Conrad_1

AMENDMENT NO._____ Calendar No._____

Purpose: To improve the energy title.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

(no.)_____

To reauthorize agricultural programs through 2017, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. CONRAD (for himself and Mr. LUGAR)

Viz:

1 In section 1207, strike subsection (c).

2 At the appropriate place in title VI, add the following:

3 **SEC. 6_____. RURAL ENERGY SAVINGS PROGRAM.**

4 Subtitle E of title VI of the Farm Security and Rural
5 Investment Act of 2002 (Public Law 107–171; 116 Stat.
6 424) is amended by adding at the end the following:

7 **"SEC. 6407. RURAL ENERGY SAVINGS PROGRAM.**

8 "(a) PURPOSE.—The purpose of this section is to cre-
9 ate jobs, promote rural development, and help rural fami-
10 lies and small businesses achieve cost savings by providing

1 loans to qualified consumers to implement durable cost-
2 effective energy efficiency measures.
3 "(b) DEFINITIONS.—In this section:
4 "(1) ELIGIBLE ENTITY.—The term 'eligible en-
5 tity' means—
6 "(A) any public power district, public util-
7 ity district, or similar entity, or any electric co-
8 operative described in section 501(c)(12) or
9 1381(a)(2) of the Internal Revenue Code of
10 1986, that borrowed and repaid, prepaid, or is
11 paying an electric loan made or guaranteed by
12 the Rural Utilities Service (or any predecessor
13 agency);
14 "(B) any entity primarily owned or con-
15 trolled by 1 or more entities described in sub-
16 paragraph (A); or
17 "(C) any other entity that is an eligible
18 borrower of the Rural Utility Service, as deter-
19 mined under section 1710.101 of title 7, Code
20 of Federal Regulations (or a successor regula-
21 tion).
22 "(2) ENERGY EFFICIENCY MEASURES.—The
23 term 'energy efficiency measures' means, for or at
24 property served by an eligible entity, structural im-

1 provements and investments in cost-effective, com-
2 mercial technologies to increase energy efficiency.
3 "(3) QUALIFIED CONSUMER.—The term 'quali-
4 fied consumer' means a consumer served by an eligi-
5 ble entity that has the ability to repay a loan made
6 under subsection (d), as determined by the eligible
7 entity.
8 "(4) SECRETARY.—The term 'Secretary' means
9 the Secretary of Agriculture, acting through the Ad-
10 ministrator of the Rural Utilities Service.
11 "(c) LOANS TO ELIGIBLE ENTITIES.—
12 "(1) IN GENERAL.—Subject to paragraph (2),
13 the Secretary shall make loans to eligible entities
14 that agree to use the loan funds to make loans to
15 qualified consumers for the purpose of implementing
16 energy efficiency measures.
17 "(2) REQUIREMENTS.—
18 "(A) IN GENERAL.—As a condition of re-
19 ceiving a loan under this subsection, an eligible
20 entity shall—
21 "(i) establish a list of energy effi-
22 ciency measures that is expected to de-
23 crease energy use or costs of qualified con-
24 sumers;

"(ii) prepare an implementation plan for use of the loan funds, including use of any interest to be received pursuant to subsection (d)(1)(A);

"(iii) provide for appropriate measurement and verification to ensure—

"(I) the effectiveness of the energy efficiency loans made by the eligible entity; and

"(II) that there is no conflict of interest in carrying out this section; and

"(iv) demonstrate expertise in effective use of energy efficiency measures at an appropriate scale.

"(B) REVISION OF LIST OF ENERGY EFFICIENCY MEASURES.—Subject to the approval of the Secretary, an eligible entity may update the list required under subparagraph (A)(i) to account for newly available efficiency technologies.

"(C) EXISTING ENERGY EFFICIENCY PROGRAMS.—An eligible entity that, at any time before the date that is 60 days after the date of enactment of this section, has established an energy efficiency program for qualified con-

1 sumers may use an existing list of energy effi-
2 ciency measures, implementation plan, or meas-
3 urement and verification system of that pro-
4 gram to satisfy the requirements of subpara-
5 graph (A) if the Secretary determines the list,
6 plan, or systems are consistent with the pur-
7 poses of this section.

8 "(3) NO INTEREST.—A loan under this sub-
9 section shall bear no interest.

10 "(4) REPAYMENT.—With respect to a loan
11 under paragraph (1)—

12 "(A) the term shall not exceed 20 years
13 from the date on which the loan is closed; and

14 "(B) except as provided in paragraph (6),
15 the repayment of each advance shall be amor-
16 tized for a period not to exceed 10 years.

17 "(5) AMOUNT OF ADVANCES.—Any advance of
18 loan funds to an eligible entity in any single year
19 shall not exceed 50 percent of the approved loan
20 amount.

21 "(6) SPECIAL ADVANCE FOR START-UP ACTIVI-
22 TIES.—

23 "(A) IN GENERAL.—In order to assist an
24 eligible entity in defraying the appropriate
25 start-up costs (as determined by the Secretary)

of establishing new programs or modifying existing programs to carry out subsection (d), the Secretary shall allow an eligible entity to request a special advance.

"(B) AMOUNT.—No eligible entity may receive a special advance under this paragraph for an amount that is greater than 4 percent of the loan amount received by the eligible entity under paragraph (1).

"(C) REPAYMENT.—Repayment of the special advance—

"(i) shall be required during the 10-year period beginning on the date on which the special advance is made; and

"(ii) at the election of the eligible entity, may be deferred to the end of the 10-year period.

"(7) LIMITATION.—All special advances shall be made under a loan described in paragraph (1) during the first 10 years of the term of the loan.

"(d) LOANS TO QUALIFIED CONSUMERS.—

"(1) TERMS OF LOANS.—Loans made by an eligible entity to qualified consumers using loan funds provided by the Secretary under subsection (c)—

"(A) may bear interest, not to exceed 3 percent, to be used for purposes that include—

"(i) to establish a loan loss reserve; and

"(ii) to offset personnel and program costs of eligible entities to provide the loans;

"(B) shall finance energy efficiency measures for the purpose of decreasing energy usage or costs of the qualified consumer by an amount that ensures, to the maximum extent practicable, that a loan term of not more than 10 years will not pose an undue financial burden on the qualified consumer, as determined by the eligible entity;

"(C) shall not be used to fund purchases of, or modifications to, personal property unless the personal property is or becomes attached to real property (including a manufactured home) as a fixture;

"(D) shall be repaid through charges added to the electric bill for the property for, or at which, energy efficiency measures are or will be implemented, on the condition that this requirement does not prohibit—

"(i) the voluntary prepayment of a loan by the owner of the property; or

"(ii) the use of any additional repayment mechanisms that are—

"(I) demonstrated to have appropriate risk mitigation features, as determined by the eligible entity; or

"(II) required if the qualified consumer is no longer a customer of the eligible entity; and

"(E) shall require an energy audit by an eligible entity to determine the impact of proposed energy efficiency measures on the energy costs and consumption of the qualified consumer.

"(2) CONTRACTORS.—In addition to any other qualified general contractor, eligible entities may serve as general contractors.

"(e) CONTRACT FOR MEASUREMENT AND VERIFICATION, TRAINING, AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary—

"(A) shall establish a plan for measurement and verification, training, and technical assistance of the program; and

"(B) may enter into 1 or more contracts with a qualified entity for the purposes of—

"(i) providing measurement and verification activities; and

"(ii) developing a program to provide technical assistance and training to the employees of eligible entities to carry out this section.

"(2) USE OF SUBCONTRACTORS AUTHORIZED.—A qualified entity that enters into a contract under paragraph (1) may use subcontractors to assist the qualified entity in carrying out the contract.

"(f) FAST START DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall offer to enter into agreements with eligible entities (or groups of eligible entities) that have energy efficiency programs described in subsection (c)(2)(C) to establish an energy efficiency loan demonstration projects consistent with the purposes of this section.

"(2) EVALUATION CRITERIA.—In determining which eligible entities to award loans under this sec-

1 tion, the Secretary shall take into consideration eligi-
2 ble entities that—
3 "(A) implement approaches to energy au-
4 dits and investments in energy efficiency meas-
5 ures that yield measurable and predictable sav-
6 ings;
7 "(B) use measurement and verification
8 processes to determine the effectiveness of en-
9 ergy efficiency loans made by eligible entities;
10 "(C) include training for employees of eli-
11 gible entities, including any contractors of such
12 entities, to implement or oversee the activities
13 described in subparagraphs (A) and (B);
14 "(D) provide for the participation of a ma-
15 jority of eligible entities in a State;
16 "(E) reduce the need for generating capac-
17 ity;
18 "(F) provide efficiency loans to—
19 "(i) in the case of a single eligible en-
20 tity, not fewer than 20,000 consumers; or
21 "(ii) in the case of a group of eligible
22 entities, not fewer than 80,000 consumers;
23 and

"(G) serve areas in which, as determined by the Secretary, a large percentage of consumers reside—

"(i) in manufactured homes; or

"(ii) in housing units that are more than 50 years old.

"(3) DEADLINE FOR IMPLEMENTATION.—To the maximum extent practicable, the Secretary shall enter into agreements described in paragraph (1) by not later than 90 days after the date of enactment of this section.

"(4) EFFECT ON AVAILABILITY OF LOANS NATIONALLY.—Nothing in this subsection shall delay the availability of loans to eligible entities on a national basis beginning not later than 180 days after the date of enactment of this section.

"(5) ADDITIONAL DEMONSTRATION PROJECT AUTHORITY.—

"(A) IN GENERAL.—The Secretary may conduct demonstration projects in addition to the project required by paragraph (1).

"(B) INAPPLICABILITY OF CERTAIN CRITERIA.—The additional demonstration projects may be carried out without regard to subparagraphs (D), (F), or (G) of paragraph (2).

1 "(g) ADDITIONAL AUTHORITY.—The authority pro-
2 vided in this section is in addition to any other authority
3 of the Secretary to offer loans under any other law.
4 "(h) EFFECTIVE PERIOD.—Subject to the availability
5 of funds and except as otherwise provided in this section,
6 the loans and other expenditures required to be made
7 under this section shall be available until expended, with
8 the Secretary authorized to make new loans as loans are
9 repaid.
10 "(i) REGULATIONS.—
11 "(1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, not later than 180 days
13 after the date of enactment of this section, the Sec-
14 retary shall promulgate such regulations as are nec-
15 essary to implement this section.
16 "(2) PROCEDURE.—The promulgation of the
17 regulations and administration of this section shall
18 be made without regard to—
19 "(A) the Statement of Policy of the Sec-
20 retary of Agriculture effective July 24, 1971
21 (36 Fed. Reg. 13804), relating to notices of
22 proposed rulemaking and public participation in
23 rulemaking; and

1 "(B) chapter 35 of title 44, United States
2 Code (commonly known as the 'Paperwork Re-
3 duction Act').
4 "(3) CONGRESSIONAL REVIEW OF AGENCY
5 RULEMAKING.—In carrying out this section, the Sec-
6 retary shall use the authority provided under section
7 808 of title 5, United States Code.
8 "(4) INTERIM REGULATIONS.—Notwithstanding
9 paragraphs (1) and (2), to the extent regulations are
10 necessary to carry out any provision of this section,
11 the Secretary shall implement such regulations
12 through the promulgation of an interim rule.".

13 In section 9002(j) of the Farm Security and Rural
14 Investment Act of 2002 (as amended by section 9002) add
15 at the end the following:
16 "(4) MANDATORY FUNDING FOR FISCAL YEARS
17 2013 THROUGH 2017.—Of the funds of the Com-
18 modity Credit Corporation, the Secretary shall use
19 to carry out this section $3,000,000 for each of fis-
20 cal years 2013 through 2017.".

21 In section 9003 of the bill—
22 (1) in subsection (a)(1)—

1 (A) in subparagraph (B), strike "and"
2 after the semicolon at the end;
3 (B) redesignate subparagraph (C) as sub-
4 paragraph (D); and
5 (C) insert after subparagraph (B) the fol-
6 lowing:
7 (C) in subsection (b)—
8 (i) by redesignating paragraphs (1)
9 and (2) as paragraphs (2) and (3), respec-
10 tively; and
11 (ii) by inserting before paragraph (2)
12 (as so redesignated) the following:
13 "(1) BIOBASED PRODUCT MANUFACTURING.—
14 The term 'biobased product manufacturing' means
15 development, construction, and retrofitting of tech-
16 nologically new commercial-scale processing and
17 manufacturing equipment and required facilities that
18 will be used to convert renewable chemicals and
19 other biobased outputs of biorefineries into end-user
20 products on a commercial scale."; and
21 (2) strike subsection (b) and insert the fol-
22 lowing:
23 (b) FUNDING.—Section 9003(h) of the Farm Secu-
24 rity and Rural Investment Act of 2002 (7 U.S.C. 8103(b))
25 is amended—

1 (1) by striking paragraph (1) and inserting the
2 following:
3 "(1) MANDATORY FUNDING.—
4 "(A) IN GENERAL.—Subject to subpara-
5 graph (B), of the funds of the Commodity
6 Credit Corporation, the Secretary shall use for
7 the cost of loan guarantees under this section,
8 to remain available until expended—
9 "(i) $100,000,000 for fiscal year
10 2013; and
11 "(ii) $58,000,000 for each of fiscal
12 years 2014 and 2015.
13 "(B) BIOBASED PRODUCT MANUFAC-
14 TURING.—Of the total amount of funds made
15 available for the period of fiscal years 2013
16 through 2015 under subparagraph (A), the Sec-
17 retary use for the cost of loan guarantees under
18 this section not more than $25,000,000 to pro-
19 mote biobased product manufacturing."; and
20 (2) in paragraph (2), by striking "2012" and
21 inserting "2017".

22 In section 9006(d) of the Farm Security and Rural
23 Investment Act of 2002 (as amended by section 9006),
24 add at the end the following:

1 "(3) MANDATORY FUNDING FOR FISCAL YEARS
2 2013 THROUGH 2017.—Of the funds of the Com-
3 modity Credit Corporation, the Secretary shall use
4 to carry out this section $1,000,000 for each of fis-
5 cal years 2013 through 2017.".

6 In section 9007(a)(1)(B) of the bill—
7 (1) redesignate clauses (i) through (iv) as
8 clauses (ii) through (v), respectively; and
9 (2) insert before clause (ii) (as so redesignated)
10 the following:
11
12 (i) in paragraph (1)(A), insert ", such
13 as for agricultural and associated residen-
14 tial purposes" after "electricity";

15 In section 9007(g) of the Farm Security and Rural
16 Investment Act of 2002 (as amended by section 9007),
17 add at the end the following:
18 "(5) MANDATORY FUNDING FOR FISCAL YEARS
19 2013 THROUGH 2017.—Of the funds of the Com-
20 modity Credit Corporation, the Secretary shall use
21 to carry out this section $48,200,000 for each of fis-
22 cal years 2013 through 2017.".

1 In section 9008(h) of the Farm Security and Rural
2 Investment Act of 2002 (as amended by section 9008),
3 add at the end the following:
4 "(4) MANDATORY FUNDING FOR FISCAL YEARS
5 2013 THROUGH 2017.—Of the funds of the Com-
6 modity Credit Corporation, the Secretary shall use
7 to carry out this section $26,000,000 for each of fis-
8 cal years 2013 through 2017.".

9 Strike section 9010 of the bill and insert the fol-
10 lowing:

11 **SEC. 9010. BIOMASS CROP ASSISTANCE PROGRAM.**

12 Section 9011 of the Farm Security and Rural Invest-
13 ment Act of 2002 (7 U.S.C. 8111) is amended to read
14 as follows:

15 **"SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.**

16 "(a) DEFINITIONS.—In this section:
17 "(1) BCAP.—The term 'BCAP' means the Bio-
18 mass Crop Assistance Program established under
19 this section.
20 "(2) BCAP PROJECT AREA.—The term 'BCAP
21 project area' means an area that—
22 "(A) has specified boundaries that are sub-
23 mitted to the Secretary by the project sponsor
24 and subsequently approved by the Secretary;

1 "(B) includes producers with contract
2 acreage that will supply a portion of the renew-
3 able biomass needed by a biomass conversion
4 facility; and
5 "(C) is physically located within an eco-
6 nomically practicable distance from the biomass
7 conversion facility.
8 "(3) CONTRACT ACREAGE.—The term 'contract
9 acreage' means eligible land that is covered by a
10 BCAP contract entered into with the Secretary.
11 "(4) ELIGIBLE CROP.—
12 "(A) IN GENERAL.—The term 'eligible
13 crop' means a crop of renewable biomass.
14 "(B) EXCLUSIONS.—The term 'eligible
15 crop' does not include—
16 "(i) any crop that is eligible to receive
17 payments under title I of the Food, Con-
18 servation, and Energy Act of 2008 (7
19 U.S.C. 8702 et seq.) or an amendment
20 made by that title;
21 "(ii) any plant that is invasive or nox-
22 ious or species or varieties of plants that
23 credible risk assessment tools or other
24 credible sources determine are potentially
25 invasive, as determined by the Secretary in

1 consultation with other appropriate Fed-
2 eral or State departments and agencies; or
3 "(iii) algae.
4 "(5) ELIGIBLE LAND.—
5 "(A) IN GENERAL.—The term 'eligible
6 land' includes—
7 "(i) agricultural and nonindustrial
8 private forest lands (as defined in section
9 5(c) of the Cooperative Forestry Assistance
10 Act of 1978 (16 U.S.C. 2103a(c))); and
11 "(ii) land enrolled in the agricultural
12 conservation easement program established
13 under subtitle H of title XII of the Food
14 Security Act of 1985.
15 "(B) EXCLUSIONS.—The term 'eligible
16 land' does not include—
17 "(i) Federal- or State-owned land;
18 "(ii) land that is native sod, as of the
19 date of enactment of the Food, Conserva-
20 tion, and Energy Act of 2008 (7 U.S.C.
21 8701 et seq.);
22 "(iii) land enrolled in the conservation
23 reserve program established under sub-
24 chapter B of chapter 1 of subtitle D of

1 title XII of the Food Security Act of 1985
2 (16 U.S.C. 3831 et seq.);
3 "(iv) land enrolled in the wetlands re-
4 serve program established under sub-
5 chapter C of chapter 1 of subtitle D of
6 title XII of that Act (16 U.S.C. 3837 et
7 seq.);
8 "(v) land enrolled in the grassland re-
9 serve program established under sub-
10 chapter D of chapter 2 of subtitle D of
11 title XII of that Act (16 U.S.C. 3838n et
12 seq.); or
13 "(vi) land enrolled in the conservation
14 reserve program, wetlands reserve pro-
15 gram, or grassland reserve program under
16 a contract that will expire at the end of the
17 current fiscal year.
18 "(6) ELIGIBLE MATERIAL.—
19 "(A) IN GENERAL.—The term 'eligible ma-
20 terial' means renewable biomass harvested di-
21 rectly from the land, including crop residue
22 from any crop that is eligible to receive pay-
23 ments under title I of the Food, Conservation,
24 and Energy Act of 2008 (7 U.S.C. 8702 et
25 seq.) or an amendment made by that title.

1 "(B) INCLUSIONS.—The term 'eligible ma-
2 terial' shall only include—
3 "(i) eligible material that is collected
4 or harvested by the eligible material
5 owner—
6 "(I) directly from—
7 "(aa) National Forest Sys-
8 tem;
9 "(bb) Bureau of Land Man-
10 agement land;
11 "(cc) non-Federal land; or
12 "(dd) land owned by an in-
13 dividual Indian or Indian tribe
14 that is held in trust by the
15 United States for the benefit of
16 the individual Indian or Indian
17 tribe or subject to a restriction
18 against alienation imposed by the
19 United States;
20 "(II) in a manner that is con-
21 sistent with—
22 "(aa) a conservation plan;
23 "(bb) a forest stewardship
24 plan; or

"(cc) a plan that the Secretary determines is equivalent to a plan described in item (aa) or (bb) and consistent with Executive Order 13112 (42 U.S.C. 4321 note; relating to invasive species);

"(ii) if woody eligible material, woody eligible material that is produced on land other than contract acreage that—

"(I) is a byproduct of a preventative treatment that is removed to reduce hazardous fuel or to reduce or contain disease or insect infestation; and

"(II) if harvested from Federal land, is harvested in accordance with section 102(e) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512(e)); and

"(iii) eligible material that is delivered to a qualified biomass conversion facility to be used for heat, power, biobased products, research, or advanced biofuels.

1 "(C) EXCLUSIONS.—The term 'eligible ma-
2 terial' does not include—
3 "(i) material that is whole grain from
4 any crop that is eligible to receive pay-
5 ments under title I of the Food, Conserva-
6 tion, and Energy Act of 2008 (7 U.S.C.
7 8702 et seq.) or an amendment made by
8 that title, including—
9 "(I) barley, corn, grain sorghum,
10 oats, rice, or wheat;
11 "(II) honey;
12 "(III) mohair;
13 "(IV) oilseeds, including canola,
14 crambe, flaxseed, mustard seed,
15 rapeseed, safflower seed, soybeans,
16 sesame seed, and sunflower seed;
17 "(V) peanuts;
18 "(VI) pulse;
19 "(VII) chickpeas, lentils, and dry
20 peas;
21 "(VIII) dairy products;
22 "(IX) sugar; and
23 "(X) wool and cotton boll fiber;
24 "(ii) animal waste and byproducts, in-
25 cluding fat, oil, grease, and manure;

1 "(iii) food waste and yard waste;
2 "(iv) algae;
3 "(v) woody eligible material that—
4 "(I) is removed outside contract
5 acreage; and
6 "(II) is not a byproduct of a pre-
7 ventative treatment to reduce haz-
8 ardous fuel or to reduce or contain
9 disease or insect infestation;
10 "(vi) any woody eligible material col-
11 lected or harvested outside contract acre-
12 age that would otherwise be used for exist-
13 ing market products; or
14 "(vii) bagasse.
15 "(7) PRODUCER.—The term 'producer' means
16 an owner or operator of contract acreage that is
17 physically located within a BCAP project area.
18 "(8) PROJECT SPONSOR.—The term 'project
19 sponsor' means—
20 "(A) a group of producers; or
21 "(B) a biomass conversion facility.
22 "(9) SOCIALLY DISADVANTAGED FARMER OR
23 RANCHER.—The term 'socially disadvantaged farmer
24 or rancher' has the meaning given the term in sec-

1 tion 2501(e) of the Food, Agriculture, Conservation,
2 and Trade Act of 1990 (7 U.S.C. 2279(e)).
3 "(b) ESTABLISHMENT AND PURPOSE.—The Sec-
4 retary shall establish and administer a Biomass Crop As-
5 sistance Program to—
6 "(1) support the establishment and production
7 of eligible crops for conversion to bioenergy in se-
8 lected BCAP project areas; and
9 "(2) assist agricultural and forest land owners
10 and operators with the collection, harvest, storage,
11 and transportation of eligible material for use in a
12 biomass conversion facility.
13 "(c) BCAP PROJECT AREA.—
14 "(1) IN GENERAL.—The Secretary shall provide
15 financial assistance to a producer of an eligible crop
16 in a BCAP project area.
17 "(2) SELECTION OF PROJECT AREAS.—
18 "(A) IN GENERAL.—To be considered for
19 selection as a BCAP project area, a project
20 sponsor shall submit to the Secretary a pro-
21 posal that, at a minimum, includes—
22 "(i) a description of the eligible land
23 and eligible crops of each producer that
24 will participate in the proposed BCAP
25 project area;

1 "(ii) a letter of commitment from a
2 biomass conversion facility that the facility
3 will use the eligible crops intended to be
4 produced in the proposed BCAP project
5 area;
6 "(iii) evidence that the biomass con-
7 version facility has sufficient equity avail-
8 able, as determined by the Secretary, if the
9 biomass conversion facility is not oper-
10 ational at the time the proposal is sub-
11 mitted to the Secretary; and
12 "(iv) any other information about the
13 biomass conversion facility or proposed bio-
14 mass conversion facility that the Secretary
15 determines necessary for the Secretary to
16 be reasonably assured that the plant will
17 be in operation by the date on which the
18 eligible crops are ready for harvest.
19 "(B) BCAP PROJECT AREA SELECTION CRI-
20 TERIA.—In selecting BCAP project areas, the
21 Secretary shall consider—
22 "(i) the volume of the eligible crops
23 proposed to be produced in the proposed
24 BCAP project area and the probability

1 that those crops will be used for the pur-
2 poses of the BCAP;
3 "(ii) the volume of renewable biomass
4 projected to be available from sources
5 other than the eligible crops grown on con-
6 tract acres;
7 "(iii) the anticipated economic impact
8 in the proposed BCAP project area;
9 "(iv) the opportunity for producers
10 and local investors to participate in the
11 ownership of the biomass conversion facil-
12 ity in the proposed BCAP project area;
13 "(v) the participation rate by—
14 "(I) beginning farmers or ranch-
15 ers (as defined in accordance with sec-
16 tion 343(a) of the Consolidated Farm
17 and Rural Development Act (7 U.S.C.
18 1991(a))); or
19 "(II) socially disadvantaged
20 farmers or ranchers;
21 "(vi) the impact on soil, water, and
22 related resources;
23 "(vii) the variety in biomass produc-
24 tion approaches within a project area, in-
25 cluding (as appropriate)—

1 "(I) agronomic conditions;
2 "(II) harvest and postharvest
3 practices; and
4 "(III) monoculture and
5 polyculture crop mixes;
6 "(viii) the range of eligible crops
7 among project areas; and
8 "(ix) any additional information that
9 the Secretary determines to be necessary.
10 "(3) CONTRACT.—
11 "(A) IN GENERAL.—On approval of a
12 BCAP project area by the Secretary, each pro-
13 ducer in the BCAP project area shall enter into
14 a contract directly with the Secretary.
15 "(B) MINIMUM TERMS.—At a minimum, a
16 contract under this subsection shall include
17 terms that cover—
18 "(i) an agreement to make available
19 to the Secretary, or to an institution of
20 higher education or other entity designated
21 by the Secretary, such information as the
22 Secretary considers to be appropriate to
23 promote the production of eligible crops
24 and the development of biomass conversion
25 technology;

1 "(ii) compliance with the highly erod-
2 ible land conservation requirements of sub-
3 title B of title XII of the Food Security
4 Act of 1985 (16 U.S.C. 3811 et seq.) and
5 the wetland conservation requirements of
6 subtitle C of title XII of that Act (16
7 U.S.C. 3821 et seq.);
8 "(iii) the implementation of (as deter-
9 mined by the Secretary)—
10 "(I) a conservation plan;
11 "(II) a forest stewardship plan;
12 or
13 "(III) a plan that is equivalent to
14 a conservation or forest stewardship
15 plan; and
16 "(iv) any additional requirements that
17 Secretary determines to be necessary.
18 "(C) DURATION.—A contract under this
19 subsection shall have a term of not more
20 than—
21 "(i) 5 years for annual and perennial
22 crops; or
23 "(ii) 15 years for woody biomass.
24 "(4) RELATIONSHIP TO OTHER PROGRAMS.—In
25 carrying out this subsection, the Secretary shall pro-

1 vide for the preservation of cropland base and yield
2 history applicable to the land enrolled in a BCAP
3 contract.
4 "(5) PAYMENTS.—
5 "(A) IN GENERAL.—The Secretary shall
6 make establishment and annual payments di-
7 rectly to producers to support the establishment
8 and production of eligible crops on contract
9 acreage.
10 "(B) AMOUNT OF ESTABLISHMENT PAY-
11 MENTS.—
12 "(i) IN GENERAL.—Subject to clause
13 (ii), the amount of an establishment pay-
14 ment under this subsection shall be not
15 more than 50 percent of the costs of estab-
16 lishing an eligible perennial crop covered
17 by the contract but not to exceed $500 per
18 acre, including—
19 "(I) the cost of seeds and stock
20 for perennials;
21 "(II) the cost of planting the pe-
22 rennial crop, as determined by the
23 Secretary; and

1 "(III) in the case of nonindus-
2 trial private forestland, the costs of
3 site preparation and tree planting.
4 "(ii) SOCIALLY DISADVANTAGES
5 FARMERS OR RANCHERS.—In the case of
6 socially disadvantaged farmers or ranchers,
7 the costs of establishment may not exceed
8 $750 per acre.
9 "(C) AMOUNT OF ANNUAL PAYMENTS.—
10 "(i) IN GENERAL.—Subject to clause
11 (ii), the amount of an annual payment
12 under this subsection shall be determined
13 by the Secretary.
14 "(ii) REDUCTION.—The Secretary
15 shall reduce an annual payment by an
16 amount determined to be appropriate by
17 the Secretary, if—
18 "(I) an eligible crop is used for
19 purposes other than the production of
20 energy at the biomass conversion fa-
21 cility;
22 "(II) an eligible crop is delivered
23 to the biomass conversion facility;
24 "(III) the producer receives a
25 payment under subsection (d);

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

"(V) the Secretary determines a reduction is necessary to carry out this section.

"(d) ASSISTANCE WITH COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION.—

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

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

"(B) a person with the right to collect or harvest eligible material, regardless of whether the eligible material is produced on contract acreage.

"(2) PAYMENTS.—

"(A) COSTS COVERED.—A payment under this subsection shall be in an amount described in subparagraph (B) for—

"(i) collection;

"(ii) harvest;

"(iii) storage; and

"(iv) transportation to a biomass conversion facility.

1 "(B) AMOUNT.—Subject to paragraph (3),
2 the Secretary may provide matching payments
3 at a rate of up to $1 for each $1 per ton pro-
4 vided by the biomass conversion facility, in an
5 amount not to exceed $20 per dry ton for a pe-
6 riod of 4 years.
7 "(3) LIMITATION ON ASSISTANCE FOR BCAP
8 CONTRACT ACREAGE.—As a condition of the receipt
9 of an annual payment under subsection (c), a pro-
10 ducer receiving a payment under this subsection for
11 collection, harvest, storage, or transportation of an
12 eligible crop produced on BCAP acreage shall agree
13 to a reduction in the annual payment.
14 "(e) REPORT.—Not later than 4 years after the date
15 of enactment of the _____ Act of 2012, the Secretary
16 shall submit to the Committee on Agriculture of the House
17 of Representatives and the Committee on Agriculture, Nu-
18 trition, and Forestry of the Senate a report on the dis-
19 semination by the Secretary of the best practice data and
20 information gathered from participants receiving assist-
21 ance under this section.
22 "(f) FUNDING.—
23 "(1) IN GENERAL.—Of the funds of the Com-
24 modity Credit Corporation, the Secretary shall use

1 to carry out this section $38,600,000 for each of fis-
2 cal years 2013 through 2017.
3 "(2) COLLECTION, HARVEST, TRANSPORTATION,
4 AND STORAGE PAYMENTS.—Of the amount made
5 available under paragraph (1) for each fiscal year,
6 the Secretary shall use not less than 10 percent, nor
7 more than 50 percent, of the amount to make collec-
8 tion, harvest, transportation, and storage payments
9 under subsection (d)(2).".