eradicated, nor can the courage, fortitude and hope of a people who have endured and triumphed, again and again.

May we all join in the prayer of the 122nd Psalm:

Pray for the peace of Jerusalem:
They that love thee shall prosper.
Peace be within thy walls, and prosperity within thy palaces.
For my brethren and companions' sakes, I will say now, peace be within thee.
For the sake of the House of the Lord our God I will seek thy good.

I trust that all my colleagues will join me in saying "amen" to this prayer.

## INTRODUCTION OF THE FAMILY-FRIENDLY WORKPLACE ACT

### HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mrs. McMORRIS RODGERS. Madam Speaker, I have tried to come up with legislation that would give us more than 24 hours in a day—but I have not figured out how to do that. So for the time being, I am introducing the Family-Friendly Workplace Act that aims to give working people the opportunity to spend more time with their families.

Time is one of our most precious resources. We all want more of it and yet we only have 24 hours in a day. That means we have to figure out how to work a full day, run errands, pack lunches, make dinner and spend quality time with our kids, spouse, or elderly parent.

One of the biggest struggles parents face is how to balance work and family. Being a new mom, I struggle with it every day. This bill will give people more flexibility so you can put in the time you need to get the job done, but also make sure you can make the school play, stay home with a sick child or care for an elderly parent.

The perception is that working mothers and parents have a greater desire for workplace flexibility than other workers; the reality is that men and women, parents and non-parents, young and older workers alike place a high priority on increased flexibility at work. We all want more time.

A study by the Employment Family Foundation found that 75 percent of workers prefer time off instead of overtime and 81 percent of women prefer to have that benefit.

For many employers, flexible work arrangements are necessary to attract and retain quality employees. In return for offering employees alternative work arrangements and greater flexibility in work schedules, employers gain a workforce that is more productive, committed and focused. For example an insurance company in my home State of Washington saw per-employee revenue increase 70 percent over 5 years after implementing flexible work options.

In talking with Wayne Williams who runs Telect in Spokane, Washington, he told me that they are doing more to give their employees greater flexibility including personal days and technology to give them the flexibility to work from home.

This isn't just a workforce issue, it is also a community and family issue.

The bill I am introducing would allow private sector employers to offer their employees additional time off in lieu of overtime pay. One of the greatest obstacles to flexibility in the workplace is the 1938 Fair Labor Standards Act (known as the ''FLSA''), which governs the work schedules and pay of millions of hourly workers. While the law may have been a good fit for the workforce of 70 years ago, it is simply not relevant to the needs of modern families.

Our labor force isn't what it used to be. Between 1950 and 2000, the labor force participation rate of women between 25 and 55 years of age more than doubled. Today, more than 75 percent of these women are in the labor market. Less than 12 percent of mothers with children under the age of 6 were in the labor force in 1950. Today, more than 60 percent work outside the home.

The FLSA fails to address the needs and preferences of employees in the area of flexible work schedules. Although salaried employees typically have greater flexibility in their day-to-day schedules, hourly employees are much more restricted—due in large part to the outdated FLSA—in their ability to gain greater flexibility in their work schedules.

The goal of the Family-Friendly Workplace Act is simple: to reconcile the overtime requirements under the FLSA with employee demands for increased workplace flexibility. Specifically, the bill would give private sector employers the option of allowing their employees to voluntarily choose paid compensatory time off (known as ''comp time'') in lieu of overtime pay. Since 1985, public sector employees have been able to bank comp time hours in order to have additional time off for vacation or other family needs. There is no justification for denying private sector employees an option under the FLSA which, by most accounts, has been successful and immensely popular with public sector hourly employees for over 20 years.

To be clear, the Family-Friendly Workplace Act would not change the employer's obligation under the FLSA to pay overtime at the rate of one-and-one-halftimes an employee's regular rate of pay for any hours worked over 40 in a seven-day period. The bill would simply allow overtime compensation to be given—at the employee's request—as paid comp time off, at the rate of one-and-one-half hours of comp time for each hour of overtime worked, provided the employee and the employer agree on that form of overtime compensation. The bill contains numerous protections to ensure that the choice and use of comp time is a decision made by the employee.

Since we can't do anything about adding more hours to the day, I hope my colleagues will join me in supporting something that gives us a little more flexibility in how we spend that time—the Family-Friendly Workplace Act. We need to respond to the growing needs of workers who want to better integrate work and family. Let's allow working women and men to decide for themselves whether paid time off or extra pay best fits their needs and that of their families.

## IN REMEMBRANCE OF DANNY FEDERICI

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KUCINICH. Madam Speaker, I rise today to honor the life long achievements of musician Danny Federici, long-time organ and accordion player for the E Street Band, a band that has become a staple of modern day American culture. Over his four-decade long career, Mr. Federici's signature style of playing has affected and inspired the lives of innumerable musicians and fans around the world.

Born in Flemington, New Jersey, Danny Federici began teaching himself how to play the accordion at the age of seven. His talents quickly earned him many local radio gigs, where he performed classical and polka music. A truly natural musician, it was he and original E Street Band drummer Vini Lopez, who invited Bruce Springsteen to join their band as they began conquering the music scene on the colorful boardwalk of Asbury Park, New Jersey. Often introduced by Springsteen as ''Phantom Dan'', he spent forty years lending his spontaneous and soulful playing to the countless performances of the E Street Band. Mr. Federici was one of the pillars of their signature sound and his playing evoked the boardwalk at Asbury Park, where he and his fellow band mates spent their childhood together. His accordion playing is most memorable in E Street Band hits such as ''Fourth of July'' and ''Asbury Park''.

During the time he spent away from the E Street Band, he recorded two solo albums, both jazz instrumentals. He had an unbreakable dedication to his music and his band mates but even more so to his wife Maya, and his three children, Jason, Harley and Madison. During his battle with Melanoma, he set up the Danny Federici Melanoma Fund, in the hopes that he could help others who were facing the same challenges that he was. His talents will forever be remembered by his family, friends, fans and band mates. In the words of Bruce Springsteen, ''Those you are with, in the presence of miracles, you never forget. Life does not does separate you. Death does not separate you. Those you are with who create miracles for you, like Danny did for me every night.''

Madam Speaker and colleagues, please join me in honoring the life of Danny Federici, whose inspiration and musical genius will continue to touch the lives of generations to come.

## FORECLOSURE PREVENTION ACT OF 2008

SPEECH OF

### HON. THELMA D. DRAKE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 8, 2008*

Mrs. DRAKE. Mr. Speaker, first, I would like to thank Chairman FRANK, Ranking Member BACHUS and the Committee for their hard work. They have presented a thoughtful and creative proposal.

Housing is a very complex issue—it is also a very emotional one. We aren't just talking about abstract concepts, we are talking about a person's home. We're talking about real people with a real problem.

Prior to Congress I was a Realtor for over 20 years. I have worked with many families to help them realize their dream of home ownership. I have also served as chairman of the Virginia Housing Study Commission. Housing is an important issue for me and something I feel very strongly about.

I have seen good markets and bad. I have witnessed many changes to the mortgage market. I have struggled with how to define and protect against predatory lending practices. I have seen interest rates and loan products that seemed too good to be true—unfortunately, we have seen that in fact, many were too good to be true. I rise today to share my observations and concerns about the bill before us.

There are many components of this bill which I think are excellent and fully support. First Federal Housing Administration modernization is long overdue. FHA must be streamlined and made more efficient. Government Sponsored Enterprise regulatory reform would also help stabilize the housing market. I support an amendment to be offered today that will create a first time home buyer tax credit for low- to mid-income buyers. This would increase the number of buyers in the market—increasing demand now for an oversupply of homes. The bill also increases funding for foreclosure counselors and financial education. I also appreciate the additional funding for law enforcement to prevent mortgage fraud, and that Department of Veterans' Affairs loan limits are raised, and the enhanced appraisal standards and appraisal independence.

These are all well thought out, very important reforms that will help American families and the marketplace.

However, my concerns with today's package include the establishment of a new affordable housing fund to create new grants that can be directed to organizations that work specifically on housing issues. The bill does contain a provision that will prohibit the use of these grant funds for political activities, the fact is that many of the possible recipients engage in partisan political activities and therefore should

not receive funding to offset their costs. It is important to remember that money is fungible, so that if a group cannot use these grants specifically for political activities, it could certainly have more money freed up for political activities because of the injection of new grants funding.

I am also concerned about a $300 billion federal loan guarantee. There are two important issues with this provision that I foresee. One, a lender with troubled loans could contact those homeowners and offer a federally backed loan—and refinance at a loss but now he has moved that loan from a potential total loss to 85 percent current value—and will be guaranteed by federal government should it foreclose. He now has no reason to work with that borrower should the borrower still face foreclosure. Two, this program has a huge impact on neighborhoods. Consider neighbor A who bought at the height of the market. This person struggles month to month but manages to pay his mortgage on time. Neighbor 8 and their lender agree to take advantage of the new program and negotiates their mortgage to 85 percent current value. Not only is fairness between the two neighbors and issue, but the new reduction in value can have a huge impact on the value of surrounding properties.

While I understand this is a voluntary program. My question is why can we not develop incentives for the private sector to do this and not obligate the American taxpayers with $300B in loan guarantees?

Furthermore, there are several things already in the works. FHA secure is a new FHA product allowing homeowners to refinance their resetting Adjustable Rate Mortgages. So far, there are 3 times the refinances this year as in previous years. HOPE NOW is an alliance between counselors, services, investors that is working to prevent foreclosure through outreach to delinquent borrowers. The program provides counseling and loan work outs based on buyers' ability to pay. From July 07 through March 08 1.4m avoided foreclosures through these efforts. Also, Fannie Mae is currently working on a streamlined short sale program to allow the sale of property that is overmortgaged.

Both the administration and the private sector need to do a much better job at explaining what is currently available. Neither has done a good job of explaining to the public these available options. As such, I can understand Chairman FRANK's frustration and desire to take action.

Again I thank the committee for their work and I would encourage us to institute the reforms in this package that I highlighted. However, I firmly believe we should take caution and allow ongoing efforts to work before we decide to go down the path of obligating American taxpayers for $300B in loan guarantees.

## TRIBUTE TO NAPLES HIGH SCHOOL SOFTBALL TEAM

### HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MACK. Madam Speaker, I rise today to honor the Naples High School Softball Team for winning this year's Class 4A Florida State Championship last week.

Thanks to the pitching of sophomore Jaclyn Traina, who had 10 strikeouts in seven innings, and the hitting of senior Ashley Pinkerton, who had a batting average over .400 for the season, the Golden Eagles beat Pembroke Pines 5–2 and cinched their 12th overall state championship title.

With fierce determination and spirit, the Golden Eagles Softball Team worked together to defeat the No. 1 ranked school in the country.

Any of us who have played competitive sports understands the valuable lessons of hard work, teamwork and commitment. These memories and lessons will stay with these players for the rest of their lives and are made all the sweeter by their incredible win.

Madam Speaker, I know the people of Southwest Florida join me in offering our heartiest congratulations to the Naples High School Softball Team, their coaches, students and fans. We couldn't be more proud of their accomplishments this season.

## TRIBUTE TO MS. BARBARA TAYLOR

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. CANTOR. Madam Speaker, I rise today to honor Barbara "BT" Taylor of Culpeper, Virginia on the occasion of her upcoming retirement from my Congressional staff and to thank her for her many years of service to the 7th Congressional District of Virginia.

BT is an active member of the Culpeper community, and as Outreach Director in my Culpeper District Office, she provides outstanding service to the citizens of the 7th District. She is a respected voice in the community with a true dedication to public service. BT plays an important role in developing relationships with constituents, local elected officials, businesses, schools, organizations, and community leaders. I know they will all miss her steady counsel and passionate advocacy.

As Members of Congress, we come to Washington with a passion for helping the people we represent. I can assure you that I am greatly aided in accomplishing that goal due to the tireless work and counsel of Barbara Taylor.

BT's passion and zeal for this country and for our Commonwealth is refreshing and unwavering. We would all do well to emulate her patriotic fervor and her passion for serving those around her.

While I will surely miss having BT as part of our official team, I am comforted in knowing that she will still be serving her community in many other ways. I am greatly privileged to have worked with BT over the years, but most importantly, I am honored to call her a friend.

Madam Speaker, I hope you will join me and my family in wishing BT, Charlie and the entire Taylor family all the best and in thanking BT for her contributions to the people of the Seventh District of Virginia.

## HONORING DAVEY HUNT

### HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. WESTMORELAND. Madam Speaker, I rise today to honor Davey Hunt, the 2008 Heard County High School STAR student.

In Georgia, Madam Speaker, the Student Teacher Achievement Recognition program honors the top senior in each of the State's 400 high schools and a teacher chosen by that student.

For Davey, the STAR student award squeezes in one more line to a resume already teeming with superlatives.

"Davey is simply the most brilliant student I have ever had the honor to teach," said Paul Mixon, the Heard County High educator whom Davey named as STAR Teacher. "His academic performance and mastery of complex material highlights an intellect that is both creative and constantly expanding. Davey demands that his teachers go beyond the basic concept of each course, as he quickly becomes an expert in each subject. Unlike so many of his generation, Davey is excited about learning."

Academic excellence and intellectual curiosity came early to Davey. After fifth grade, he attended Junior University summer camp where he had to build a bridge out of toothpicks. In what appears to be one of his few life lessons in disappointment, Davey's bridge didn't win the competition for holding the most weight without breaking. Nevertheless, a long-held fascination with design and construction took root.

Davey graduated over the years from toothpick engineering to aeronautical engineering, which he will study at the Nation's preeminent engineering school, the Massachusetts Institute of Technology.

In addition to winning the STAR student award, Davey will reign as the valedictorian of Heard County's Class of 2008 and he received the Georgia Certificate of Merit, which goes to the State's best and brightest high school students.

Davey's record of academic excellence could stand alone, but his record shows him to be much more than a one-dimensional whiz kid. He served as editor of his school newspaper, The Warcry, won the 2007 Most Valuable Player Award for the track team, and made the 2007 All-Region Football Team and the 2007 All-State Academic Football Team.

Of course, a good high school experience isn't all work. He earned the friendship of his peers not with his good grades and athletic prowess, but with what his teacher Paul Mixon called his "warmth and wit." Those qualities led his classmates to tap him for homecoming king and Mr. Heard High.

Madam Speaker, the future of our Nation rests on the shoulders of today's young leaders. I'm proud that one of those young leaders, Davey Hunt, hails from Georgia's 3rd Congressional District. I pay tribute today to his outstanding record of achievements and wish him continued success as he begins the next phase of his life.

## TRIBUTE TO SERGEANT ISAAC PALOMAREZ

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mrs. MUSGRAVE. Madam Speaker, I rise today to honor the memory of Sergeant Isaac Palomarez.

Mr. Palomarez served in the United States Army as a Sergeant and was assigned to the A Company, 1st Battalion, 506th Infantry Regiment, 101st Airborne Division, Fort Campbell, Kentucky.

Mr. Palomarez courageously died in combat May 9, 2008 in Kapisa Province, Afghanistan in support of Operation Enduring Freedom. I believe his service and commitment to our country most worthy of being preserved in the CONGRESSIONAL RECORD.

Isaac Palomarez was born April 14, 1982 and graduated from Loveland High School in 2001. Mr. Palomarez joined the Army in 2004, following in his father Candido's footsteps, who served in the Army in the 1960's.

Palomarez is survived by his parents Candido and Elma Palomarez and will be remembered as a loving son and loyal friend to many.

Madam Speaker, I am grateful for Mr. Palomarez's selfless service to our Nation. I urge my colleagues to join me in recognizing a man worthy of our honor, Mr. Isaac Palomarez.

## HONORING THE DEEDS OF SERGEANT MIGUEL HINOJOSA AND MICHAELA SULLIVAN

### HON. JERRY McNERNEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MCNERNEY. Madam Speaker, it gives me great pleasure today to honor U.S. Marine Sergeant Miguel Hinojosa and 15-year-old Michaela Sullivan, both of Brentwood, California.

Sergeant Hinojosa and Ms. Sullivan are an example to us all because they acted quickly to save a young child's life. They do not view their deeds as heroic, which is exactly why we need to recognize their selflessness.

On a hot day last month, Ms. Sullivan noticed that a 5-year-old friend and neighbor, who was swimming at their apartment complex, was struggling to stay afloat in the deep water and she rushed into the pool to pull the young girl out.

When Sergeant Hinojosa saw the unconscious child who had just been pulled out of a swimming pool, his instincts took over, and he immediately began mouth-to-mouth resuscitation and chest compressions. By the time an oxygen tank arrived on the scene, the girl was breathing.

Thanks to the alertness and quick actions of the high school sophomore and the well-trained 13-year Marine veteran, a young child's life was saved. Had it not been for the quick thinking of Sergeant Hinojosa and Ms. Sullivan, a parent's worst nightmare might have come true for one Brentwood family.

These two citizens have demonstrated what it means to be a true American hero, and I wish to express my sincere gratitude.

## RECOGNIZING GRACE THORPE

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. SOLIS. Madam Speaker, I rise today to recognize the achievements of Grace Thorpe, an environmental justice activist who fought to protect the Native American community who passed away on April I, 2008 at the Claremore Veterans Center.

Ms. Thorpe dedicated herself to the improvement of health and the environment for the Native American community. As a result of her efforts to prevent the Sac and Fox leaders from accepting grants for storage of nuclear waste in nation territory, many Native American tribes were able to establish Nuclear Free Zones. Ms. Thorpe later served as the Director for the National Environmental Coalition of Native Americans, as well as on the advisory council for Native American affairs at Greenpeace. She authored ''Our Homes Are Not Dumps: Creating Nuclear Free Zones'' and brought awareness about the environmental injustices in the Native American community.

Ms. Thorpe was also a dedicated public servant. She served in the Women's Army Corps during World War II in New Guinea, the Philippines and Japan, and was awarded a Bronze star for her performance in the battle of New Guinea. She further served as a Tribal District Court Judge and was a Congressional Liaison to the American Indian Policy Review Commission in the U.S. House of Representatives. She earned her Bachelors degree from the University of Tennessee in Knoxville, obtained a paralegal degree from the Antioch School of Law while in Washington, DC, and was an Urban Fellow at the Massachusetts Institute of Technology.

I applaud Grace Thorpe's achievements and important contributions in bringing environmental justice and awareness to the Native American community. These contributions will not be forgotten.

## HONORING CHIEF FRANCISCO ORTIZ ON THE OCCASION OF HIS RETIREMENT

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. DELAURO. Madam Speaker, it is my privilege to rise today to pay tribute to an outstanding member of our community and a dear friend as he retires after 30 years of dedicated service to the New Haven Police Department—Chief Francisco Ortiz. Chief Ortiz, or Cisco as he is affectionately known throughout the community, has dedicated a lifetime to public service and his presence at the department will most certainly be missed.

In a career that has spanned over four decades. Cisco has demonstrated what can only be described as an unparalleled commitment to public service and law enforcement. Joining the New Haven Police Department as a patrolman in 1978, he quickly rose through the ranks and gained invaluable experience in every major unit within the Department. Cisco went on to earn a master's degree in law enforcement from the University of New Haven and is a proud graduate of the 170th Session of the Federal Bureau of Investigation's National Academy in Quantico. He was invited to attend the prestigious Senior Management Institute for Police at Boston University and attended the inaugural class of the Management Training Institute, a joint initiative between Yale University and the City of New Haven.

A long time advocate of the community policing philosophy, Cisco is also a senior fellow and one of the founders of the Yale Child Study Center's Child Development/Community Policing Program—a program designed to provide police personnel with the special psychological expertise which is needed when dealing with children and families who are witness to, or victims of, violent crime. I have had the privilege of working directly with Cisco on this program and today it stands as a national model for communities across the country.

Cisco's involvement with the community goes far beyond his professional contributions. He also serves on a number of local civic and service organizations including Easter Seals/Goodwill, the Connecticut Puerto Rican Parade Committee, the Connecticut Special Olympics, and the Juvenile Justice Advisory Committee. Cisco has also been an invaluable resource to myself and my staff. I would be remiss if I did not take this opportunity to extend a special note of thanks to him for his participation as a member of the recommendation panel for the Maria Baez Perez Scholarships—a program which I sponsor in memory of one of my former staff members who we lost only a few years ago.

With all of his experience in the Department and in the community, it was no surprise when Cisco was named Chief in 2003—becoming the first Latino in Connecticut to attain the highest rank in a law enforcement agency. It was a very proud day for him, his family, and our community. I have no doubt that Cisco will continue to be involved in our community. His desire and commitment to making New Haven a better place to live, work, and grow will not fade with his departure from the department. Every community should be so fortunate.

Today, as family, friends, and colleagues gather to celebrate his retirement, I am so pleased to extend my very best wishes to Chief Francisco Ortiz, his wife, Myra, his children, Jennifer, Francisco, and Mariah, as well as his granddaughter Mariah, for many more years of health and happiness.

## TRIBUTE TO FLINT CENTRAL HIGH SCHOOL ALUMNI ASSOCIATION HONOREES

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to the 2008 Flint Central High School Alumni Association honorees. The eigtht honorees will be recognized at a dinner to be held on May 15 in Flint, Michigan. This year the Alumni Association is honoring Henry Hatter, Lynn Chandnois, Dr. Catrise Austin, Lawrence R. Gustin, Judge Robert E. Weiss, Dean Ludwig, James Beaubien and posthumously Gracie Field.

The distinguished alumni are: Henry Hatter is a member of the class of 1954. Henry worked for Buick Motor Division for 38 years, responsible for the plant-wide waste water environmental program. Active in the Republican Party, Henry served in the Electoral College and will be a 2008 Alternate Delegate at the National Republican Convention.

Lynn Chandnois is a member of the class of 1944. He played professional football for the Pittsburgh Steelers and was named ''NFL Player of the Year'' by the Washington Touchdown Club. He has been given the title of ''The Greatest Football Player Flint Ever Produced.''

Dr. Catrise Austin graduated from Central High School in 1988. Through her medical practice, VIP SMILES, she specializes in treating entertainers and persons in the public eye. She has been named as one of America's top dentists by Consumers Research Council of America.

Lawrence R. Gustin graduated in 1955. Larry worked for the Flint Journal for 23 years. He published three award winning books and created the Flint Journal Picture History of Flint. During his time working for Buick public relations he started the magazine, ''Inside Buick.''

Judge Robert E. Weiss is a member of the class of 1956. Judge Weiss served as Special Litigation Counsel in the Watergate Civil Proceedings. He went on to be elected as Genesee County Prosecuting Attorney from 1979 to 1993. He was a Genesee County Probate Judge in the Family Division when he was appointed the Chief Judge in 2006.

The distinguished educators are: Dean Ludwig was Flint Central High School's principal from 1984 to 1995. He began his career at Flint Central High School teaching Social Studies. He was Assistant Principal at Flint Central High School before taking the helm at Whittier Junior High School. He assumed the position of Principal at Flint Central in 1984.

Jim Beaubien began his career with the Flint Schools in 1963. He served as the Flint Central Community School Director for many years, organizing after school activities for students and the community at large. He served as the school's Principal from 1998 to 2002.

Gracie Field is being honored posthumously. She was the school's English Literature teacher for approximately 50 years. She sponsored the English Club, the Shakespeare Club and was a troop leader for the Boy Scouts. She devoted her life to bringing the words of great English writers to her students.

Madam Speaker, I ask the House of Representatives to join me in congratulating these distinguished alumni and educators. May their lives and dedication be an inspiration to the current and future students of Flint Central High School.

## IN HONOR AND CELEBRATION OF GEORGE AND ANN MARIE LAZAR IN CELEBRATION OF THEIR 50TH WEDDING ANNIVERSARY

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of George and Ann Marie Lazar, as they celebrate fifty years of devotion to each other, to their family and many close friends. Their unbreakable union represents a deep and enduring love, not only for each other, but also for their children, grandchildren and for their community.

George Lazar and Ann Marie Seaman wed on May 10, 1958 at St. Bonafice Church in Cleveland, Ohio. Shortly after their wedding, they moved to Parma, where they have grown together, raised a family and become an integral part of the community. They have lived on the same street in Parma since their move from Cleveland; raising, guiding and nurturing their three children: Georgeanne, George, and Suzanne. They are the proud grandparents of seven talented and beautiful grandchildren; Sean, Christopher, Alex, Emily, Vincent, Derek, and Valerie, to whom they provide much comfort and love.

Throughout their lives together, both George and Ann Marie have dedicated their time and talents within the community that they have been a part of for so long. George, a veteran of the Korean War, is a long-standing member of the Honor Guard with American Legion Post 703. Ann Marie is also an active member of the same Post and served as a precinct committee member for the Democratic Party in Parma. Their dedication to helping others is evidenced at Holy Family Church where George sings in the choir and where Anne Marie volunteers in several different capacities. Anne Marie also volunteers for Meals on Wheels in Parma. Their legacy will be one of dedication to their family, to their church, and to their community.

Madam Speaker and colleagues, please join me in honor and celebration of George and Ann Marie Lazar, as they celebrate this momentous occasion—their 50th wedding anniversary. May their commitment to each other, their family and their community continue to inspire us to follow our dreams, to give back to our community, and to hold family closest in our hearts.

## PRAISING THE ACHIEVEMENTS OF THE ENLOE HIGH SCHOOL CHORUS

### HON. BRAD MILLER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MILLER of North Carolina. Madam Speaker, I rise today in honor of a talented high school choir in my district, Enloe High Sclool Chorus of Raleigh, NC, which was chosen to perform at New York City's world-renowned Carnegie Hall on March 10, 2008.

The Enloe High School Chorus was selected out of dozens of high school choruses from across the country to perform in this concert. The event featured 200 students from four States, and was the capstone of Carnegie Hall's yearlong National High School Choral Festival. The concert was conducted by Dr. Craig Jessop, esteemed Music Director of the Mormon Tabernacle Choir, who has been working with the choirs and their conductors throughout the year. I am thrilled that these Enloe High School students have been given such a remarkable opportunity to showcase their talent.

Led by Ann Johnson-Huff, the Enloe High School Singers is made up of the Chamber Choir and the Advanced Women's Ensemble, two of the five choirs of the William G. Enloe High School Choral Department. The Chamber Choir and the Advanced Women's Ensemble study a wide array of repertoire and perform at numerous local and national events throughout the school year. Past tours included performances at the Olympics in Barcelona, the Vatican, Carnegie Hall, the Cathedral of St. John the Divine, and St. Patrick's Cathedral in New York. In 2006, the Chamber Choir and Advanced Women's Ensemble were chosen to perform for a special event at the North Carolina Music Educators' Association Conference. Both ensembles also represented the State of North Carolina at the Founding of Jamestown Settlement Celebration in May of 2007, featuring guest speakers Justice Sandra Day O'Connor and President George W. Bush.

I am privileged to have in my district one of the four schools in the Nation chosen for the Carnegie Hall National High School Choral Festival. I commend these students and their leaders for their accomplishment.

## PERSONAL EXPLANATION

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. ANDREWS. Madam Speaker, I was not present on May 6, 2008. Had I been present, I would have voted ''yea'' on the following rollcall votes: rollcall 246; rollcall 248; rollcall 249; rollcall 250; rollcall 251; rollcall 252; rollcall 253; rollcall 254; rollcall 256; rollcall 257; rollcall 258; rollcall 259; rollcall 263; rollcall 264; rollcall 265; and rollcall 266.

I would have voted ''nay'' on the following rollcall votes: rollcall 245; rollcall 247; rollcall 255; rollcall 260; rollcall 261; and rollcall 262.

## INTRODUCTION OF THE CREATING OPPORTUNITIES TO MOTIVATE MASS-TRANSIT UTILIZATION TO ENCOURAGE RIDERSHIP (COMMUTER) ACT OF 2008, H.R. 6030

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KIRK. Madam Speaker, as gas prices continue to rise, the most immediate and cost-effective way to offer relief to consumers is to provide incentives for mass transit use. According to a study published by the American Public Transportation Association, public transportation use in the U.S. saves an annual 1.4 billion gallons of gasoline. This represents almost 4 million gallons of gas per day. Factoring in the current average gasoline price in Chicagoland of $3.95, public transit in the region saves consumers more than $1 billion in gas costs in my area alone.

Current law allows businesses, governments, non-profits and employees to purchase tax-free transit benefits. However, there is no tax incentive for employers to directly subsidize their workers' transportation costs. The Creating Opportunities to Motivate Mass-transit Utilization To Encourage Ridership (COMMUTER) Act of 2008 offers employers a 50

percent tax credit for all transit benefits provided to employees, up to $115 per employee per month. Current law allows businesses, governments, non-profits and employees to purchase tax-free transit benefits. Under the COMMUTER Act, employees could receive up to $1,380 in free mass transit funds each year, with the employer receiving $690 in tax credits per employee. This legislation is supported by the American Public Transit Association and all of Chicagoland's public transportation service boards—the Regional Transportation Authority, the Chicago Transit Authority, Metra and Pace.

Forbes recently estimated the average commuter's gasoline cost in the Chicago metro area to be $6.23 per day. Should businesses take advantage of the tax incentive and provide transit benefits, they would save each of their participating employees an average of roughly $1,620 per year. As family budgets continue to tighten, an extra $1,600 to $3,200 could help ease the burdens of health care and education or help bolster retirement savings.

A new study by BusinessWeek Research Services estimates that 53 percent of employees in Chicago, San Francisco and New York would take public transportation if their employer provided access to current transit benefits. Out of the respondents, 60 percent said their company doesn't provide tax-free commuter benefits.

I believe we must also work to provide long-term solutions to our energy crisis, such as passing long-term tax incentives for research and development of renewable and alternative energy, fuels and vehicles; eliminating the so-called boutique fuels and offering the nation one clean burning fuel; financing energy development projects in China, central Asia and the Gulf to meet Chinese energy needs apart from oil; and increasing fuel economy standards.

But Americans cannot wait ten, twenty or thirty years for the entire restructuring of our energy policy—they need relief at the pumps now. I am proud to offer the COMMUTER Act with Representatives JUDY BIGGERT (R–IL) and PETER ROSKAM (R–IL) and CHRIS SHAYS (R–CT) to help provide that immediate relief. I hope Congress will act swifly and in a bipartisan manner to pass this important legislation.

## REMARKS IN RECOGNITION OF JAMES IKEDA

### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. SPEIER. Madam Speaker, I come to the floor today to honor and praise one of America's truly fine teachers, James (Jimmy) Ikeda. Mr. Ikeda teaches Biotechnology at San Mateo High School and today was awarded one of six Amgen Awards for Science Teaching Excellence.

Mr. Ikeda has dedicated himself to his students and has led the San Mateo Biotechnology Career Pathway since 2003. Under his leadership, the program has become one of the finest in the Nation. Educators from across the country visit Jimmy's program with hopes of duplicating his success in their communities.

Jimmy Ikeda has a wonderful rapport with students, teachers and parents alike. His enthusiasm for science is infectious and his patience with the young people in his program inspires confidence and encourages them to take on further academic challenges.

The Amgen Award comes with a $5000 grant for Mr. Ikeda, plus an additional $5000 for San Mateo High School to use for the expansion of their science program, additional science resources, or professional development of science teachers.

Madam Speaker, our country has a tremendous need for more scientists. Teachers like Jimmy Ikeda are a valuable national resource. Our Nation owes him a debt of gratitude and our highest hopes for his continued success.

## HONORING DR. NGUYEN QUOC QUAN

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Ms. ZOE LOFGREN of California. Madam Speaker, I rise today to honor Dr. Nguyen Quoc Quan, an American citizen who was arrested and detained by the Government of Vietnam on November 17, 2007 while preparing to distribute pro-democracy leaflets. Earlier today, Dr. Nguyen and two others were convicted in a Vietnamese court under the catchall charge of ''terrorism'' in a trial lasting less than 6 hours. Dr. Nguyen has received a sentence of 6 months time served and will be allowed to return to the United States within 4 days.

I commend Dr. Nguyen Quoc Quan for his courage and dedication to the peaceful cause of spreading democracy to Vietnam, a country in which the government believes that all those who dare to peacefully speak out against it deserve to be classified as ''terrorists.'' His courage and dedication should be an inspiration to others pursuing the same peaceful goals.

## CONGRATULATING THE STATE CHAMPION ARGYLE HIGH SCHOOL UIL TEAM

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. BURGESS. Madam Speaker, I rise today to congratulate the Argyle High School UIL Team for winning the overall state championship among 3A schools in Texas. In addition to the great team effort put forth by Argyle High School, there were many outstanding individual scores that deserve equal recognition.

The science team took first place while the calculator team finished second overall. Nick Strelke, Erik Katzen, and Thomas Quintana placed second, fourth, and fifth, respectively, in math, while the math team won first place overall. The number sense team also took top honors, with individuals Quintana in first place and Strelke in second. Robbie Ehlers placed second in calculator, and Strelke took fifth. David Graf came in first in biology and third in science, and Kristen Gill took third in computer applications. Quintana rounded out the team's brilliant showing with a second place finish in both the science competition and the chemistry and physics event.

Argyle High School is well known for having a strong showing in UIL academic competition. This is the second time in three years that Argyle High School has triumphed in its quest for the Texas 3A state championship. Additionally, Argyle High School sent nine students with their team this year, the most they have ever sent to the UIL state academic competition. Before the state competition, Argyle High School placed first overall at both their district and regional meets.

Madam Speaker, it is truly an honor to rise today and commend these students—their commitment to education and competition is apparent. I would also like to thank Argyle High School's teachers and UIL coaches for ensuring that these students have every resource possible to succeed. I am proud to represent these students and teachers in the 26th District of Texas.

## THE AMERICAN RED CROSS

### HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. POE. Madam Speaker, on May 21, 1881, the American Red Cross was founded by Clara Barton. Ms. Barton was a former schoolteacher, clerk in the U.S. Patent Office, and hero during the Civil War where she was nicknamed the ''Angel of the Battlefield'' for her service to wounded troops.

After successfully lobbying Congress to join and found the American chapter of the International Red Cross and to sign the Geneva Convention, Barton became the organization's first President. She led the American Red Cross for 23 years.

Just over three months after its founding, the Red Cross was called into action. The first major disaster relief operation occurred on August 22, 1881, when the American Red Cross responded to devastation caused by major forest fires in Michigan.

On June 6, 1900, the American Red Cross was given a Congressional charter that mandated the organization to fulfill the provisions of the Geneva Convention, by rendering aid to those wounded during war, providing communication between family members and members of the U.S. military, and administering relief to those affected by disasters during peacetime. The charter also reserves the Red Cross emblem for use only by the Red Cross.

Even though the organization has a Congressional mandate, it is not a federally funded organization. It is a non-profit, charitable organization that receives its funding from public donations.

Today, the American Red Cross is more important than ever in helping Americans who are in need of aid and who are affected by disasters. The organization has six major areas of work that it focuses on today: Disaster relief, community services that assist the needy, communications services and comfort for military members and their family members, collection processing and distribution of blood and blood products, educational programs on health and safety, and international relief and development programs.

Each year, more than a million volunteers and 30,000 Red Cross employees mobilize relief efforts to the victims of more than 63,000 disasters nationwide through a network of more than 700 chapters.

One of the most important and successful roles of the Red Cross has been the organization's role as the primary supplier of lifesaving blood for more than 50 years. As a leader in blood collecting and screening techniques, the Red Cross has helped to develop new techniques that have assisted in providing safer blood to those who need it which helps to lessen complications and transmittable illnesses.

As the Red Cross moved into the 21st century, it has begun to spread out into other lifesaving areas. It has concentrated training and public awareness in the fields of First Aid, Cardio Pulmonary Resuscitation (CPR), the use of Automated External Defibrillators (AED), and water safety training.

Although I hope I shall never need the American Red Cross's emergency services and aid, it is good to know that we have such an outstanding organization there if such as situation should arise. The vision of Ms. Barton has come to fruition to the benefit of all Americans, and for this I want to recognize both Clara Barton and the organization that she founded, The American Red Cross.

## RECOGNIZING THE LIFE OF MARJORIE L. POSEY PFAFF

### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. CLEAVER. Madam Speaker, I proudly rise today in recognition of the honorable, compassionate, and influential life of the late Marjorie L. Posey Pfaff of Missouri's Fifth Congressional District which I proudly represent. Marge leaves behind a legacy of a life dutifully fulfilled and a state proudly served. Throughout Marge's lifetime, her love of living, enthusiasm for her relationships with the many friends she held so dear, and unwavering devotion to not only her career in real-estate, but also to Missouri politics revealed Marge as an unequaled, exemplary leader in this great state.

Born to Clyde O. and Crystal V. Alexander, Marge began what became an honorable, dignified life on October 10, 1926 in Chillicothe, Missouri. Married to the late Francis Leon (Toby) Pfaff on December 19, 1977, Marge began a family that would go with her from Chillicothe to Independence, Missouri, the hometown of President Harry S. Truman and Marge's hallowed resting place. Her son, Robert Posey and his wife Dana remain in Independence, continuing to share the gift of geniality which their mother so dearly possessed.

Marge began her long career in real-estate in Chillicothe, where she owned the Gaslight-Pfaff Realty Company. From this small operation in Chillicothe, Marge would later work for ReMax and finally Reece and Nichols in Independence. Marge began her long career as nearly one in a million women who would later come to compose a much larger contingent of our real-estate industry. Marge let her light of experience and charm shine, earning the Missouri Association of Realtors salesperson of the year in 1997 and as the Kansas City Association of Realtors salesperson of the year in 1996. As a female pioneer in her craft, Marge tirelessly sought to make possible the success and equality of opportunity for women in not only the real-estate industry, but also in politics.

Serving as a president of the Independence Young Matrons and the Independence Sanitarium and Hospital Auxiliary, Marge found a voice amongst equals who would come to herald her as a leader not only for her deep connectivity to influential individuals in her state, connections she earned through her sharp wit and unforgettable personality, but also because of her steadfast dedication to the success of her ideals. She forged ahead in all of the many political activities in which she was involved, never for personal gain, but for the greater potential of providing equal opportunity for all. Her service as the president of the Women's Council of Realtors and beloved participation in the Real Estate Political Action Committee afforded not only the great state of Missouri, but also our Nation an opportunity to share in the historical breakthrough of a unique and powerful woman to the apex of both respect and heroism in whose likes few before her have been held. As Federal political coordinator for the Fifth Congressional District, Marge proved only what I knew to expect from her since the first time she and I met, nothing but excellence and caring commitment.

We rejoice in the life of Marge today not only because she, like so many, sought to share in the American dream of the equality of opportunity for all of our neighbors, but because she tirelessly endeavored to make it a reality. Overcoming the adversity that once lay before her, a woman whose very heart and soul worked to shake the male-dominated establishment around her, Marge creates for not only all women, but all those held behind by the oppression of myopia, a bastion of hope and a model of success to guide them all to a promise of equality that we too often find neglected.

Madam Speaker, please join me in expressing our appreciation to my dearly departed friend, Marjorie L. Posey Pfaff, for her loving devotion and limitless dedication to serving the residents of Kansas City, the State of Missouri, and our Nation. Strong, sustainable societies are built upon a foundation of goodness and dedication. It is our hometown heroes, like Marge, the well revered and benevolent, who ensure the longevity of, and strengthen, our free and democratic way of life. May God continue to bless Marge as she lives on forever in our memories.

## PERSONAL EXPLANATION

### HON. JOHN BARROW

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. BARROW. Madam Speaker, on May 8, 2008, I was unavoidably detained and missed Roll No. 295, on agreeing to the Hensarling amendment to H.R. 5818. Had I been present, I would have voted "no."

## IN RECOGNITION OF DR. JERRY BEASLEY'S SERVICE TO CONCORD UNIVERSITY

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. RAHALL. Madam Speaker, I rise today to pay tribute to Dr. Jerry L. Beasley and his 23 years of service to the students and faculty of Concord University. Concord University is home to over 2700 of West Virginia's best and brightest students and one of the finest public universities in the Nation. Since 1985, Jerry has led the faculty and staff of Concord University as President of this great institution and is now set to retire on June 30, 2008.

Born and raised in Hinton, West Virginia, Jerry has devoted his life to improving our State's educational opportunities. He earned his bachelor's degree from Harvard College in 1966 and his master's in education degree in 1969. He worked at Harvard as an assistant to the admissions committee for the college before joining the West Virginia Commission of Higher Education. In 1972, he came to Concord College as a special assistant to the President before being hired by Waynesburg College as Vice President for Planning and Development from 1974–1982 where his efforts more than tripled gifts and grants for operations.

In 1979, he was awarded a Ph.D. from Stanford University where his doctoral research focused on innovations in State government. His last stop before returning to Concord was at West Virginia Wesleyan, where Jerry served as Vice President for Planning and Development. In 1985, Jerry became President at Concord, and in what would be the first of many signs of his lifelong dedication to the institution of higher learning, he decided to forgo the traditional inauguration and instead devoted the funds and efforts for the ceremony to the support of student scholarships.

During his tenure, Jerry has been a godsend to Concord University, helping it to expand and flourish, and has played a powerful role in developing one of the largest endowments of any West Virginia public college. At close to $23 million, the Concord University Foundation is number one among small public colleges and universities in the state. He also oversaw major changes and improvements to the campus from the physical plant, Marsh Hall, the science building and new technology centers on campus. From special assistant to the President to being installed as President himself, Jerry has left his mark on virtually every aspect of the University and touched countless lives around him.

Jerry's list of accomplishments far exceeds his years of service. He has nurtured generations of young minds and helped shape the higher education system in West Virginia. His dedication to his work and commitment to helping others are examples for us all.

I again congratulate Jerry on his 23 years of dedicated service to Concord University and wish his wife Jean and himself continued success in all their future endeavors here in Athens.

## TAIWAN

### HON. JOHN ABNEY CULBERSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. CULBERSON. Madam Speaker, on March 22nd, the people of Taiwan elected a new President with an impressive voter turnout of 76 percent. Outgoing President Chen Shui-bian and his administration pledged to transfer power peacefully to the new administration. This free and democratic transition could never have happened on the other side of the Taiwan Strait, which is why we must stand with Taiwan and guarantee its survival against threats from communist China.

Today Taiwan is a prosperous democracy that serves as a model for countries throughout the region and the developing world. Unfortunately, Taiwan faces a constant threat from the Chinese mainland. Right now there are over a thousand Chinese missiles aimed at Taiwan. The Chinese government has threatened to use force against Taiwan by passing the provocative Anti-Secession Law in 2005. The Chinese military buildup along the Taiwan Strait and the Anti-Secession Law threaten peace and democracy in the region. Madame Speaker, I hope you will join me in commending the Taiwanese people for their strength and refusal to allow mainland China to determine their future by force.

The Taiwan Relations Act forms the bedrock of our Taiwan policy and affirms that the future of Taiwan should be determined by peaceful means. The United States should continue to preserve and enhance the human rights of the people of Taiwan. As we bid farewell to President Chen and his administration this month, I know my colleagues will join me in reaffirming our commitment to preserve the peace, prosperity and liberty of the free people of Taiwan.

## HONORING THE CITY OF GREENSBORO'S BICENTENNIAL CELEBRATION

### HON. BRAD MILLER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MILLER of North Carolina. Madam Speaker, I rise today to honor the City of Greensboro's Bicentennial Celebration.

Since 1808, the citizens of Greensboro have been pioneers in manufacturing, education, and civil rights for North Carolina and our Nation. Greensboro has been and remains a leader in economic and cultural development within North Carolina.

Greensboro became the "Gate City" at the turn of the last century, as North Carolina's rail trade and manufacturing center. Greensboro soon became a leader in North Carolina's textile industry. Henry Humphreys opened the state's first steam-powered cotton mill, and by the 1940s, Greensboro businesses were flourishing. Rayon weaving from Burlington Industries, denim from Cone Mills, and overalls from Blue Bell became some of the biggest manufacturers in the world for their products. In the late 1980s, the Piedmont Triad International Airport reestablished Greensboro's place as a travel and transportation hub for North Carolina.

Greensboro has always been at the forefront of education in North Carolina. Greensboro College, the first state-chartered college for women, opened its doors in 1833. In 1837, Quakers founded the first co-educational school in the state: Greensboro's "New Garden Boarding School," known today as Guilford College. Greensboro Technical Community College has provided training and education since 1958. What began as Women's College and is now The University of North Carolina at Greensboro, and North Carolina Agricultural and Technical State University, a historically black land grant institution, are state leaders in university research, development, and art. With such a strong concentration of academia, Greensboro has naturally developed a thriving cultural scene, particularly renowned for theater, music, and film. The last few decades have seen an expanded public library system, a children's museum, the Greensboro Coliseum Complex, and work in historic preservation.

Greensboro has played a pivotal role in the struggle for racial equality. Greensboro was a stop for the Underground Railroad, as citizens both black and white helped slaves escape to the North. In 1873, Greensboro founded the Bennett College for Women to provide education to newly emancipated slaves. On February 1, 1960, four North Carolina A & T students sat down at the Woolworth's white-only lunch counter. Ezell Blair, Jr., now Jibreel Khazan, Franklin McCain, Joseph McNeil, and David Richmond remained seated until the store closed, and returned the next day. The "Greensboro Four" inspired similar civil rights protests all over the South. The sit-in protest in Greensboro was the moment the civil rights struggle became a movement. Later, Greensboro's peaceful public school integration was a model for other communities all over the Nation. Today, Greensboro celebrates a diverse population, with citizens from Southeast Asian, Eastern European, Latin American, and African communities. Honoring the tradition begun with the Underground Railroad, Greensboro welcomes refugees from conflicts around the world in Sudan, Myanmar, Liberia, and on and on.

I am proud to honor the Bicentennial Celebrations of the City of Greensboro. And honored to represent its people in the United States Congress.

## FRIEDREICH'S ATAXIA AWARENESS DAY

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. ANDREWS. Madam Speaker, I rise today in support of Friedreich's Ataxia Awareness Day, which is recognized each year on the third Saturday in May. Friedreich's ataxia is a life-shortening neurological disorder that is usually diagnosed in childhood. It causes muscle weakness and loss of coordination in the arms and legs; impairment of vision, hearing and speech; scoliosis, diabetes; and a life-threatening heart condition. Most patients need a wheelchair full-time by their twenties. Life expectancy is reduced to early adulthood. There is currently no effective treatment or cure for Friedreich's ataxia.

Although there is no effective treatment or cure available, Friedreich's ataxia patients and families have more and more reason for real hope. In fact, that hope has been translated into increasing confidence that treatment and a cure for Friedreich's ataxia will be achieved. An extraordinary explosion of research insights has followed the identification of the Friedreich's ataxia gene in 1996. Since that discovery, research scientists have learned a great deal about the disorder. We now know what defects in the gene cause the disease, what protein the gene is supposed to produce, what that protein is supposed to accomplish, and why a shortage of the protein results in the cell death that leads to the disease symptoms. Investigators are increasingly optimistic that they are drawing closer to understanding more fully the causes of Friedreich's ataxia and to developing effective treatments. In fact, they have recently declared that, "in Friedreich's ataxia, we have entered the treatment era." That treatment era is being characterized by the two clinical trials already underway and four additional trials to be initiated over the next 12 months. These investigators and our patient families believe very strongly that these clinical trials will result in the first approved treatments for Friedreich's ataxia.

At the National Institutes of Health across the country and around the world, clinical trials for Friedreich's ataxia are being conducted on drugs that hold real promise. Growing cooperation among organizations supporting the research and the multidisciplinary efforts of thousands of scientists and health care professionals provide powerful evidence of the increasing hope and determination to conquer Friedreich's ataxia. There is also a growing conviction that treatments can and will be developed for this disease and that the resulting insights will be broadly applicable across a wide range of neurological disorders such as Parkinson's, Huntington's and Alzheimer's.

On the third Saturday of May, events will be held across our country to increase public awareness of Friedreich's ataxia and to raise funds to support the research that promises treatments for this disease. I applaud the Friedreich's Ataxia Research Alliance, FARA, for its contributions to these efforts and ask my colleagues to join me in recognizing May 17, 2008, as Friedreich's Ataxia Awareness Day to show our concern for all those families affected by this disorder and to express our support and encouragement for their efforts to achieve treatments and a cure.

## INTRODUCING LEGISLATION TO STUDY METHODS OF ERADICATING ASIAN CARP FROM THE GREAT LAKES ECOSYSTEM, H.R. 6031

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. KIRK. Madam Speaker, I am proud to stand here today to introduce legislation which provides for the exploration of methods to eradicate the dangerous Asian carp from the Great Lakes.

Each year, invasive species in the Great Lakes cause more than $5 billion in economic

damage and irreparable harm to an ecosystem that provides more than forty million people with jobs, water, food, and recreation. A new invader, the Asian carp, threatens to further destroy the region's ecosystem and economy, and it is imperative that we act to prevent this catastrophe.

A single barrier in the Chicago Sanitary and Ship Canal, built as a temporary demonstration project five years ago, is the only thing preventing these invaders from entering Lake Michigan and drastically altering the entire region's ecosystem. While Congress recently provided full authorization and funding for this critical barrier, it may not be enough to prevent the Asian carp from infiltrating the Great Lakes and the devastating consequences that would follow.

It is therefore critical that we also explore alternatives and supplements to the carp barrier. My legislation would direct the Fish and Wildlife Service in conjunction with the National Atmospheric and Oceanic Administration and Great Lakes States to conduct a study on the feasibility of a variety of approaches to eradicating Asian carp from the Great Lakes. The legislation specifically directs the agencies to study the feasibility of temporarily harvesting Asian carp as a means to eradicate the invasive species in an environmentally responsible manner.

I urge my colleagues to support this legislation to explore all possibilities to effectively eliminate the threat this dangerous species poses to our Nation's most precious natural resource.

## IN HONOR OF THE 75TH ANNIVERSARY OF DOLE VETERANS MEDICAL CENTER IN WICHITA, KANSAS

### HON. NANCY E. BOYDA

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mrs. BOYDA of Kansas. Madam Speaker, I rise today to congratulate the staff and administrators of the Robert J. Dole Department of Veterans Affairs Medical Center, past, present and future.

For 75 years, the Dole Veterans Medical Center in Wichita, Kansas has improved the health and overall well-being of all veterans who visited. The capable and trusted staff has provided care, comfort and answers to multitudes of difficult questions. When our brave service men and women return home to the State of Kansas, they know, and they have known for three quarters of a century, that their wounds, whether physical or psychological, will not go untreated. They have encountered care, compassion and wisdom from the staff here at Dole Veterans Medical Center. With our support, that level of care will only increase.

In my first 2 years in office, this House has voted to add almost $18 billion more in veterans funding. Many of those dollars are directed specifically to health care needs which had, in the past, been grossly underfunded.

I will continue to fight for increases in funding directed toward veterans' health care programs, in order to help preserve the legacy of quality health care and fuel improvements for the future.

The Dole Veterans Medical Center, with its 75 years of success and unparalleled performance, is an absolute godsend. The State of Kansas thanks everyone involved in making that true and I ask that my colleagues join me in thanking them for their service and the service of all our Nation's veterans.

## CHINA'S EARTHQUAKE

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. McDERMOTT. Madam Speaker, for the people in and around the city of Seattle, home to my Seventh Congressional District, the devastating earthquake in China is very personal and very painful.

For over a quarter century, Seattle and Chongqing, in the Sichuan province, hardest hit by the quake, have been sister cities. I'm proud that I was a member of the 1982 delegation which established the relationship with the people of Chongqing.

It is always difficult to see devastation on a scale like this, but it's especially hard when there are direct and personal ties, as there are with the people in Sichuan province, where the death toll keeps climbing.

The magnitude of this tragedy is hard to comprehend, and we want to help any way we can.

Seattle has a significant Chinese community and people are making every effort to obtain news about family members and friends.

And, as a community, we are involved in relief efforts.

Constituents in the Seventh Congressional District are donating money and supplies to international relief organizations.

Companies and organizations in and around Seattle are helping.

And, people across Washington are involved as well.

I applaud them all for their generosity and willingness to get involved.

I want the Chinese government and Chinese people to know that they are not alone in this time of tragedy.

Geography may separate us, but humanity unites us.

If you want to get involved, world renowned organizations like World Vision and Mercy Corps are leading relief efforts. All that we do will help.

## SGT. LUKE SHIRLEY AND SPECIALIST JOSHUA SHIRLEY

### HON. TIM MAHONEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. MAHONEY of Florida. Madam Speaker, I rise today to honor two soldiers and brothers, Sgt. Luke Shirley and Specialist Joshua Shirley of LaBelle, Florida.

Sgt. Luke Shirley and Specialist Joshua Shirley bravely served their country in Iraq when Luke was severely injured by a land mine in December 2007. Upon returning home, Joshua received orders to return to Iraq. Joshua felt he could best serve his brother and his country by helping his brother and fellow soldier, Luke, recover and petitioned to stay in the United States.

The Department of the Army reassigned Specialist Joshua Shirley to a post in the Washington, DC area to allow him to be close to his recovering brother. Sgt. Luke Shirley's courage in battle and Specialist Joshua Shirley's devotion to his brother and his country exemplify what it is to be true American heroes. These brave young men put their lives on the line to serve our country. America owes them a debt of gratitude.

On behalf of LaBelle, the 16th District, and the United States, I would like to express my immense gratitude to Sgt. Luke Shirley and Specialist Joshua Shirley. Madam Speaker, please join me in honoring these remarkable young men.

Below is a poem written by Bert Caswell to honor the Shirley Brothers.

THE BOOK OF LUKE

The Book of Luke . . .
Written by a fine young Man, of Character, Courage, Honor and Truth!
Who went off to war, as had all his fine family of patriots . . . so many times as before.

It's all about a family. . . .
Who but for, God and Country. . . . so much pain and heartache endured! All for Our Freedom to ensure, as what they have given. . . . all in their living, they bore!

Luke, an Army Man. . . .
Who as one fine warrior, of strength in honor . . . and character does stand!
As him and his brother Josh too, both were on their third tours. . . . as together they would band!

When, in The
Face of Death!
With, only but an arm and leg so left . . . he would stand . . . all in this his most heroic quest!
To rebuild, as his heart to all so instills . . . of what is good, is great . . . of what is best!

For in him, there are no regrets!
Not looking back, for in life it's only about what you do in your short time . . . in those pages you have left!
As he has our Nation so blessed, as his soul to our's does so caress!

As this book he so writes . . .
To all hearts so invites, for us to look into our own live's . . . between what's wrong, and is right!
To so find in this world, what it is which burns bright . . . and what really counts, on this very night!

Chapter and Verse!
What have the words, of our lives so versed?
What have we so written, which so comes first?
For it's only the few, who have so who . . . have written and so shined so too . . . that for Heaven does search!

For we write the words, that our Lord and his Angels have read and so heard . . . which burn bright!
Found in all of our lives of courage, faith and sacrifice . . . are inspiration, touching all souls here tonight.
When, all is said and done . . . in what's really to be won when we leave this light!

Could we but write?
With our hearts and our souls, such a courageous fight . . . to march off into the dark, to leave the light!
To go off to war, for your country . . . such heartache and burdens bore . . . and rebuild, with no hope in sight!

In The Book of Luke, he has spoken . . .
Of chapters of faith he's invoking, of character and courage spoken . . . all in his actions invoking . . .
Of an American Hero, A Tale of Hope then . . . and Inspiration, To Teach our children, worth quoting!

The Heart!
The greatest of all things, which can not so be stopped nor so broken!
Which pound's, with his words of faith, courage and hope then, in The Book of Luke he has spoken!

In honor of Luke Shirley, and his brother Josh both in The United States Army . . . who came home with him to help him heal, and their family of generations who have fought for our country and given so much throughout the generations so we could live free. . . . Their uncles, Dwight Harris Williams Jr., Kenneth Wayne Williams, John Dennis Williams were all Marines and did tours in Vietnam.

## THE DAILY 45: HELDER TOMAR

### HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 2008*

Mr. RUSH. Madam Speaker, every day, 45 people, on average, are fatally shot in the United States. We have become too numb to the continued violence that plays out daily. On April 26, in Pawtucket, Rhode Island, 19-year-old Helder Tomar was shot and killed in Jenks Park in Central Falls. Unfortunately, this set off a cycle of teenage violence in Pawtucket and Central Falls.

According to a local newspaper, a young man said the obvious: ''Death is part of life, but it's supposed to be natural, not by violence, not by strife.''

Americans of conscience must come together to stop the senseless death of ''The Daily 45.'' When will Americans say, ''Enough is enough, stop the killing.''

CORRECTION



# Daily Digest

## HIGHLIGHTS

Senate passed H.R. 3121, Flood Insurance Reform and Modernization Act.

# Senate

## Chamber Action

*Routine Proceedings, pages S4047–S4122*

**Measures Introduced:** Five bills and four resolutions were introduced, as follows: S. 3010–3014, S.J. Res. 32, and S. Res. 561–563. **Page S4106**

**Measures Passed:**

*Flood Insurance Reform and Modernization Act:* By 92 yeas to 6 nays (Vote No. 125), Senate passed H.R. 3121, to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, after the Committee on Banking, Housing and Urban Development was discharged from its further consideration, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 2284, Senate companion measure, and after taking action on the following amendments proposed thereto: **Pages S4048–72**

Adopted:

By 97 yeas to 1 nay (Vote No. 124), Dorgan (for Reid) Amendment No. 4737 (to Amendment No. 4707), to increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve. **Pages S4058–59**

Dodd/Shelby Amendment No. 4707, in the nature of a substitute. **Pages S4048, S4059**

Withdrawn:

By 42 yeas to 56 nays (Vote No. 123), McConnell Amendment No. 4720 (to the text of the bill proposed to be stricken by Amendment No. 4707), of a perfecting nature. (A unanimous-consent agreement was reached providing that the amendment, having failed to achieve 60 affirmative votes, be withdrawn). **Pages S4048, S4056–57**

During consideration of this measure today, Senate also took the following action:

Allard Amendment No. 4721 (to Amendment No. 4720), of a perfecting nature, fell when McConnell Amendment No. 4720 (to the text of the bill proposed to be stricken by Amendment No. 4707), was withdrawn. **Page S4048**

Subsequently, S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, was returned to the Senate calendar. **Pages S4048, S4061**

*Anniversary of NORAD:* Senate agreed to S. Res. 561, commemorating the 50th anniversary of the North American Aerospace Defense Command. **Pages S4119–20**

*Concerns of Police Survivors Anniversary:* Senate agreed to S. Res. 562, honoring Concerns of Police Survivors as the organization begins its 25th year of service to family members of law enforcement officers killed in the line of duty. **Pages S4120–21**

**Measures Considered:**

**Public Safety Employer-Employee Cooperation Act—Agreement**: Senate began consideration of H.R. 980, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions, after agreeing to the motion to proceed to consideration of the bill, and taking action on the following amendments proposed thereto: **Pages S4072–95**

Pending:

Reid (for Gregg/Kennedy) Amendment No. 4751, in the nature of a substitute. **Pages S4072–79**

Hatch Amendment No. 4755 (to Amendment No. 4751), to provide for a public safety officer bill of rights. **Pages S4079–82**

Alexander Amendment No. 4760 (Amendment No. 4751), to guarantee public safety and local control of taxes and spending. **Pages S4082–85**

Leahy Amendment No. 4759 (to Amendment No. 4751), to reauthorize the bulletproof vest partnership grant and provide a waiver for hardship for the

matching grant program for law enforcement armor vests. **Pages S4085–92**

Corker Amendment No. 4761 (to Amendment No. 4751), to permit States to pass laws to exempt such States from the provisions of this Act. **Pages S4092–95**

During consideration of this measure today, Senate also took the following action:

By 69 yeas to 29 nays (Vote No. 126), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the motion to proceed to consideration of the bill. **Page S4072**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m., on Wednesday, May 14, 2008. **Page S4121**

**Message from the President:** Senate received the following message from the President of the United States:

Transmitting, pursuant to law, the text of a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy; which was referred to the Committee on Foreign Relations. (PM–48) **Pages S4103–04**

**Nominations Received:** Senate received the following nominations:

John R. Beyrle, of Michigan, to be Ambassador to the Russian Federation.

Rosemary Anne DiCarlo, of the District of Columbia, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Rosemary Anne DiCarlo, of the District of Columbia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Carol Ann Rodley, of Virginia, to be Ambassador to the Kingdom of Cambodia.

Routine lists in the Air Force, Army, Coast Guard, Navy. **Pages S4121–22**

**Messages from the House:** **Page S4104**

**Measures Read the First Time:** **Pages S4104, S4121**

**Enrolled Bills Presented:** **Page S4104**

**Executive Communications:** **Pages S4104–06**

**Additional Cosponsors:** **Pages S4106–08**

**Statements on Introduced Bills/Resolutions:** **Pages S4108–15**

**Additional Statements:** **Pages S4100–03**

**Amendments Submitted:** **Pages S4115–19**

**Notices of Hearings/Meetings:** **Page S4119**

**Authorities for Committees to Meet:** **Page S4119**

**Record Votes:** Four record votes were taken today. (Total—126) **Pages S4057, S4058–59, S4061, S4072**

**Adjournment:** Senate convened at 10 a.m. and adjourned at 6:39 p.m., until 9:30 a.m. on Wednesday, May 14, 2008. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S4121.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## TRANSPORTATION SECURITY ADMINISTRATION BUDGET

*Committee on Commerce, Science, and Transportation:* Committee concluded an oversight hearing to examine the President's proposed budget request for fiscal year 2009 for the Transportation Security Administration (TSA), after receiving testimony from Kip Hawley, Assistant Secretary for Homeland Security, Transportation Security Administration; and Cathleen A. Berrick, Director, Homeland Security and Justice Issues, Government Accountability Office.

## CLIMATE CHANGE IN COASTAL REGIONS

*Committee on Energy and Natural Resources:* Committee concluded a hearing to examine the impacts of climate change on the reliability, security, economics, and design of critical energy infrastructure in coastal regions of the United States, after receiving testimony from Thomas J. Wilbanks, Oak Ridge National Laboratory, Oak Ridge, Tennessee, and Terry Wallace, Los Alamos National Laboratory, Los Alamos, New Mexico, both of the Department of Energy; Virginia Burkett, Chief Scientist for Global Change Research, United States Geological Survey, Department of the Interior; Lisa Polak Edgar, Florida Public Service Commission, Tallahassee; Charles T. Drevna, National Petrochemical and Refiners Association, Washington, D.C.; and Ted Falgout, Port Fourchon, Galliano, Louisiana.

## MERCURY LEGISLATION

*Committee on Environment and Public Works:* Committee concluded a hearing to examine proposed legislation on mercury, including S. 2643, to amend the Clean Air Act to require the Administrator of the Environmental Protection Agency to promulgate regulations to control hazardous air pollutant emissions from electric utility steam generating units, S. 906, to prohibit the sale, distribution, transfer, and

export of elemental mercury, and H.R. 1534, to prohibit certain sales, distributions, and transfers of elemental mercury, to prohibit the export of elemental mercury, after receiving testimony from Robert J. Meyers, Principal Deputy Assistant Administrator, Office of Air and Radiation, Environmental Protection Agency; Lisa P. Jackson, New Jersey Department of Environmental Protection, Trenton; Michael D. Durham, ADA Environmental Solutions, on behalf of the Institute of Clean Air Companies, and Linda E. Greer, Natural Resources Defense Council, both of Washington, D.C.; Steven A. Benson, University of North Dakota Energy and Environmental Research Center, Grand Forks; Leonard Levin, Electric Power Research Institute, Palo Alto, California; Vickie Patton, Environmental Defense Fund, Boulder, Colorado; and Arthur E. Dungan, Chlorine Institute, Inc., Arlington, Virginia.

## TAX REFORM

*Committee on Finance:* Committee concluded a hearing to examine individual income tax reform, focusing on the efficacy of the tax system relative to the current laws for businesses, individuals, and government agencies, after receiving testimony from Leonard E. Burman, Urban Institute, William G. Gale, Brookings Institution, Stephen J. Entin, Institute for Research on the Economics of Taxation, and J.D. Foster, Heritage Foundation, all of Washington, D.C.

## COMMITTEE ORGANIZATION

*Committee on Foreign Relations*: On February 13, 2008, Committee announced the following subcommittee assignments:

*Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs*: Senators Dodd (Chairman), Kerry, Nelson (FL), Menendez, Webb, Corker, Isakson, Coleman, and Barrasso;

*Subcommittee on Near Eastern and South and Central Asian Affairs*: Senators Kerry (Chairman), Dodd, Feingold, Boxer, Cardin, Coleman, Hagel, Voinovich, and Barrasso;

*Subcommittee on African Affairs*: Senators Feingold (Chairman), Nelson (FL), Obama, Cardin, Webb, Isakson, Coleman, Vitter, and Hagel;

*Subcommittee on East Asian and Pacific Affairs*: Senators Boxer (Chairman), Kerry, Feingold, Obama, Webb, Murkowski, Isakson, Vitter, and Hagel;

*Subcommittee on International Operations and Organizations, Democracy, and Human Rights*: Senators Nelson (FL) (Chairman), Feingold, Menendez, Casey, Webb, Vitter, Voinovich, DeMint, and Barrasso;

*Subcommittee on European Affairs*: Senators Obama (Chairman), Dodd, Menendez, Cardin, Casey, DeMint, Voinovich, Corker, and Murkowski; and

*Subcommittee on International Development and Foreign Assistance, Economic Affairs, and International Environmental Protection*: Senators Menendez (Chairman), Kerry, Boxer, Obama, Casey, Hagel, Corker, Murkowski, and DeMint.

*Senators Biden and Lugar are ex officio members of each Subcommittee.*

## SUDAN

*Committee on Foreign Relations:* Committee met in closed session to receive a briefing to examine United States policy toward Sudan from Richard Williamson, President's Special Envoy to Sudan, Department of State.

## INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

*Committee on Indian Affairs:* Committee concluded an oversight hearing to examine the successes and shortfalls of Title IV of the Indian Self-Determination and Education Assistance Act (P.L. 93–638), focusing on twenty years of tribal self-governance, after receiving testimony from James Cason, Associate Deputy Secretary of the Interior; W. Ron Allen, Jamestown S'Klallam Tribe, Sequim, Washington; Clifford Lyle Marshall, Hoopa Valley Tribe, Hoopa, California; James Steele, Jr., Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation, Pablo, Montana; and Gene Peltola, Yukon-Kuskokwim Health Corporation, Bethel, Alaska.

## BULLETPROOF VEST PARTNERSHIP PROGRAM

*Committee on the Judiciary:* Committee concluded a hearing to examine the Bulletproof Vest Partnership program, focusing on protecting the nation's law enforcement officers, including a bill entitled, ''The Bulletproof Vest Partnership Grant Reauthorization Act'', after receiving testimony from Michael C. Macarilla, Vermont State Police, Waterbury; and David F. Azur, Baltimore Police Department, Baltimore, Maryland.

## INTELLIGENCE

*Select Committee on Intelligence*: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

# House of Representatives

## Chamber Action

**Public Bills and Resolutions Introduced:** 22 public bills, H.R. 6025–6046; and 6 resolutions, H. Con. Res. 348; and H. Res. 1187–1188, 1191–1193 were introduced. **Pages H3776–77**

**Additional Cosponsors:** **Pages H3777–78**

**Reports Filed:** Reports were filed today as follows:

Conference report on H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012 (H. Rept. 110–627);

H.R. 5834, to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, with an amendment (H. Rept. 110–628);

H. Res. 1189, providing for consideration of the conference report to accompany the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012 (H. Rept. 110–629);

H. Res. 1190, providing for the adoption of the concurrent resolution (S. Con. Res. 70) setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013 (H. Rept. 110–630);

H.R. 3323, to authorize the Secretary of the Interior to convey a water distribution system to the Goleta Water District, with an amendment (H. Rept. 110–631);

H.R. 3930, to provide for a land exchange involving State land and Bureau of Land Management land in Chavez and Dona Ana Counties, New Mexico, and to establish the Lesser Prairie Chicken National Habitat Preservation Area, with an amendment (H. Rept. 110–632);

H.R. 4074, to authorize the implementation of the San Joaquin River Restoration Settlement (H. Rept. 110–633);

H.R. 2649, to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992, with an amendment (H. Rept. 110–634); and

H.R. 1771, to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes and the ecosystem of cranes, with an amendment (H. Rept. 110–635). **Page H3775**

**Speaker:** Read a letter from the Speaker wherein she appointed Representative Larsen (WA) to act as Speaker Pro Tempore for today. **Page H3409**

**Recess:** The House recessed at 12:32 p.m. and reconvened at 2 p.m. **Page H3409**

**Food and Energy Security Act of 2007—Motions to Instruct Conferees:** Subsequent to the filing of the conference report on H.R. 2419, the chair announced the motions to instruct conferees offered by Representative Upton and Representative Shimkus which were debated on Thursday, May 8th had been vitiated. **Pages H3409–H3700**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

***Suspending the acquisition of petroleum for the Strategic Petroleum Reserve:*** H.R. 6022, to suspend the acquisition of petroleum for the Strategic Petroleum Reserve, by a ⅔ yea-and-nay vote of 385 yeas to 25 nays, Roll No. 307; **Pages H3701–10, H3751–52**

***Credit and Debit Card Receipt Clarification Act of 2007:*** H.R. 4008, to amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act, by a ⅔ yea-and-nay vote of 407 yeas with none voting "nay", Roll No. 308; and **Pages H3729–32, H3752**

***Expressing condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis:*** H. Res. 1181, to express condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis, by a ⅔ yea-and-nay vote of 410 yeas to 1 nay, Roll No. 306. **Pages H3732–35, H3750–51**

**Suspensions—Proceedings Postponed:** The House debated the following measures under suspension of the rules. Further proceedings were postponed:

***Supporting the goals and ideals of Mental Health Month:*** H. Res. 1134, to support the goals and ideals of Mental Health Month; **Pages H3710–12**

***Supporting the goals and ideals of National Train Day:*** H. Res. 1176, to support the goals and ideals of National Train Day; **Pages H3712–14**

***Congratulating Winona State University on winning the 2008 Division II men's basketball championships:*** H. Res. 1133, amended, to congratulate Winona State University on winning the 2008 Division II men's basketball championships; **Pages H3714–15**

***Recognizing AmeriCorps Week:*** H. Res. 1173, to recognize AmeriCorps Week; **Pages H3715–17**

***Honoring public child welfare agencies, nonprofit organizations and private entities providing services for foster children:*** H. Res. 789, amended, to honor public child welfare agencies, nonprofit organizations and private entities providing services for foster children; **Pages H3717–19**

***Saint-Gaudens Double Eagle Ultra-High Relief Bullion Coin Act:*** H.R. 5614, amended, to authorize the production of Saint-Gaudens Double Eagle ultra-high relief bullion coins in palladium to provide affordable opportunities for investments in precious metals; **Pages H3719–22**

***Star-Spangled Banner and War of 1812 Bicentennial Commemorative Coin Act:*** H.R. 2894, amended, to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the ''Star Spangled Banner'' and the War of 1812; **Pages H3722–24**

***Boy Scouts of America Centennial Commemorative Coin Act:*** H.R. 5872, amended, to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America; **Pages H3724–26**

***Alice Paul Congressional Gold Medal Act:*** H.R. 406, amended, to posthumously award a Congressional Gold Medal to Alice Paul in recognition of her role in the women's suffrage movement and in advancing equal rights for women; **Pages H3726–29**

***Security Assistance and Arms Export Control Reform Act of 2008:*** H.R. 5916, amended, to reform the administration of the Arms Export Control Act; and **Pages H3735–47**

***North Korean Human Rights Reauthorization Act of 2008:*** H.R. 5834, amended, to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea. **Pages H3747–50**

**Recess:** The House recessed at 6:25 p.m. and reconvened at 6:35 p.m. **Page H3750**

**Moment of Silence:** The House observed a moment of silence in honor of the victims of Cyclone Nargis. **Page H3751**

**Moment of Silence:** The House observed a moment of silence in honor of those affected by the earthquake that struck the Sichuan Province of China. **Page H3752**

**Presidential Message:** Read a message from the President wherein he transmitted to Congress the text of a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy—referred to the Committee on Foreign Affairs and ordered printed (H. Doc. 110–112). **Page H3701**

**Quorum Calls—Votes:** Three yea-and-nay votes developed during the proceedings of today and appear on pages H3750–51, H3751–52, H3752. There were no quorum calls.

**Adjournment:** The House met at 12:30 p.m. and adjourned at 10:51 p.m.

# *Committee Meetings*

## MISCELLANEOUS MEASURES

*Committee on the Judiciary:* Subcommittee on Crime, Terrorism, and Homeland Security approved for full Committee action the following bills: H.R. 5464, A Child is Missing Alert and Recovery Center Act; H.R. 2352, School Safety Enhancements Act of 2007; H.R. 3480, Let Our Veterans Rest in Peace Act of 2007; H.R. 5938, Former Vice President Protection Act of 2008; H.R. 5057, Debbie Smith Reauthorization Act of 2008; H.R. 1783, Elder Justice Act; and H.R. 5352, Elder Abuse Victims Act of 2008.

## CONFERENCE REPORT—FARM, NUTRITION, AND BIOENERGY ACT OF 2008

*Committee on Rules:* Granted, by a record vote of 7 to 4, a rule providing one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. The rule waives all points of order against the conference report on H.R. 2419, the Farm, Nutrition, and Bioenergy Act of 2007 and against its consideration. The rule provides that the conference report shall be considered as read. The rule provides one motion to recommit. Testimony was heard from Chairman Peterson and Representative Neugebauer.

## PROVIDING FOR THE ADOPTION OF THE CONCURRENT BUDGET RESOLUTION FOR 2009

*Committee on Rules:* Granted, by a record vote of 7 to 4, a rule providing for the adoption in the House of S. Con. Res. 70, the Concurrent Budget Resolution for 2009. The rule takes from the Speaker's table S. Con. Res. 70, adopts an amendment in the nature of a substitute consisting of the text of H. Con. Res. 312 as adopted by the House, adopts S. Con. Res. 70 as amended, and provides that the House insists on its amendment and requests a conference with the Senate.

## REGARDING ROLL CALL VOTE 814

*Select Committee to Investigate the Voting Irregularities of August 2, 2007:* Held a hearing regarding Roll Call Vote 814. Testimony was heard from Representatives McNulty and Hoyer; Kevin Hanrahan, Tally Clerk, Office of the Clerk; the following officials of the Office of the Parliamentarian, John Sullivan, Parliamentarian; Ethan Lauer, and Max Spitzer, both Assistant Parliamentarians, all with the House of Representatives.

Hearings continue tomorrow.

## COMMITTEE MEETINGS FOR WEDNESDAY, MAY 14, 2008

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Appropriations:* Subcommittee on Defense, to hold hearings to examine proposed budget estimates for fiscal year 2009 for the United States National Guard and Reserve, 9:30 a.m., SD–192.

Subcommittee on Financial Services and General Government, to hold hearings to examine proposed budget estimates for fiscal year 2009 for the Federal Trade Commission, 3 p.m., SD–192.

*Committee on Commerce, Science, and Transportation:* Subcommittee on Consumer Affairs, Insurance, and Automotive Safety, to hold hearings to examine plastic additives in consumer products, 10 a.m., SR–253.

*Committee on Foreign Relations:* to hold hearings to examine responding to the global food crisis, 9:30 a.m., SD–419.

*Committee on Health, Education, Labor, and Pensions:* Subcommittee on Children and Families, to hold hearings to examine addressing the challenge of children with food allergies, 2:30 p.m., SD–430.

*Committee on Homeland Security and Governmental Affairs:* to hold hearings to examine the nomination of Paul A. Schneider, of Maryland, to be Deputy Secretary of Homeland Security, 10 a.m., SD–342.

Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, to hold an oversight hearing to examine the National Archives, focusing on protecting our nation's history for future generations, 3 p.m., SD–342.

*Special Committee on Aging:* to hold hearings to examine the future of Alzheimer's disease, focusing on current breakthroughs and challenges, 10:30 a.m., SD–106.

### House

*Committee on Armed Services,* to mark up H.R. 5658, National Defense Authorization Act for Fiscal Year 2009, 9 a.m., 2118 Rayburn.

*Committee on Education and Labor,* to mark up the following bills: H.R. 2744, Airline Flight Crew Technical Corrections Act; and H.R. 5876, Stop Child Abuse in Residential Programs for Teens Act of 2008, 10:15 a.m., 2175 Rayburn.

*Committee on Energy and Commerce,* Subcommittee on Health, hearing entitled "Discussion Draft of the 'Food and Drug Administration Globalization Act' Legislation: Device and Cosmetic Safety Provisions," 10 a.m., 2123 Rayburn.

*Committee on Financial Services,* hearing entitled "Contributing Factors and International Responses to the Global Food Crisis," 10 a.m., 2128 Rayburn.

Subcommittee on Housing and Community Opportunity, to consider the following measures: H.R. 3397, Lead-Safe Housing for Kids Act of 2007; and H.R. 3329, Homes for Heroes Act of 2007, 2 p.m., 2128 Rayburn.

*Committee on Foreign Affairs,* to mark up H.R. 6028, Merida Partnership to Combat Illicit Narcotics and Reduce Violence Authorization Act of 2008, 11 a.m., 2172 Rayburn.

Subcommittee on Europe, hearing on Improving America's Security, Strengthening Transatlantic Relations: An Update on the Expansion of the Visa Waiver Program, 1 p.m., 2200 Rayburn.

Subcommittee on Middle East and South Asia, hearing on U.S. Assistance to South Asia: Is there a strategy to go with all that money? 2 p.m., 2172 Rayburn.

*Committee on Homeland Security,* Subcommittee on Emergency Communications, Preparedness, and Response, hearing entitled "Advancing Public Alert and Warning Systems to Build a More Resilient Nation," 10 a.m., 311 Cannon.

Subcommittee on Transportation Security and Infrastructure Protection, hearing entitled "Partnering with the Private Sector to Secure Critical Infrastructure: Has the Department of Homeland Security Abandoned the Resilience-Based Approach?" 2 p.m., 311 Cannon.

*Committee on House Administration,* Subcommittee on Elections, hearing on Election Contingency Plans: What Have We Learned and Is America Prepared? 2 p.m., 1310 Longworth.

*Committee on the Judiciary,* to mark up the following: H.R. 4044, National Guard and Reservist Debt Relief Act of 2008; H.R. 5464, A Child is Missing Alert and Recovery Center Act; H.R. 2352, School Safety Enhancements Act of 2007; H.R. 3480, Let Our Veterans Rest in Peace Act of 2007; S. 2135, Child Soldiers Accountability Act of 2007; H.R. 5938, Former Vice President Protection Act of 2008; H.R. 5057, Debbie Smith Reauthorization Act of 2008; H.R. 1783, Elder Justice Act; H.R. 5352, Elder Abuse Victims Act of 2008; H.R. 4080, To amend the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models; and private relief bills, 10:15 a.m., 2141 Rayburn.

Subcommittee on Commercial and Administrative Laws and the Subcommittee on Crime, Terrorism, and Homeland Security, joint hearing on Allegations of Selective Prosecution Part II: The Erosion of Public Confidence in Our Federal Justice System, 2 p.m., 2141 Rayburn.

*Committee on Natural Resources,* to mark up the following bills: H.R. 554, Paleontological Resources Preservation Act; H.R. 3022, Sequoia-Kings Canyon National

Park Wilderness Act of 2007; H.R. 2632, Sabinoso Wilderness Act of 2007; H.R. 5680, To amend certain laws relating to Native Americans, and for other purposes; and H.R. 3682, California Desert and Mountain Heritage Act, 11 a.m., 1324 Longworth.

*Committee on Oversight and Government Reform,* hearing on Should FDA Drug and Medical Device Regulation Bar State Liability Claims? 10 a.m., 2154 Rayburn.

Subcommittee on Government Management, Organization, and Procurement, hearing on Management of Civil Rights Programs at USDA, 2 p.m., 2154 Rayburn.

*Committee on Science and Technology,* hearing on Water Supply Challenges for the 21st Century, 10 a.m., 2318 Rayburn.

*Committee on Small Business,* Subcommittee on Regulations, Health Care and Trade, hearing on the Impact of CMS Regulations and Programs on Small Health Care Providers, 2 p.m., 1539 Longworth.

*Committee on Transportation and Infrastructure,* Subcommittee on Aviation, hearing on Impact of Consolidation on the Aviation Industry, with a Focus on the Proposed Merger Between Delta Airlines and Northwest Airlines, 2 p.m., 2167 Rayburn.

Subcommittee on Railroads, Pipelines, and Hazardous Materials, hearing on Amtrak Reauthorization, 10 a.m., 2167 Rayburn.

*Committee on Ways and Means,* Subcommittee on Health, hearing on Health Savings Accounts and Consumer Driven Health Care: Cost Containment or Cost-Shift? 10:30 a.m., 1100 Longworth.

*House Permanent Select Committee on Intelligence,* Subcommittee on Terrorism, Human Intelligence, Analysis and Counterintelligence, executive, briefing on Hot Sports, 10 a.m., H–405 Capitol.

*Select Committee on Energy Independence and Global Warming,* hearing entitled ''Building Green, Saving Green: Construction Sustainable and Energy-Efficient Buildings, 2 p.m., 2358A Rayburn.

*Select Committee To Investigate the Voting Irregularities of August 2, 2008,* to continue hearings regarding Roll Call Vote 814, 9:30 a.m., 1539 Longworth.

## Joint Meetings

Joint Economic Committee: to hold hearings to examine United States credit crisis, focusing on how the federal government can prevent unnecessary systemic risk in the future, 9:30 a.m., SH–216.

*Next Meeting of the* SENATE

9:30 a.m., Wednesday, May 14

Senate Chamber

**Program for Wednesday:** After the transaction of any morning business (not to extend beyond 60 minutes), Senate will continue consideration of H.R. 980, Public Safety Employer-Employee Cooperation Act.

*Next Meeting of the* HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, May 14

House Chamber

**Program for Wednesday:** Consideration of the Conference Report to accompany H.R. 2419—Food and Energy Security Act of 2007 (Subject to a Rule). Consideration of S. Con. Res. 70—Budget resolution for FY2009 (Subject to a Rule).

## Extension of Remarks, as inserted in this issue

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