

2008 FARM BILL ENERGY TITLE

and

**Relevant Excerpts from the Joint Statement of the
Managers of the Conference Committee**

*(The complete name of the 2008 Farm Bill is the Food, Conservation, and
Energy Act of 2008, enacted into law on June 19, 2008)*



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TITLE IX--ENERGY

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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--

` (14) SECRETARY- The term ` Secretary' means the Secretary of Agriculture.

(Excerpt from page 212 of the Managers' Statement)

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.

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--

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);

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)

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-

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.

(Excerpt from pages 216-220 of the Managers' Statement)

(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 energysystems with renewable energy systems for biorefineries (including corn ethanol plants), power plants, or manufacturing facilities. (Section 9001)

The Conference substitutes a provision entitled "Biorefinery Assistance," which provides for grants and loan guarantees for construction and retrofitting of biorefineries for the production of advanced biofuels. The substitute provides for grants for constructing demonstration-scale biorefineries, and loan guarantees for the development and construction of commercial-scale biorefineries that use technologies that are either pre-commercial or commercially available. (Section 9001, new section 9003 of FSRIA)

The Managers believe that it is in the nation's interest to accelerate the commercialization of the production of advanced biofuels. The Managers also are aware that several commercial biorefinery projects are at the advanced planning stages and are ready for construction as soon as loan guarantees can become available through this program. Therefore, the Managers expect the Secretary to implement this program as soon as possible in fiscal year 2009. The Managers have provided specific funding for this program for fiscal year 2009 to emphasize the need to implement this program as soon as possible. To enable expedited implementation of this program, the Managers expect that the Secretary consider issuing a Notice of Funds Availability (NOFA) to initiate the program as was done in the case of the section 9006 grants program after passage of the Farm Security and Rural Investment Act of 2002. The Managers expect that the NOFA will comply with, and be consistent with the spirit of, the provisions contained in section 9003 of this Act. At the same time of the release of the NOFA, the Managers expect the Secretary will issue an Advanced Notice of Proposed Rulemaking (ANPR) to offer the public an

opportunity to provide comments regarding the development of an Interim Rule for this program. Specifically, the Managers expect the ANPR will solicit comments with respect to critical issues regarding the implementation of section 9003, such as whether the program loan guarantee will cover construction of the facility or be limited to post construction financing. It is expected that comments received will be included in the record of subsequent rulemaking regarding this program and will be considered by the Secretary during the development of such regulations. To further facilitate the rapid implementation of this program, the Managers expect that the Secretary consider using the processes and aspects developed for existing USDA loan guarantee programs including the Business and Industry Program and the Rural Energy for America Program (including its predecessor the section 9006 program), in the initial development of this program, especially if the Secretary intends to initiate implementation through the use of a NOFA.

To ensure that proposals that are not yet in their final development stage can be considered, the Managers expect the Secretary to reserve funds for the second half of each fiscal year and reserve a portion of funds to be made available over the life of the Farm Bill.

The Managers also expect the Secretary to take steps to evaluate the credit worthiness and the technical merit of proposals to make decisions regarding the responsible use of funds.

It is the intent of the Managers that the Secretary use the approach for defining pre-commercial and commercially available technologies that were adopted in theregulations 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 nonfederal sources could include direct financial support, technical support, and contributions of in-kind resources, including such kinds of support from state governments.

The Managers expect that demonstration or pilot-scale facilities will demonstrate the potential of a technology for commercial application at a biorefinery, including operational characteristics such as throughput rates and process yields.

It is the intent of the Managers that the Secretary use the approach for defining pre-commercial and commercially available technologies that were adopted in the regulations for Section 9006 of the Farm Security and Rural Investment Act of 2002 (7U.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.

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 nonfederal 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)

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.

(Excerpt from pages 217-218 of the Managers' Statement)

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.

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.

(Excerpt from pages 226-227 of the Managers' Statement)

(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)

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.

(Excerpt from pages 230-231 of the Managers' Statement)

(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)

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.

- ˆ (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--
 - ˆ (A) \$55,000,000 for fiscal year 2009;
 - ˆ (B) \$60,000,000 for fiscal year 2010;
 - ˆ (C) \$70,000,000 for fiscal year 2011; and
 - ˆ (D) \$70,000,000 for fiscal year 2012.
- ˆ (2) AUDIT AND TECHNICAL ASSISTANCE FUNDING-
 - ˆ (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).
 - ˆ (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).
- ˆ (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.

(Excerpt from pages 220-223 of the Managers' Statement)

(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 include geothermal heat pump systems using ground loops and that small hydroelectric systems (as determined by the Secretary) be considered renewable energy systems for the purpose of receiving financial assistance under this program.

(29) Rural Energy for America Program--Criteria and preferences—energy from animal manure

The Senate amendment states selection considerations for energy from animal manure projects include quality of energy produced, net energy conversion efficiency, environmental issues, net impact on greenhouse gas emissions, diversity factors, and proposed costs. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(30) Rural Energy for America Program-Cost sharing

The House bill increases the limit on the maximum amount of the combined loan and grant from 50 percent to 75 percent of the funded activity. It limits the maximum amount of loan guaranteed to 75 percent of the funded activity and not more than \$25,000,000. (Section 9005(4))

The Senate amendment states that for energy from animal manure projects: grants are limited to 50 percent of project costs for smaller systems costing less than \$500,000; for larger projects, grants are limited to the greater of \$250,000 or 25 percent of project costs, with a cap of \$2,000,000; loan guarantees are limited to loans not exceeding \$25,000,000 and 80 percent of developer's project costs. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new section 9007 of FSRIA)

(31) Rural Energy for America Program-Feasibility studies

The House bill allows the Secretary to use up to 10 percent of funds available under the section to provide assistance to eligible participants to conduct feasibility studies for eligible projects, but provides that if such assistance is provided, the participant is ineligible for assistance under other law for such assistance. (Section 9005(6))

The Senate amendment is the same as the House provision. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new section 9007 of FSRIA)

(32) Rural Energy for America Program-Reserve

The House bill reserves 15 percent of funds for projects costing \$50,000 or less. (Section 9005(6))

The Senate amendment directs the Secretary to develop a streamlined process for projects seeking less than \$20,000, and it directs that not less than 20 percent of the funds for this section be made available for such projects. (Section 9001)

The Conference 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)

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--

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;

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) that amended Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(d)). In order to ensure the sustainable production of biofuels, the Managers want to clarify that an intention of Sec. 9008(e)(3)(C)(ii) is to improve and develop analytical tools to facilitate the analysis of life-cycle energy and greenhouse gas emissions, including emissions related to resource management, associated with all potential biofuel feedstocks and production processes.

The Managers encourage the Board to consider funding projects that address the critical need for integrated research and technology development in the area of biofuels. Funded projects should consider an integrated approach along the full biofuels and biobased products value chain and should serve as a platform for both technology transfer and workforce development. The Managers recognize that the New Century Farm project at Iowa State University specifically includes integrated research and development activities ranging from cropping practices and feedstock production, to biomass harvest and handling, and including biorefinery conversion processes. The Managers also are aware that Pennsylvania State University is working on all aspects of biofuels development from plant transformation to production, harvest, and storage; and from biomass pretreatment to fuel formulation and engine testing in collaboration with

private industry and the government. The Managers are aware that Claflin University has been undertaking work in the area of biofuels and biobutanol and hope they can continue that work. The Managers recognize that these are viable models which can provide invaluable feedback and systematic improvement to development of a national biofuels infrastructure.

The Managers recognize the tremendous potential market that exists in this country for renewable aviation and jet fuel, and acknowledges that while much research and development has been directed toward the development of biofuels for ground transportation, the development of renewable aviation fuels has lagged far behind. For this reason, the Managers encourage the Secretary of Agriculture and the Secretary of Energy to give equal consideration to projects under this initiative that would perform innovative and beneficial research and commercial development of renewable aviation fuels.

The Managers are aware of the use of algae to create biodiesel fuels, and believe this technology will contribute to relieving the U.S. of its dependence on fossil fuels. The Managers understand that algal-based oil yields are 2-3 times that of the highest yielding land plants and that algae can be cultured on land unfit for traditional commercial crops. The Managers encourage the Department to support existing algaculture laboratories that have the ability to develop algal-based feedstocks for the biodiesel industry. The Managers request the Department to report back within 90 days, or as soon as practicable on the status of this effort.

The Managers hope that scientists and students at minority serving institutions, such as the nation's historically black colleges and universities and Hispanic-serving institutions will utilize this program and other research and development programs in this title to continue the development of biofuels and biobased products in all regions of the country.

The Managers also believe that this program plays a critical role in bridging the funding gap that many promising technologies face after university basic research is completed and before becoming attractive to venture capitalists and commercialized in the market. The Managers believe that support between basic research and commercialization is important for quickly bringing new technologies to market, and the Managers urge the Secretary to make sufficient funds available to address this issue.

The Managers encourage consideration of collaborative research on corn and cellulosic genomics to support improved biofuels conversion processes.

The Managers recognize the need for research and development to convert forest biomass to advanced biofuels and encourage USDA and DOE, in implementing the authorities in this section, work in partnership with the Forest Service to develop new techniques, technologies and methods toward this goal. The Managers do not intend the additional authority in section 9012 to preclude these activities under this section.

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;

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.

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.

(Excerpt from pages 229-230 of the Managers' Statement)

(46) Feedstock flexibility program for bioenergy producers

The House bill amends the energy title of FSRIA to require the Secretary to purchase of 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.

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;

cropland base and yield history applicable to the land enrolled in a BCAP contract.

ˆ (5) PAYMENTS-

ˆ (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.

ˆ (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--

ˆ (i) the cost of seeds and stock for perennials;

ˆ (ii) the cost of planting the perennial crop, as determined by the Secretary; and

ˆ (iii) in the case of nonindustrial private forestland, the costs of site preparation and tree planting.

ˆ (C) AMOUNT OF ANNUAL PAYMENTS-

ˆ (i) IN GENERAL- Subject to clause (ii), the amount of an annual payment under this subsection shall be determined by the Secretary.

ˆ (ii) REDUCTION- The Secretary shall reduce an annual payment by an amount determined to be appropriate by the Secretary, if--

ˆ (I) an eligible crop is used for purposes other than the production of energy at the biomass conversion facility;

ˆ (II) an eligible crop is delivered to the biomass conversion facility;

ˆ (III) the producer receives a payment under subsection (d);

ˆ (IV) the producer violates a term of the contract; or

ˆ (V) there are such other circumstances, as determined by the Secretary to be necessary to carry out this section.

ˆ (d) Assistance With Collection, Harvest, Storage, and Transportation-

ˆ (1) IN GENERAL- The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to--

ˆ (A) a producer of an eligible crop that is produced on BCAP contract acreage; or

ˆ (B) a person with the right to collect or harvest eligible material.

ˆ (2) PAYMENTS-

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 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 entities 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 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.

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.

(Excerpt from page 234 of the Managers' Statement)

(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.

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.

(Excerpt from page 234 of the Managers' Statement)

(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)

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.

(Excerpt from pages 235-236 of the Managers' Statement)

(58) Biofuels infrastructure study

The Senate amendment directs USDA, in collaboration with the Secretaries of Energy and Transportation and the Administrator of the Environmental Protection Agency, to conduct a study of the infrastructure needs associated with a significant expansion in biofuel production and use. The amendment specifically includes dedicated ethanol pipeline feasibility studies and examination of water resource needs. The provision requires a report to Congress including

recommendations. It also authorizes \$1,000,000 in each of fiscal year 2008 and fiscal year 2009. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute directs USDA to jointly conduct a study with DOE, DOT and EPA on the infrastructure needs associated with significant expansion in biofuels production and use. (Section 9002)

It is the intent of the Managers that this study should include an assessment of appropriate planning and development timelines associated with infrastructure development. The Managers suggest that the Biomass Research and Development Board established under the Biomass Research and Development Initiative may be an appropriate entity for coordination and oversight of this multi-agency study. While this study is to use the information and results from the two related studies authorized in sections 243 and 245 of the Energy Independence and Security Act of 2007 (P.L.110-140), it is the intent of the Managers that the Secretary should not wait on the execution or completion of those related studies before undertaking this study

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.

(Excerpt from pages 236 of the Managers' Statement)

(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)

**Other Provisions Not Included in Final Law
(as explained in Managers' Report)**

(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.

(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.

(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.

(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.

(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.