



**Conference Report to Accompany
Food, Agriculture, Conservation, and Trade
Act of 1990**

H.R. Rep. No. 101-916 (1990)

Part 13 of 14

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The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that an Indian subsistence gardening project could help alleviate nutritional deficiencies present on Indian reservations. The program would provide a supplemental source of produce for Indians and Alaska Natives who have special dietary needs, or are elderly, or participate in the food stamp, commodities, or WIC program. This program could address the increasing prevalence of diet-related diseases among Native Americans and help combat nutritional deficiencies among Native Americans. The Managers will continue to pursue the concept of an Indian subsistence gardening project in 1991.

The Managers direct the Secretary to promote and improve the nutritional aspect of daily diets for Native Americans living on reservations. In doing so the Secretary may seek the advice and assistance of the USDA Cooperative Extension Service, USDA Food Distribution Service, and the Bureau of Indian Affairs to develop the most feasible means to address nutritional deficiencies among Native Americans.

TITLE XVIII—CREDIT

(1) Training or Experience Requirement for Farm Ownership/Operating Loans

The Senate bill contains a minimum experience/training requirement for loan eligibility to three of the previous five years with one of those three being actual on-farm experience (Section 1302; 1306).

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers recognize that there is currently a regulatory one year experience requirement for first-time producers who wish to obtain credit, both direct loans and loan guarantees, from the Farmers Home Administration. The Managers understand that in the past this requirement has been waived or modified for first-time producers if it was determined that the producer had a reasonable prospect of success.

The Managers intend that the Farmers Home Administration should consider the effect of contract farming arrangements in which the contracting company provides farm management training and assistance to the farmer and exercises close managerial oversight. The Managers intend that the Farmers Home Administration consider whether such a contractual arrangement provides a reasonable prospect of success in the applicant's proposed farming operation. If the Farmers Home Administration determines that such arrangement does provide a reasonable prospect of success, the one year minimum experience requirement may be waived.

(2) Soil and Water Loan Program

The Senate bill updates authorized uses of the soil and water conservation loan program to reflect current conservation practices, and allows loans under this program to be made at the limited resource interest rate (Section 1303).

The House amendment has a similar provision with a \$50,000 cap on loan levels (Section 1605).

The Conference substitute combines the purposes of the Senate and House provisions.

(3) Interest Rate on Farm Ownership and Operating Loans Made to Limited Resource Borrowers

The Senate bill simplifies and makes consistent the administrative procedure for establishing the limited resource rate by making the rate for farm ownership loans and operating loans the same, and establishes a floor of 5% (Section 1304; 1307).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(4) Guarantee of Payment by Department of Hawaiian Home Lands

The Senate bill allows the Department of Hawaiian Home Lands to guarantee operating loans for Hawaiian natives who lease Hawaiian homelands (Section 1305).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(5) Debt Settlement and Payment of Accrued Interest

The Senate bill allows FmHA to use debt settlement in all of its loan programs. It also allows for the charging of interest on interest payments that are less than 90 days overdue (Section 1308).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that will give FmHA no new authority to use debt settlement on housing loans made under the Housing Act of 1949.

(6) Documentation for Approval of Security Transfer

The Senate bill requires FmHA to document in the borrower's file any approvals for security transfer (Section 1309).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

The Managers note that the documentation must be completed in a timely manner and a letter acknowledging the transfer be sent to the borrower within a reasonable amount of time.

(7) Notice of Debt Settlement Programs and Extension of Application Deadlines

The Senate bill requires FmHA to include in the notice of loan servicing programs that is sent to borrower who are 180 days delinquent a description of debt settlement programs. The bill extends the deadline for borrower application to FmHA for primary loan servicing from FmHA from 45 to 60 days (Section 1310).

The House amendment has the same provision with respect to the extension of application time for primary loan servicing but does not address debt settlement notification (Section 2907).

The Conference substitute adopts the Senate provision.

(8) Underwriting Forms and Standards

The Senate bill allows FmHA to use underwriting forms and standards that conform to those used by commercial lenders. It re-

quires that prior to using ratios and standards for determining the degree of potential loan risk, the Secretary will have to report to Congress the effect on current and future borrowers, as required under current law (Section 1311).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(9) County Committees

The Senate bill states that if FmHA appoints an eligible farmer-borrower to the county committee, that appointment will not preclude another eligible farmer-borrower from being elected to such committee. The Senate bill also allows the mailing of FmHA election ballots (Section 1312 (a) and (b)).

The Senate bill also requires the Secretary to annually train county committee members on job responsibilities and to develop a training manual (Section 1312(c)).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

The Managers note that the mailing of FmHA election ballots shall only be done if it coincides with an Agriculture Stabilization and Conservation Service mailing and will not require additional funds.

(10) Certification of Loan Eligibility

The Senate bill allows a borrower's eligibility certification to remain in effect for two years (Section 1313).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

The Managers note that the period of eligibility shall not exceed 2 years.

(11) Limitation on Community Facility Program and Business and Industry Loan Program Application Process

The Senate bill allows the Secretary to hold qualified Business and Industry loan program applications until funding is available instead of requiring the Secretary to grant or deny the application within 60 days (Section 1314).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that adds Community Facility loans.

(12) Appeals

The Senate bill requires the county committee or FmHA employee to act on cases overturned by the national appeals staff within a reasonable period of time (Section 1315).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Disposition of Suitable Property

The Senate bill:

(a) reduces from three years to one year the total period of time that FmHA must offer "suitable" inventory land to qualified borrowers (Section 1316(a)).

(b) requires the county committee to randomly select from among qualified bidders the one to receive inventory property (Section 1316 (b) and (h)).

(c) states that leaseback/buyback provisions apply to farm and ranch real estate and the principal residence only (Section 1316(c)).

(d) gives persons that have leased property acquired by the Secretary before January 6, 1988, the right of first refusal on the purchase of the property, during a limited period following enactment. This provision does not apply to property that has been conveyed or contracted to be conveyed by the Secretary prior to enactment of this provision (Section 1316(d)).

(e) gives beginning farmers and ranchers preference when applying for the purchase of "suitable" inventory property (Section 1316(e)).

(f) allows the transfer of Indian land in inventory before January 6, 1988 to the Department of the Interior so that it is handled in a like manner to land taken into inventory after that date (Section 1316(f)).

(g) sets the purchase price of inventory property at the appraised fair market value (Section 1316(g)).

(h) requires the Secretary to establish perpetual wetland conservation easements, subject to certain limitations, to protect and restore wetlands or converted wetlands that are located on FmHA inventory property (Section 1316(i)).

In general, the language of this subsection is intended to protect a substantial number of wetlands on inventoried properties, while maintaining the properties' marketability as agricultural production units. Maintaining a property's marketability is intended to mean maintaining sufficient productive cropland and/or forage areas on the property so that it is marketable for agricultural production purposes. The wetlands that shall be subject to perpetual easements under this provision are intended to provide wetland functional values. These wetlands are divided into three categories: (1) wetlands that are not planted to an agricultural commodity or are planted less than frequently, and wetlands converted after December 23, 1985; (2) wetlands and farmed wetlands that are frequently planted; and (3) wetlands converted before December 23, 1985 (prior converted). The wetlands in these categories are intended to reflect the wetlands definitions currently in use for Swampbuster purposes. Prior converted wetlands often will be frequently planted, but the distinction is made between categories 2 and 3 because prior converted wetlands have, in general, lower wetland functional values than wetlands and farmed wetlands that have been frequently planted. Frequently planted means that over a period of several years the land is planted more often than not.

It is the intent for wetlands in the first category to be subject to full easement coverage under this provision, except for those wetlands that may be excluded on forage producing areas, as described below. Wetlands converted after December 23, 1985, if planted to an agricultural commodity, would be in violation of subtitle C of title XII of the 1985 Food Security Act. These wetlands should be restored and protected with no consideration being given to their planting history. Placing easements on wetlands in this category

will not affect the marketability of the property as a production unit.

Under this first category, full easement coverage would be given to any wetlands or restored wetlands that have a history of haying and grazing, except that the amount of acreage placed under easement is not to exceed 50% of the forage producing areas on the parcel. The wetlands or restored wetlands selected for easement coverage should be those wetlands or restorable wetlands providing the wetland functional values, as recommended by the Fish and Wildlife Service.

The Senate recognizes that managed haying and grazing is consistent with protecting and maintaining wetland values and is allowed under the current program. Easements placed on wetlands that have a history of haying and grazing shall permit such uses when the haying and grazing practices are in accordance with forage management standards that provide for the protection and restoration of wetland functional values. The Managers believe the Fish and Wildlife Service and the Soil Conservation Service should jointly develop and agree to the practices designed to protect these values, in consultation with Land Grant professionals having experience in range and forage management. In addition, the Managers believe such practices should be established for a particular parcel before it is sold out of inventory, and any changes in these practices after the parcel is sold should be agreed to by the landowner.

An overall limitation has been placed on the amount of wetlands in categories 2 and 3 that can be placed under easement (subject to a waiver by the purchaser), where the easements placed on these wetlands cannot represent more than 20 percent of the cropland on the property. Within this 20 percent limitation, in no case may the easements placed on prior converted wetlands represent more than 10 percent of the cropland on the property. The Senate established these limitations to ensure that the marketability of the property will be maintained. Except under the limited circumstances defined below, with respect to the wetlands in categories 2 and 3, only technical considerations of the potential functions and values of the wetlands on the property, as reflected in the Fish and Wildlife Service's recommendations, will determine the size of the easements, up to these established limits.

In general, the croplands used as buffer areas to protect the wetlands under easement are to be included in the calculation of the total amount of cropland that is placed under easement, and are therefore subject to the 10% and 20% overall cropland limitations.

There are certain circumstances where the amount or location of these easements, in relation to the other croplands on the property, would prevent the property from being marketable as an agricultural production unit, comparable to the property as acquired. Marketing the property, comparable as acquired, means marketing a property that can continue to function as the same basic enterprise as when it was acquired. The Senate did not intend for the circumstance to arise where the amount and location of easements established on, for example, a cotton or dairy farm acquired by the FmHA would prevent the property from being marketed as a cotton or dairy farm. This situation is a particular problem in the case where a borrower eligible under the Consolidated Farm and

Rural Development Act for leaseback or buyback of foreclosed property is seeking to purchase or lease this property, or in the case where a beginning farmer who is an eligible FmHA borrower seeking to purchase this property from inventory. Under these circumstances the size of the easements placed on these properties may be reduced by the Secretary, in consultation with the Fish and Wildlife Service, to the extent necessary to maintain such marketability and such comparability.

The Senate expects the Secretary to utilize this flexibility only in situations where it can be shown that to do otherwise would render the property non-marketable. This flexibility shall not be utilized to exercise administrative preference relative to providing full easement coverage up to the established percentage limits.

Under those circumstances where such flexibility clearly must be exercised, the Secretary is directed to reduce the size of the easements placed on the prior converted wetlands first. If reducing the size of these easements is not sufficient to maintain the property's marketability, then a special type of easement that expands the wetlands' use for crop production may be established to the extent necessary on the other frequently planted wetlands on the property. Easements of this type are consistent with many of those currently established in the Northern Plains under the current program. Such easements are also, in principle, consistent with the provisions of subtitle C of title XII of the Food Security Act of 1985, and as stated in the statute, the Committee intends for no practices to be allowed on these easements that would otherwise be in violation of subtitle C.

The House amendment has no comparable provisions except for:

(i) requiring that suitable inventory property be sold at appraised fair market value and that all other sales be at the fair market value as determined by bids or negotiated sale (Section 2901).

The Conference substitute adopts the Senate provisions (a), (c), (d), (e), and (f).

The Conference substitute adopts the Senate provision (b) with an amendment that clarifies that the random selection is mandatory.

The Managers note that the random selection process should be nationally uniform and public.

The Conference substitute adopts the House provision (i).

The Conference substitute adopts the Senate provision (h) with an amendment requiring the Secretary to study the percentages used in limiting the amount of an easement.

The Managers note that the 10 and 20 percent limits established in this subsection may not be optimal with respect to the amount of cropland that should be subject to an easement. For this reason, the Managers believe FmHA should undertake a thorough review and study of the easement coverage that is necessary to achieve the purposes of this subsection, and determine how many acres of inventory property could be subject to such easements. Congress will be considering this issue in detail early in 1991. For this reason the results of FmHA's review and study should be made available to the Congress no later than January 31, 1991.

(14) Definitions

The Senate bill defines the different types of loans made by FmHA. The Secretary is allowed to define in regulation the terms "beginning farmer" and "beginning rancher" (Section 1317).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

The Managers note that the report language accompanying the Senate bill is simply meant to be used as a guide by the Secretary in defining a beginning farmer or rancher.

(15) Extension of Eligibility for Conservation Easements; Assistance to Borrowers

The Senate bill gives the Secretary additional discretionary authority to cancel a portion of a FmHA borrower's outstanding loan in exchange for a conservation easement on wetlands and upland areas, and highly erodible land, on loans issued after the enactment of the Food Security Act of 1985, if the borrower is unable to repay the outstanding loan, as determined by the Secretary. This authority is extended to include reducing the principal of a new loan made to a borrower (Section 1318).

The House amendment has no comparable provision.

The Conference adopts the Senate provision.

The Managers note that this is discretionary authority, giving the Secretary the flexibility to select which wetlands should be protected under this provision. The Managers intend the Secretary to prioritize the application of this provision to farmer-borrowers willing to make improvements to protect valuable wetlands.

(16) Interest Rate Reduction Program, Spending Levels and Demonstration Project

The Senate bill changes the interest rate reduction program by increasing to 4 percent the interest subsidy that the Secretary can pay, and authorizes a shift of direct loan funds to guaranteed loans. The Secretary shall use this interest rate reduction program at a minimum on loans made from the funds so shifted, to the extent practicable (Section 1319(a) and (b)).

This section also extends the demonstration project for purchase of FCS inventory land by one year (Section 1319(c)).

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provisions with the agreement that it be moved to Budget reconciliation legislation.

The Managers note that they agreed to the Senate bill with an amendment that extends the interest rate reduction program through 1995 and increases the amount shifted from direct to guaranteed loans by capping direct loan obligations annually. Under this amendment, if more than 70% of the loans made under the interest rate reduction program are made to borrowers who are not direct loan borrowers seeking to graduate to commercial credit, the amount of direct loan funds shifted under this bill will be reduced in the subsequent fiscal year. The reduction will be based on the proportion of borrowers in the program who are not former direct loan borrowers seeking to graduate to the total number of borrowers provided with guaranteed loans under this program. The Man-

agers then agreed to move these provisions to the Budget Reconciliation Act of 1991 legislation to achieve budgetary savings.

(17) Debt Restructuring and Loan Servicing

The Senate bill:

(a) denies restructuring eligibility to a borrower who has enough non-essential, unsecured assets available to bring the loan current (Section 1320(a)).

(b) includes in the net recovery value calculation the value of non-essential, unsecured assets which are not exempt from judgment creditors or bankruptcy action (Section 1320(b)).

(c) requires the Secretary to write down or restructure a loan to the level necessary to leave the borrower with up to a 5 percent margin on debt service. However, it prohibits the Secretary from denying restructuring to a borrower unable to meet his/her debt obligations with a 5 percent margin (Section 1320(c)).

(d) extends the current deadline for processing the primary loan servicing application from 60 to 90 days (Section 1320(d)).

(e) applies the good faith standard and delinquency beyond the borrower's control criteria to buyout eligibility (Section 1320(e)).

(f) extends the deadline for borrowers to execute a buyout from 45 to 90 days (Section 1320(e)).

(g) replaces the recapture agreement for buyouts with a 10-year shared appreciation agreement and increases the amount on which the shared appreciation calculation is based to the difference between the net recovery buyout amount and the fair market value at time of sale or transfer (Section 1320(e)).

(h) stipulates that if the property is transferred to a spouse or child at the time of death or retirement of the former borrower, the shared appreciation agreement is also transferred and is not triggered until a further sale or transfer takes place (Section 1320(e)).

(i) prohibits the Secretary from giving priority for leaseback/buyback and homestead protection eligibility to a borrower who does not meet the good faith standard and delinquency beyond the borrower's control criteria (Section 1320(e)).

(j) applies the good faith standard for buyouts retroactively only to pending buyout offers to borrowers whom FmHA has determined, prior to date of enactment of this provision, have acted in bad faith (Section 1320(f)).

(k) requires the Secretary to report to Congress on the number of bad faith determinations and appeals (Section 1320(f)).

(l) requires the Secretary, at the request of a borrower who has a current appraisal that is substantially different from FmHA's appraisal, to negotiate the difference or mutually agree on a third appraiser with FmHA and average the difference between the two closest appraisals (Section 1320(g)).

(m) allows the partial liquidation of guaranteed loans if the Secretary approves (Section 1320(h)).

(n) does not consider a borrower to have acted in "bad faith" if such borrower sold normal income security without the approval of the Secretary prior to October 14, 1988 and used the proceeds from that sale for living and operating expenses, and if that borrower would have been entitled to a release of income proceeds under

current regulations effective on October 14, 1988, but the Secretary denied such release (Section 1320(h)).

(o) limits the number of write-downs per borrower to one with two exceptions: a qualified borrower, experiencing a disaster in the current or previous year, may qualify for a further write-down; and a borrower who received a write-down prior to enactment of the 105% of debt service margin provision in this section and becomes delinquent again, may receive a subsequent write-down in an amount not to exceed a sum that, when added to the initial write-down, would equal the amount that would have been written down if the 105% debt service margin provision had been in effect (Section 1320(h)).

(p) prohibits debt forgiveness on the portion of the debt which could be repaid through the use of non-essential, unsecured assets (Section 1320(h)).

(q) limits debt forgiveness to \$350,000 of principal and interest (Section 1320(h)).

The House amendment:

(r) applies the good faith standard to leaseback buyback rights (Section 2902).

(s) includes in the net recovery value calculation property listed in the security agreement even if the property is no longer on the farm (Section 2903).

(t) includes in the restructured loan value calculation all assets of the borrower, other than the value of unencumbered assets determined by the Secretary to be essential for necessary family living expenses or essential to the operation of the farm (Section 2904).

(u) applies the good faith criteria to buyout eligibility (Section 2905).

(v) extends the deadline for borrowers to execute a buyout from 45 to 90 days (Section 2905).

(w) extends the recapture agreement for buyouts to 10 years and increases the amount on which the recapture calculation is based to the difference between the net recovery value and the fair market value at the time of sale or conveyance (Section 2905).

(x) allows a lifetime debt forgiveness limit of \$250,000 of principal or interest (Section 2905; 2906).

(y) limits of the number of write-downs or buyouts to one, with no exceptions and allows the buyout and write-down provisions to be used only on loans made on or before January 6, 1988 (Section 2906).

(z) extends the current deadlines for borrower application for primary loan servicing from 45 to 60 days and processing of the primary loan servicing application from 60 to 90 days (Section 2907).

The Conference substitute adopts the Senate provisions (c), (d), (e), (f), (j), (l), (m), (n), and (p).

The Conference substitute adopts the Senate provision (a) regarding eligibility for restructuring, with an amendment that if the borrower's equity in non-essential assets that may be realized through liquidation of such assets or other methods would produce enough income to bring the loan current, the borrower shall not be eligible for restructuring.

The Conference adopts the Senate provision (b) regarding the inclusion of non-essential assets in the net recovery value calculation with an amendment to clarify that only the value of the borrower's equity in non-essential assets is included in the calculation and to include the cost of disposing of these assets in the calculation of estimated foreclosure expenses. The Managers intend that borrowers should be notified in the Notice of the Availability of Loan Servicing Programs that the value of these assets will be included in the net recovery value calculation. If a borrower chooses to liquidate these assets or obtain financing for the value of these assets and apply those proceeds to FmHA debt, the net recovery value will be reduced accordingly.

The Conference substitute adopts the Senate provision (i) with an amendment to deny leaseback/buyback rights to borrowers who have acted in bad faith and excludes homestead protection from this provision.

The Conference substitute adopts the House provisions (s) and (w).

The Conference substitute adopts the Senate provision (h) with regard to the transfer of property with an amendment that applies it to the recapture agreement (w) and clarifies that the spouse or child be actively engaged in the farm operation on the property.

The Conference substitute deletes the Senate provision (k).

The Managers request that FmHA maintain records that will enable it to provide this information to Congress, if requested, within a reasonable amount of time.

The Conference substitute adopts the Senate provisions (o) and (q), with an amendment that applies one-time debt forgiveness limitation to loans made after January 6, 1988 only and establishes a lifetime debt forgiveness limitation per borrower of \$300,000 of principal and interest. Loans restructured or written down after January 6, 1988 shall be considered new loans for purposes of this debt forgiveness limitation, however the Managers do not intend to limit the number of times a borrower's loan may be restructured without write-down.

(18) Distribution of Funds on Indian Reservations

The Senate bill requires the Secretary to consider Indian reservations as a county when distributing funds (Section 1321).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(19) Borrower Training

The Senate bill requires the Secretary to contract with state, private or other entities to provide borrower training in financial and farm management practices (1322(a)).

To be eligible for loans, borrowers must obtain management training unless the county committee waives the requirement. If the borrower is required to obtain additional management skills through training, beyond those required for loan eligibility, the borrower may not be denied the loan solely on that basis.

The Senate provision also requires the Secretary to issue regulations establishing a curriculum for the borrower training program

and requires that the borrower shall pay for any required training and may use operating loans for this purpose (1322(b)).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(20) Loan Assessments

The Senate bill requires the Secretary to complete loan assessments on all applicants to determine the soundness of the loan and on all borrowers to identify and resolve problems early. The Secretary may contract with a state, private or other entity to provide this assessment (Section 1323).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(21) Supervised Credit

The Senate bill requires the training of FmHA employees in the areas of credit analysis, and financial and farm management (Section 1324).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(22) Graduation of FmHA Borrowers to Private Commercial Credit

The Senate bill mandates borrowers to graduate to commercial credit following 10 years of a direct loan and 15 years of total direct and guaranteed loan assistance, applying only to new loans made after enactment of this provision (Section 1325).

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(23) Market Placement

The Senate bill requires the Secretary to establish a market placement program to enhance a borrower's chance of receiving a guaranteed loan (Section 1326).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(24) Sense of Congress

The Senate bill states the Sense of Congress that FmHA assist beginning farmers and ranchers and the transfer of farm property within families (Section 1327).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(25) Sense of Congress

The Senate bill is a Sense of Congress that the Secretary should improve the loan application review process and the monitoring of guaranteed loan servicing (Section 1328).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(26) Prohibition On Use Of Loans For Certain Purposes

The Senate bill prohibits the use of any loan under this title to drain, dredge, fill, level or otherwise manipulate a wetland, unless the activity is necessary for the maintenance of previously convert-

ed wetlands or was already commenced prior to date of enactment of this provision (Section 1285).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to not permit FmHA to approve any loans for such purposes.

Farm Credit System

(27) Financing for Basic Processing and Marketing Operations Owned By Bona Fide Producers

The Senate bill allows the FCS to lend to marketers and processors whose on-farm production make up any portion of the through-put of their marketing and processing operations (Section 1342).

The House has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that limits the new authority to 15% of the portfolio of the district bank.

(28) Restoration of First Lien on Stock

The Senate bill fixes a technical error in the Agricultural Credit Act of 1987 which excluded Production Credit Associations from the provision giving such institutions a first lien on securities issued by the association (Section 1343).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(29) Insurance Services

The Senate bill eliminates the requirement that FCS offer two carriers for each insurance program (Section 1344).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(30) Management of Farm Credit System Insurance Corporation by Farm Credit Administration Board

The Senate bill states that the Board of the Farm Credit Administration will oversee the Farm Credit Insurance Corporation (Section 1345).

The House amendment has no comparable provision.

The Conference substitute adopts the House provision.

The Managers intend that the deletion of the Senate provision should not be interpreted as supportive of increasing the cost of regulation either directly through FCA or indirectly through the Insurance Fund.

(31) Clarification of Contents of Certified Statements

The Senate bill requires FCS institutions to specifically identify guaranteed loans (Section 1346).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(32) Termination Date for FCS Assistance Board

The Senate bill removes the 5-day gap between the expiration of the Assistance Board and the start up of the Insurance Corporation (Section 1347).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(33) Employment of Certain Persons by Farm Credit Institutions

The Senate bill applies restrictions on hiring persons convicted of certain criminal offenses to all associations (Section 1348).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Termination of System Institution Status of the California Livestock Production Credit Association

The Senate bill allows the California Livestock Production Credit Association to leave the Farm Credit System without being required to pay any part of the last \$1,000,000 of its capital or restricted from transferring any part of the \$1,000,000 to its successor institution (Section 1349).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

The Managers recognize the unique circumstances that justify the California Livestock Production Credit Association's need to be allowed to terminate its status as an institution of the Farm Credit System. However, this section is not intended to apply to any other institution or to establish a precedent for addressing any other institution's request to terminate Farm Credit System status.

(35) Secondary Market for Guaranteed Farmer Program Loans

The Senate bill allows Farmer Mac to pool loans guaranteed by FmHA, thereby authorizing it to implement FmHA's secondary market mandated in the Agricultural Credit Act of 1987 (Section 1350).

The Senate bill provides authority for the Federal Agricultural Mortgage Corporation (Farmer Mac) to pool FmHA guaranteed loans made in accordance with the Consolidated Farm and Rural Development Act.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

Due to significant reductions in the FmHA direct lending programs which are being made for budgetary purposes, the Managers note the importance attached to the implementation of this authority. It expands vitally needed credit availability for farmers and ranchers by providing a significant measure of liquidity to rural lending institutions. Many farmer and rancher operators impacted by the reductions in FmHA direct lending will have no alternative available to meet their credit needs other than the guaranteed loan program. The increased demand will likely exceed the ability of rural lending institutions to respond adequately unless the secondary marketing mechanism authorized in this section is able to function in a timely manner, aided by a regulatory environment

which is sensitive to its needs and purpose. The Managers intend that this authority be promptly implemented.

(36) Authority of Farm Credit Administration to Regulate Federal Agricultural Mortgage Corporation

The Senate bill authorizes the Farm Credit Administration to use existing authorities to oversee for safety and soundness purposes the duties vested in the Corporation and its affiliates by this title (Section 1351).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(37) Exclusion of Farm Credit Administration from Senior Executive Service

The Senate bill puts the FCA on even footing with other Federal agencies by allowing it to adjust salaries commensurate with living expense differences between areas in the U.S. (Section 1352).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(38) GAO Study of Rural Credit Cost and Availability

The Senate bill provides that the Comptroller General study certain matters related to the cost and availability of credit in rural America and report to the Agriculture Committees within 2 years (Section 1353).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(39) Bank Examination

The Senate bill provides for an examination of compensation paid to the chief executive officer and the salary scales of the employees of the banks (Section 1354).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

Miscellaneous

(40) Economic Emergency Loan Program

The Senate bill eliminates the Economic Emergency Loan Program (Section 1361).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(41) Authorization of Appropriations for Farm Ownership Outreach Program to Socially Disadvantaged Individuals

The Senate bill authorizes the administratively-established socially disadvantaged outreach program (Section 1362).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(42) State Mediation Programs

The Senate bill extends the mediation program through 1995 (Section 1363).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(43) Indian Land Acquisition Program

The Senate bill makes Indian tribes eligible for limited resource interest rates on farm ownership loans and increases the Indian Land Acquisition program's authorization to \$8 million each fiscal year through 1995 (Section 1364).

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

(44) Effective Dates

The Senate bill makes most provisions effective on the date of enactment. Section 1808(1), regarding debt-settlement notice provisions, shall be effective 120 days after enactment. Section 1818 on debt restructuring and loan servicing shall apply only to new loan restructuring applications (defined in this section) submitted after date of enactment, except that Section 1818(f), regarding buyouts by borrowers who have acted in bad faith, may be applied to pending buyout offers under certain conditions and Section 1818(h), regarding the liquidation of assets relating to debt forgiveness, which shall not apply until final regulations have been issued. It also sets the effective date for section 1853, regarding restoration of first lien on stock, as January 7, 1988 (Section 1371).

The House amendment has no similar provision.

The Conference substitute adopts the Senate provision.

(45) Regulations

The Senate bill requires the Secretary and the Farm Credit Administration to issue regulations to implement this title.

The House amendment has no similar provision.

The Conference substitute adopts the Senate provision.

TITLE XIX—AGRICULTURAL PROMOTION

Subtitle A—Pecans

(1) Pecan Promotion and Research Act of 1990 [S 2131-2147; H 1421-1434]

The Senate bill establishes a pecan research and promotion program that would—

- (1) be administered by a 15 member board;
- (2) provide for a 2 cent per pound assessment on domestically produced and imported pecans;
- (3) require issuance of the order by the Secretary within 120 days after publication of proposed order;
- (4) require a delayed referendum of producers to approve the order within 2 years;
- (5) allow refunds of assessments prior to the referendum; and
- (6) prohibit refunds of assessments after the referendum, if the order is approved.

The House has a similar provision, except that the issuance of the final order is not required until 150 days after the publication of the proposed order.

The Conference accepts the House position.

*Subtitle B—Mushrooms**(2) Mushroom Promotion, Research and Consumer Information Act of 1990 [S 2151-2163; H 1441-1453]*

The Senate bill establishes a mushroom research and promotion program that would—

- (1) be administered by a 4 to 9 member mushroom council;
- (2) provide for a per pound assessment on domestically produced and imported mushrooms of up to—

- (A) 1/4 cent in year 1;
- (B) 1/3 cent in year 2;
- (C) 1/2 cent in year 3;
- (D) 1 cent in year 4 and thereafter;

- (3) require issuance of the order by the Secretary within 180 days after publication of proposed order;

- (4) require an up front referendum of producers to approve the order;

- (5) prohibit refunds of assessments after the referendum, if the order is approved.

The House amendment has the same provision.

The Conference accepts the House provision.

*Subtitle C—Potatoes**(3) Potato Research and Promotion Act Amendments of 1990 [S 2171-2180; H 1461-1471]*

The Senate bill amends existing law to provide for an alternative potato research and promotion order that would—

- (1) eliminate the refund of assessment provisions in current law;

- (2) provide for the assessment of domestically produced and imported potatoes at a rate of 2 cents per pound;

- (3) provide for a delayed referendum within 2 years with an escrow account for refunds of assessments, if necessary.

The House amendment is similar to Senate provision, except the House amendment does not require an alternative order.

The Conference accepts the House provision.

*Subtitle D—Limes**(4) Lime Research, Promotion, and Consumer Information Act of 1990 [H 1481-1493]*

The Senate bill has no comparable provision.

The House amendment establishes a lime research and promotion program that would—

- (1) be administered by a 11 member board;

- (2) provide for a 1 cent per pound assessment on domestically produced and imported limes;

- (3) require issuance of an order by the Secretary within 150 days after publication of proposed order;

- (4) require a delayed referendum of producers to approve the order within 2 years;

- (5) prohibit refunds of assessments after the referendum, if the order is approved.

The Conference accepts the House provision.

Subtitle E—Soybeans

(5) Findings and Declaration of Policy

The Senate bill contains a declaration of policy of Congress stating the public interest to authorize the establishment of an orderly procedure for developing, financing and implementing a program of soybean promotion, research and consumer information. (Section 2106)

The House amendment, contains a declaration of policy of Congress that stating the public interest to authorize the establishment of an orderly procedure for developing, financing and implementing a program of soybean promotion, research, consumer information and industry information. (Section 712)

The Conference substitute adopts the House position. (Section 1966)

(6) Definitions

The Senate bill defines "Committee" to mean the Soybean Program Coordinating Committee established under Section 2109(e). "Net market price" is defined as the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors or for soybeans pledged as collateral for a loan issued under any Federal price support loan program, the principal amount of the loan. "Producer" is defined as any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of such soybeans. The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States. (Section 2107)

The House amendment does not define "Committee." The term "net market price" means the sales price or other value received by a producer for soybeans after adjustment for any premium or discount based on grading or quality factors, as determined by the Secretary or for soybeans pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan. The term "producer" means any person engaged in the growing of soybeans in the United States who owns, or who shares the ownership and risk of loss of, such soybeans. The terms "State" and "United States" consist of the fifty States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico. (Section 713)

The Conference substitute adopts the Senate position on the term "Committee" and the House positions on the terms "net market price," "producer," and "State." (Section 1967)

(7) Issuance of and Amendment of Orders

The Senate bill requires the Secretary to publish a proposed soybean promotion, research, and information order for public comment within 30 days after receipt of the proposal from the industry or within USDA. The final order is to be issued and become effective no later than 120 days following publication of the proposed

order. Changes to the order are subject to producer referendum except for changes in levels of unit representation on the United Soybean Board. (Section 2108)

The House amendment is the same as Senate except that the order must be issued and become effective not later than 180 days following publication of the proposed order. (Section 714)

The Conference substitute adopts the House position with an amendment to permit the Secretary to issue and to make effective certain orders and amendments to orders without first securing approval of such orders and amendments through a producer referendum. The intent of this amendment is to permit the Secretary to issue such orders and amendments on routine, administrative matters to facilitate the effective operation of the program authorized in this title. It is not the intent of the amendment nor the intent of the Managers to authorize the Secretary to issue orders or amendments to orders to overrule, modify, or in any other manner change matters specifically delineated in the Conference substitute or specifically subject to producer referendum as required by the Conference substitute. As specified in the Conference substitute, matters to remain subject to producer referenda would include: rates of assessments, producers exempt from assessments, nominating procedures, contracting procedures, procedures for carrying out referenda specified in the substitute, and other issues relating to the fundamental policies and guidelines established in the substitute. (Section 1968)

(8) Soybeans on Which Refunds Are Paid Not Included in State Production Level for Purposes of Establishing Board Representation

The Senate bill provides that at the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any State units and combined units. If the Secretary makes an adjustment in State units or combined units, the Secretary shall reapportion the seats on the Board to conform with the adjustments. If payment of refunds following the initial referendum is authorized by producers, in making such adjustments in State and combined units and seats on the Board, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid. (Section 2109)

The House amendment provides that at the end of each 3 year period, beginning with the three year period starting on the effective date of the order, the Secretary, if necessary, shall adjust established State units and combined units; and may make modifications, at the Board's recommendation to the Secretary, to the levels of soybean production used to determine per unit representation on the Board. If the Secretary makes such adjustments, the Secretary shall reestablish the seats on the United Soybean Board.

The Conference substitute adopts the Senate position. (Section 1969)

(9) Nomination and Appointment of Soybean Producers on Board

The Senate bill provides that the Secretary shall appoint to the initially-established United Soybean Board up to three temporary

members to serve in addition to the members appointed. Each such temporary member shall be appointed for a single term not to exceed three years. The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board, that, prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts is represented on the initially-established Board with a number of seats that reflects the relative contributions of such State to the national soybean promotion and research effort. (Section 2109)

The House amendment is the same as the Senate bill except that it further provides that the Secretary shall ensure, to the extent practicable, that at least 5 of the members appointed to the United Soybean Board are members in good standing, and were members for at least 3 years prior to appointment to the Board, of a national general farm organization. Each of the 5 members must be a member of a different national general farm organization. The Secretary may appoint to the initially-established United Soybean Board up to 3 temporary members to serve in addition to the members appointed. Each such temporary member shall be appointed for a single term not to exceed three years. The Secretary, in making temporary appointments to the initially-established Board, shall ensure, to the extent practicable, that each State with a State soybean board that, that prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort. (Section 715)

The Conference substitute adopts the Senate position. (Section 1969)

The Managers encourage the Secretary, in appointing nominees to the United Soybean Board, that at least five of the members appointed are members in good standing, and were members for at least three years prior to appointment to the Board, of a national general farm organization. The Managers encourage the Secretary, to the extent practicable, to ensure that each of these five members be a member of a different national general farm organization.

(10) Elect Committees to Serve on the Soybean Program Coordinating Committee

The Senate bill authorizes the United Soybean Board to elect members of the Board to serve on the Committee (Soybean Program Coordinating Committee). (Section 2109)

The House amendment provides that the United Soybean Board must elect members of the Board to serve on committees of the Board generally. (Section 715)

The Conference substitute adopts the Senate position with an amendment which does not require the order to require to establish the Committee (Soybean Program Coordinating Committee) nor does it require the Board to establish the Committee; however, the substitute permits the order and the Board to establish the Committee. (Section 1969)

(11) Budgets Submitted by the Committee

The Senate bill provides the United Soybean Board with the power and duty to approve, modify, or reject budgets submitted by the Committee (Soybean Program Coordinating Committee).

The House amendment provides the United Soybean Board with the power and duty to submit budgets to the Secretary for the Secretary's approval or disapproval.

The Conference substitute adopts the Senate position with an amendment giving the United Soybean Board the authority (discretionary) to assign to the Committee the power to develop budgets and projects and plans. (Section 1969)

(12) Contracting Authority

The Senate bill requires the United Soybean Board to contract with third parties to fulfill the purposes of this act. (Section 2109)

The House amendment provides the United Soybean Board with the power to contract for carrying out the purposes of this act with appropriate persons and with qualified State soybean boards. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(13) Meeting Notice to Secretary

The Senate bill stipulates that the United Soybean Board must provide the Secretary with prior notice of meetings of the Board at such time as to permit the Secretary to attend.

The House amendment stipulates that the United Soybean Board provide prior notice of meetings of the Board to the Secretary to allow the Secretary or his designated representative to attend such meetings.

The Conference substitute adopts the House position with an amendment to require the Board to provide such notice to the Secretary with respect to meetings of committees of the Board as well. (Section 1969)

(14) Public Availability of Annual Report

The Senate bill provides that the United Soybean Board must provide at least annually a report to soybean producers accounting for funds spent and describing programs implemented.

The House amendment provides that the United Soybean Board must provide at least annually a report to producers accounting for funds and describing programs implemented and make such report available to the public upon request.

The Conference substitute adopts the House position. (Section 1969)

(15) Duplication of Efforts

The Senate bill has no comparable provision.

The House amendment provides that among the powers and duties of the United Soybean Board, the Board must, in carrying out the order, ensure that the development of the budget and activities conducted under the order do not duplicate efforts or cause the ineffective use of resources under any other soybean promotion,

research, consumer information, or industry information program on the State or national level.

The Conference substitute adopts the Senate provision. (Section 1969)

However, it is the intent of the Managers that the United Soybean Board, in carrying out the order, ensure that it not fund programs which duplicate the efforts or cause the ineffective use of resources under, any other similar program on a state or national level.

Since many soybean promotion, research, consumer and industry information projects are carried out all across the country, it is imperative that Board members report their knowledge of ongoing or prospective soybean projects in their states to the Board to avoid wasteful duplication of efforts by the Board. With this in mind, it is critical that all Board members take an active role in the writing the Board's budget and developing its plans and projects.

(16) Establishment of Soybean Coordinating Committee

The Senate bill requires that the order shall provide for the establishment of the Soybean Program Coordinating Committee to assist in the administration of the order. The Committee shall be composed of 10 members and officers of the United Soybean Board, and nine producers elected by the national, nonprofit soybean producer-governed organization that promotes soybeans as a cooperator with the Foreign Agriculture Service. (Section 2109)

The House amendment has no similar provision. (Section 715)

The Conference substitute adopts the Senate provision with an amendment making the establishment of the Committee discretionary in the order and by the United Soybean Board. If the Committee is established, the composition of such Committee is as follows: For every two Board members appointed to the Committee, no more than one producer from the national, non-profit soybean producer-governed organization that promotes soybeans as a cooperator with the Foreign Agriculture Service shall be appointed to the Board. (Section 1969)

(17) Responsibilities of Committee, Board

The Senate bill provides that the Committee is responsible for the development of plans and projects for soybean promotion, research, consumer information, and industry information, and for the development of budgets for such plans and projects. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval. (Section 2109)

The House amendment provides that the Board is responsible for the coordination of promotion and research projects and submitting budgets or any substantial modification thereof to the Secretary for the Secretary's approval. In approving or disapproving the budgets or modifications thereof, the Secretary must ensure that the activities to be funded do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level. (Section 715)

The Conference substitute adopts the Senate position with an amendment to give the United Soybean Board authority to delegate to the Committee the responsibility to develop budgets, plans, or projects. (Section 1969)

(18) Budget Approval

The Senate bill provides that the Committee shall develop and submit budgets to the Board. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval. Each budget shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget. (Section 2109)

The House amendment provides that the Board shall develop and submit budgets to the Secretary. The Secretary must approve or disapprove each budget or modification thereof within 45 days after the Secretary receives the budget or modification thereof. No expenditure of funds may be made by the Board unless the expenditure is authorized under a budget or modification thereof approved by the Secretary. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(19) Administration

The Senate bill provides that the Board shall be responsible for all expenses of the Board and Committee, and that the board and Committee shall use staff and facilities of established national, nonprofit producer governed organizations that represent soybean producers to prevent duplication and inefficient use of funds. (Section 2109)

The House amendment provides that the Board shall be responsible for all expenses of the Board. The Board may establish an administrative staff or facilities of its own or contract for the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans. If the Board establishes an administrative staff of its own, the Board is authorized to expend for administrative staff salaries and benefits an amount not to exceed one percent of the projected level of assessments to be collected by the Board, net of any refunds to be made prior to the initial referendum in that fiscal year. (Section 715)

The Conference substitute adopts the House position and the Managers call special attention to the provision of the substitute limiting the amount of money that can be expended for administrative staff salaries and benefits by 1%. (Section 1969)

(20) Compensation

The Senate bill provides that the staff of such organizations shall not receive compensation directly from the United Soybean Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee. (Section 2109)

The House amendment provides that if the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the United Soybean Board, the staff of such

organizations will not receive compensation directly from the Board, but such organizations will be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(21) Limitation on Costs

The Senate bill provides that the costs incurred by the United Soybean Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5% of the projected level of revenues to the Board (net of any refunds for that fiscal year.) (Section 2109)

The House amendment provides that the costs incurred by the United Soybean Board in administering the order (including the cost of staff but not including administrative costs incurred by the Secretary) during any fiscal year will not exceed 5 percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under section 715(j)(2), for that fiscal year. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(22) Contracts and Agreements

The Senate bill provides that the United Soybean Board shall enter into contracts or agreements to carry out activities under this subtitle with established national, nonprofit producer-governed organizations that represent soybean producers (including the organization electing representatives to the Committee), and for the payment of the cost thereof with funds received by the Board under the order. (Section 2109)

The House amendment provides permissive contracting authority to the Board stipulating only that, to ensure coordination and efficient use of funds, the Board may enter into contracts or agreements for the implementation and carrying out of the activities authorized by this Act with national, nonprofit, producer-governed organizations that represent producers of soybeans, and for the payment thereof with funds received by the Board under the order. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(23) Coordination of Projects

The Senate bill provides that all plans or projects implemented within each program area of consumer and industry information, promotion, and research are implemented by a single national, nonprofit producer-governed organization that represents soybean producers, and there shall not be in force, at any one time, more than one contract or agreement for implementation of plans and projects for each general program area. (Section 2109)

The House amendment provides that to enhance coordination, the Board shall, when entering into contracts or agreements, ensure that all plans or projects implemented for consumer infor-

mation, industry information, promotion, or research are implemented by a single entity. There shall not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research, except that, upon approval of the Secretary, the Board may contract with qualified State soybean boards to implement plans or projects within their respective States. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

The Managers intend that the Board may contract with different entities to implement plans or projects in the respective areas of consumer information, industry information, promotion, or research. To the extent the Board uses this authority, it is the intent of the Managers that the Board interpret the substitute in such a manner as to ensure that all similar programmatic functions be contracted with the same entity. For example, all consumer information activities are to be contracted to the same entity, all industry information activities are to be contract with the same entity, and so on. However, there is nothing in the substitute nor the intent of the Managers to preclude the Board from contracting with the same entity to carry out more than one area of programmatic activities.

(24) Communications to Producers Through Qualified State Soybean Boards

The Senate bill provides that the Board may enter into contracts or agreements with qualified State soybean boards for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order. (Section 2109)

The House amendment has no comparable provision. (Section 715)

The Conference substitute adopts the Senate position with an amendment giving the Board permissive authority to contract for such communications. (Section 1969)

(25) Books and Records of Board

The Senate bill provides that the Board must maintain such books and records, which must be available to the Secretary for inspection and audit, as the Secretary may prescribe; prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and account for the receipt and disbursement of all funds entrusted to the Board. The Board must have its books and records audited by an independent auditor at the end of each fiscal year and must submit a report of the audit to the Secretary. (Section 2109)

The House amendment provides that the Board must maintain such books and records, which must be available to the Secretary for inspection and audit, as the Secretary may prescribe; prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and account for the receipt and disbursement of all funds entrusted to the Board. The Board must have its

books and records audited by an independent auditor at the end of each fiscal year and must submit a report of the audit to the Secretary. The Secretary shall make such report available to the public upon request. (Section 715)

The Conference adopts the House position. (Section 1969)

(26) Refunds

The Senate bill provides that producers have the option to receive assessment refunds during the period prior to the initial referendum on the continuation of the order. Following the approval of the order in the initial referendum, refunds are permitted up until the time the Secretary polls producers on the continuance of refunds. If the Secretary determines, based on the poll, that the conduct of a referendum is supported by at least 10% of the producers (not in excess of one-fifth of which may be producers in any one State), who during a representative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all soybean producers to determine whether such producers favor the continuation of the payment of refunds under the order. (Section 2109)

The House amendment provides that refunds of assessments prior to the initial referendum are permissible upon the producers' request. (Section 715)

The Conference substitute adopts the Senate position with an amendment to require that the costs of the referenda on refunds are to be divided equally between the U.S. Department of Agriculture and the United Soybean Board. The percentage of producers necessary to request a referendum for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order is increased to 20%. (Section 1969)

(27) Escrow Accounts for Refunds

The Senate bill provides that the United Soybean Board and each qualified State soybean board that collects assessments shall establish separate escrow accounts to be used to pay refunds of assessments, if such refunds are approved by a referendum of producers. (Section 2109)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment which requires that each Qualified State Soybean Board establish an escrow account to be used to pay refunds. Each Qualified State Soybean Board shall deposit into its escrow account for refunds 10% of the total assessments collected by the Qualified State Soybean Board during the time period involved. Refunds of assessments requested from a State shall be made from the escrow account that is applicable to such State. Refunds of assessments requested by producers shall not exceed 10% of the assessments collected from such State. (Section 1969)

(28) Prohibition on Use of Funds

The Senate bill provides that the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy. Exceptions to this prohibition are limited to: the

development and recommendation of amendments to the order or the communication to appropriate government officials of information relating to the conduct, implementation, or industry information activities under the order. (Section 2109)

The House amendment provides that the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign, State or United States territory or possession government, or any political subdivision thereof. The prohibition shall not apply to the development and recommendation of amendments to the order; the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information under the order; or any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof. (Section 715)

The Conference substitute adopts the Senate position with an amendment to include the House amendment's provision permitting the use of funds collected under the order to promote the marketing of soybeans directly to a foreign government. (Section 1969)

It is the Managers intent in authorizing the promotion activities as defined in this section, to permit the United Soybean Board to conduct activities which will improve the competitive position of soybeans and soybeans and soybean products both domestically and in foreign countries. Included in this definition are traditional promotion activities such as paid advertising and media relations activities.

The Managers recognize the heavy reliance on exports of the domestic soybean industry. If the domestic industry is to maintain and expand its export opportunities, it must provide importing nations with technical assistance relating to the storage, use or distribution of soybeans or soybean products and other trade servicing activities similar to those being conducted by industry organizations through the cooperator program implemented in conjunction with the Foreign Agricultural Service of the Department of Agriculture.

In addition, the Managers acknowledge that the United Soybean Board must, in certain situations, conduct activities designed to communicate information to those persons that have an influence on purchases, importation, utilization or distribution of soybeans or soybean products. In many instances, those persons include officials of foreign governments. Therefore, the officials of foreign countries relating to the positive attributes of soybeans or soybean products, or their importation, utilization or distribution or to develop information regarding the effects of existing or proposed impediments to trade or utilization. The Managers recognize the potential problems associated with the United Soybean Board engaging in foreign trade activities that may be viewed as establishing or conflicting with the conduct of the official policies of the U.S. government. A balance must be struck which will allow the United Soybean Board to conduct those activities necessary to facilitate exports, while not authorizing the United Soybean board to negotiate foreign trade policies on behalf of the U.S. Government. It is not the intent of

the Managers that the United Soybean board independently conduct negotiations with or represent U.S. Government or domestic soybean producer industry positions to foreign government officials advocating the removal or modification of tariffs, quotas, or other import barriers. This would not preclude the United Soybean Board from providing technical assistance to the U.S. Government during negotiations or discussion. Trade negotiations are a function of the United States Trade Representative's Office. However, the United Soybean Board must be able to promote its products to those who have an influence on consumption and provide information to consumers, importers, processors, wholesalers, retailers and, as deemed appropriate by the Secretary of Agriculture, foreign government officials relating to the effects of existing or proposed impediments to trade or utilization of soybeans or soybean products. All contacts by the United Soybean Board with foreign government officials, including date and topic of discussion, are to be immediately reported to the Secretary.

It is the intent that all plans and projects conducted by the United Soybean Board are to be approved by the Agricultural Marketing Service of the Department of Agriculture. The Managers believe that this review process will preclude any activities by the United Soybean Board that could run counter to or obviate other official ongoing or planned trade-sanctioned activities of the United States Government. The Agricultural Marketing Service, in approving any projects which involve interaction with foreign government officials, shall consult with and obtain the views and comments of the Foreign Agricultural Service and the United States Trade Representative's Office.

(29) Loan collateral and Single Process

The Senate bill provides that the order may establish a procedure that authorizes the reimbursement of assessments paid by producers if soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. In such case, the first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting the assessments in the manner prescribed in the order. The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order. (Section 2109)

The House amendment provides that the procedures in the order for the collection of assessments must ensure, to the extent practicable, that the soybeans are subject to a single process of assessment under the order. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(30) Recordkeeping Requirement

The Senate bill requires that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the

time, in the manner, and having the content prescribed by the order, except that the order shall exempt small producers processing soybeans of their own production who are not required to pay assessments under the order from recordkeeping and reporting requirements. The order shall define "small producer". (Section 2109)

The House amendment provides that each first purchaser of soybeans of that person's own production maintain and make available for inspection by the Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order. (Section 715)

The Conference substitute adopts House position with an amendment to require the order to define the term "small producer." (Section 1969)

(31) Confidentiality

The Senate bill requires all officers and employees of the Department, and agents of the Board to keep commercial or financial information acquired from first purchasers or processors confidential. This information shall be made available to any agency or officer of the Federal Government for the implementation of this subtitle; any investigatory or enforcement action necessary for the implementation of this subtitle or any civil or criminal law enforcement activity if the activity is authorized by law. Information obtained under this subtitle may not prohibit the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. (Section 2109)

The House amendment provides that any commercial or financial information obtained the order shall be kept confidential by all officers and employees of the Department, the Board, and agents of the board. Information obtained under the authority of this subtitle shall be made available to any agency or officer of the Federal Government for the implementation of this subtitle; any investigatory or enforcement action necessary for the implementation of this subtitle; or any civil or criminal law enforcement activity if the activity is authorized by law. (Section 715)

The Conference substitute adopts the Senate position with an amendment to require United Soybean Board members to maintain confidentiality of commercial or financial information obtained under the order. (Section 1969)

(32) Violation of Confidentiality

The Senate bill provides that any person violating the confidentiality provisions, upon conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, must be removed from office. (Section 2109)

The House amendment provides that any person who intentionally or knowingly violates the confidentiality provisions, upon conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, must be removed from office. (Section 715)

The Conference substitute adopts the House position. (Section 1969)

(33) Advance Notice of Any Referendum

The Senate bill provides the Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, country newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county ASCS offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts. (Section 2110)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate position. (Section 1970)

(34) Petition and Review

The Senate bill requires that challenges to the order first be brought before the Secretary for hearing and a ruling, and then for review in the United States district courts. (Section 2111)

The House amendment has a similar provision. (Section 717)

The Conference substitute adopts the Senate position with an amendment to make these provisions consistent with other promotion programs. (Section 1971)

(35) Enforcement

The Senate bill authorizes the Secretary to issue cease and desist orders and assess civil penalties for violations of the order. The United States district courts are authorized to enforce such orders and penalties, and the United States courts of appeals may review such orders and penalties. (Section 2112)

The House amendment has a similar provision. (Section 718)

The Conference substitute adopts the Senate position with an amendment to make these provisions consistent with other promotion programs. (Section 1972)

(36) Investigations and Power to Subpoena

The Senate bill authorizes the Secretary to make such investigations as are necessary to administer and enforce the program, and provides the Secretary the power to subpoena witnesses, administer oaths and affirmations, and otherwise obtain records and evidence. The courts of the United States are authorized to enforce the subpoenas issued by the Secretary through use of their contempt power. (Section 2113)

The House amendment has a similar provision, except the Secretary is not granted the authority to issue investigatory subpoenas. (Section 719)

The Conference substitute adopts the House position with an amendment to make this provisions consistent with other promotion programs. (Section 1973)

(37) Administrative Provisions

The Senate bill provides that the subtitle shall not supersede or preempt any State soybean promotion program, except that States may not conduct certain referenda on the continuation of their programs from the time of the issuance of the order until 36 months after the initial referendum under this Act; and State limits on assessment rates will not prohibit qualified State soybean boards from recovering the full amount authorized under the subtitle. (Section 2114)

The House amendment has a similar provision, except that the limitation on State referenda does not apply in the case of a State referendum that is originated by soybean producers. (Section 720)

The Conference substitute adopts the Senate position with an amendment to clarify that the prohibition on State referenda does not apply if the referendum is originated by producers. (Section 1974)

(38) Suspension or Termination of Orders

The Senate bill provides that the Secretary may suspend or terminate the order or any provision that obstructs or does not effectuate the policy of this subtitle. (Section 2115)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate position. (Section 1975)

Subtitle F—Honey and Wool

CHAPTER 1—HONEY

(39) Honey Research and Promotion Act Amendments [S 2185-2191; H 611-617]

The Senate bill amends existing law to—

- (1) reforms board and committee nominations process;
- (2) limits assessment exemptions to home use, donations, etc.; and
- (3) reforms provisions for refund of importer assessments.

The House amendment is the same as Senate.

CHAPTER 2—WOOL

(40) Amendment to National Wool Act of 1954 [S 1730; H 502]

The Senate bill reduces from 2/3 to a majority the number of producers needed to approve a referendum on promotion and related activities.

The House amendment is the same as Senate.

The Conference accepts the Senate provision.

*Subtitle G—Cotton**(41) Findings and declaration of policy [S2122; H1474]*

The Senate bill amends the Cotton Research and Promotion Act (the Act) to declare findings of Congress that assessments should be collected on all cotton marketed in the United States, including imports of cotton.

The House amendment is the same as Senate, except it also—

(1) acknowledges foreign produced cotton;

(2) clarifies that cotton moves in interstate and foreign commerce; and

(3) recognizes that manmade fibers have affected the market for foreign produced cotton, as well as U.S. produced cotton.

The Conference substitute adopts the House provision.

(42) Alternative order; or amendments to required terms in current order [S2123; H1475]

The Senate bill provides that new §7A(a) provides that the Secretary shall issue an alternative order within 60 days. Such order will be substantially the same as the existing order, except that it will require assessments on imports and end the present practice of refunding assessments to domestic producers who request them. Incumbent members of the Cotton Board shall serve their full term.

The House amendment provides that section 1475(1) will make technical and conforming amendments to section 7(a)(2) of the Act, consistent with section 1475.

The Conference substitute adopts the House provision.

(43) Cotton Board representation

The Senate bill provides that new §7A(b) establishes a Cotton Board to administer the order, with membership selected by the Secretary to represent cotton-producing states, importers and consumers.

The House amendment provides that section 1475(2) will add a new section 7(b)(2) to the Act to require, when imports of cotton are subject to an order, that—

(A) the Cotton Board established pursuant to section 7(a) of the Act include an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under the Act;

(B) such importer representatives will be appointed by the Secretary after consultation with organizations representing importers; and

(C) each cotton-producing State is entitled to at least one representative on the Cotton Board.

The Conference substitute adopts the House provision.

(44) Payment of assessments

The Senate bill provides that new §7A(c)-(d) provides that the Cotton Board prepare a plan covering proposed activities and budget for the Secretary's review and approval.

The House amendment has no comparable provision.

The Senate bill provides that new §7A(e) requires that the alternative order provide for the payment of assessments by producers

through handlers to the Board, and by importers directly to the Board.

The House amendment provides that section 1475(3) will amend section 7(e)(1) to require such orders to contain terms and conditions providing that—

(A) the producer or other person for whom the cotton is being handled must pay an assessment prescribed by the order to the handler of such cotton;

(B) such handler shall collect the assessment from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay such assessment to the Cotton Board; and

(C) each importer shall pay such assessment to the Cotton Board on imports of cotton,

as such assessment is prescribed by the order, on the basis of bales of cotton handled or imported.

The Senate bill provides that a reasonable reserve may be established.

The House amendment provides that section 7(e)(1) will also require the assessment to cover such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary.

The Conference substitute adopts the House provision.

(45) Reimbursement of Government costs

The Senate bill provides that the Board shall reimburse the Secretary for referendum and administrative costs, and other government agencies for administering the import provisions.

The House amendment provides that the new section 7(e)(2) will require the order to provide for reimbursing the Secretary—

(A) for expenses, not to exceed \$300,000, incurred by the Secretary in connection with any referendum conducted under section 8 of the Act; and

(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.

The new section 7(e)(2) will also require that there be included in the order a provision for reimbursing any agency of the Federal Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection therewith.

The new section 7(e)(3) will authorize the Cotton Board, in order to facilitate the collection and payment of assessments under section 7 of the Act, to designate different handlers or importers, or classes of handlers or importers, to recognize differences in marketing practices or procedures utilized in any State or area, with the exception that no more than one such assessment may be made on any bale of cotton, unless specifically authorized by provisions of section 7(e) of the Act.

The Senate bill provides that not more than one assessment may be collected on each bale.

The Conference substitute adopts the House provision.

(46) Rate of assessment

The Senate bill provides that the amount of assessment shall be \$1.00 per bale plus a supplemental amount not to exceed 1 percent of the value as determined by the Cotton Board.

Imports will be assessed an amount the Secretary determines to be fair and equitable to the amount collected on domestically produced cotton.

The House amendment provides that new section 7(e)(4) of the Act will require—

(A) the rate of assessment prescribed by the order to be \$1 per bale of cotton handled, supplemented by an additional per bale amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary;

(B) the rate of assessment on imports of cotton to be determined in the same manner as the rate of assessment per bale of cotton handled; and

(C) that the value to be placed on cotton imports for the purpose of determining the assessment on such imports be established by the Secretary in a fair and equitable manner.

The Conference substitute adopts the House provision.

(47) Reduction of assessment for cotton re-entering the U.S.

The Senate bill provides that the Secretary may reduce the assessment on imported cotton to reflect the reimportation of domestically produced cotton in the form of value-added products. (New section 7A(e)(8)(C))

The House amendment has no comparable provision.

The Senate bill provides that the Secretary may file suit against a person subject to the alternative order for collection of the assessment in any district court.

The House amendment provides that the new section 7(e)(5) of the Act will prohibit any authority under the Act from being used as a basis to use funds collected under the Act to advertise or solicit votes in any referendum relating to the rate of assessment.

The new section 7(e)(6) will authorize the Secretary to maintain a suit against any person subject to the order for the collection of such assessment, and vest the several district courts of the United States with jurisdiction to entertain such suits regardless of the amount in controversy. Section 7(e)(6) will also clarify that the remedies provided in section 7 of the Act are in addition to, and not exclusive of, the remedies provided for elsewhere in the Act or now or hereafter existing at law or in equity.

The new section 7(e)(7) will require that the provisions of section 7(b) (regarding representation on the Cotton Board) and section 7(e) (regarding assessments) not be applicable to cottonseed and the products derived from cotton and its seed.

The new section 7(e)(8) will provide that the provisions of section 7(e) of the Act relating to importers and assessments on imports of cotton will be effective only if approved in a referendum as provided in section 8(b) or 8(c) of the Act, as added by section 1476 of the bill.

The Senate bill provides that new §7A(f) provides for the Cotton Board to maintain certain books and records for the Secretary.

The Senate bill provides that new §7A(g) authorizes the Cotton Board to enter into contracts, with the Secretary's approval, to carry out authorized activities. Organizations representative of cotton producers may enter into contracts with the Board, provided they submit an annual program and budget that is approved by the Secretary. Contractors shall keep accurate records and shall annually report to the Board on activities using assessments.

The Senate bill prohibits use of assessments to influence governmental policy except to recommend amendments to the Secretary.

The House amendment retains current law, which contains a similar provision.

The Conference substitute adopts the House provision. The Managers intend for the Secretary of Agriculture and the Secretary of Treasury jointly, to establish procedures under which assessments on imports will be collected and remitted by the Customs Service to the Cotton Board. Any unpaid assessments due from an importer should be deducted by Customs from the importer's surety bond.

The Managers intend for the Secretary, in consultation with the Commissioner of Customs, to establish a fair and reasonable method of calculating the bale equivalent cotton content of imported products for the purpose of applying the assessment.

The Managers intend for the Secretary, in consultation with the Commissioner of Customs, to develop a means of exempting the cotton content of imported products if it can be reasonably ascertained that the cotton has been previously assessed or is cotton which would be classified as extra long staple not subject to the assessment provisions.

The Managers expect the United States Customs Service to cooperate with the Department of Agriculture in administering and enforcing the provisions of the Act, and to be reimbursed for expenses incurred in connection with administering and enforcing the import provisions of the program.

Some of the Managers remain concerned about the potential inequities of collecting assessments on imports of cotton and cotton-containing products, such as textiles and garments, when the imports of those products are subject to import quotas.

Approximately 80 percent of total imports of cotton textile and garment products are currently subject to quota restrictions. Approximately 93 percent of total cotton textile imports are potentially subject to quota restrictions under the current textile quota program. If consumer demand for cotton products increases as a result of the cotton research and promotion program, importers would only benefit to the extent that the relevant import quotas allow for growth proportionate to the growth in the market. It is not clear that this would necessarily be the case. Therefore, there is the potential for importers to contribute to the research and promotion program on an equal footing with domestic producers, but be denied equivalent benefits.

The Managers do not intend for this inequity to result, and urge the Administration to administer both the cotton research and promotion program and the import quota programs for cotton and cotton products in such a manner as to provide the greatest possible opportunity for importers to benefit from the research and pro-

motion program on an equivalent basis as domestic producers of cotton and cotton products.

(48) Requirements for referenda [S2124; H1476]

Publication of order

The Senate bill requires the Secretary to issue the order within 120 days of publication and after notice and opportunity for public comment.

The House amendment provides that the new section 8(b)(1) of the Act will require the Secretary, notwithstanding the provisions of sections 4 and 5 of the Act (regarding notice and hearing, and the finding required prior to the issuance of an order), not later than 150 days after the date of enactment, and after notice and opportunity for public comment, to issue a proposed amendment to the order implementing the provisions of part 4.

The Conference substitute adopts the House provision.

(49) Initial Referendum

The Senate bill provides that a producer referendum on the alternative order within 8 months of enactment. The alternative order is effective if approved by a majority of producers voting, and regulations to implement the order shall be published within 90 days of publication of the results.

The House amendment provides that the new section 8(b)(2) of the Act will require the Secretary, notwithstanding the provisions of the current section 8 of the Act, to conduct, within a period not to exceed 8 months after the date of enactment of the bill, a referendum among persons who have been cotton producers and importers during a representative period for the purpose of ascertaining if a majority of those voting approve the proposed amendment to the order. The new section 8(b)(2) will also require the Secretary—

(A) to announce the results of the referendum within 30 days after the date of such referendum; and

(B) if the amendment is approved in the referendum, to publish the amendment to the order and regulations implementing the amendment within a period not to exceed 90 days from the date of announcement of the results of such referendum.

The Conference substitute adopts the House provision, with an amendment.

The Managers expect the Secretary to establish procedures under which importers of cotton and cotton products who are eligible to vote in the referendum may be identified in a fair and reasonable manner with minimal administrative burdens.

(50) Reconfirmation referendum

The Senate bill provides that a second referendum shall be held within 15 to 30 months of enactment among producers and importers. A majority of producers and a majority of importers must disapprove the order to terminate the order. Otherwise, final regulations will be issued within 90 days of publication of the results.

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(51) Periodic referenda

The Senate bill has no comparable provision.

The House amendment provides that new section 8(c)(1) will require the Secretary—

(A) notwithstanding the provisions of sections 4 and 5, once every five years after the date of the referendum provided for under section 8(b), to conduct a review to ascertain whether a referendum is needed to determine whether producers and importers favor continuation of the amendment to the order provided for in part 4 if such amendment is then in effect or, if such an amendment is not in effect, whether they favor approval of such an amendment;

(B) to make a public announcement of the results of the review described in (A) above within 60 days after each fifth anniversary date of the referendum provided for under section 8(b); and

(C) if the Secretary determines to provide for such a referendum, to conduct the referendum within 12 months after a public announcement of the determination to conduct the referendum.

The Conference substitute adopts the House provision.

(52) Escrow account

The Senate bill provides an escrow account of 10 percent of assessments will be held until the second referendum is complete, and refunds shall be made if the order is disapproved to producers and importers.

The House amendment has no comparable provision. No escrow account is necessary as the amendments to the order must be approved by referendum before refunds are disallowed.

The Conference substitute adopts the House provision.

(53) Additional referenda

The Senate bill provides additional referenda may be requested by 10 percent of the producers and importers (not more than 20 percent from any one state or importers) every 5 years to disapprove the order.

The House amendment provides that the new section 8(c)(2) will require the Secretary, if the Secretary does not provide for such a referendum on the Secretary's own initiative, to conduct such a referendum upon the request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that, in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State. Producers and importers may sign up to request a referendum at the county ASCS office, or county extension agent, or by mailing such a request to the Secretary. Section 8(c)(2) will also require the sign-up period for such a referendum—

(A) to be for a period not to exceed 90 days;

(B) to commence 60 days after the Secretary makes a public announcement of a determination not to provide for a referendum on the Secretary's own initiative; and

(C) be publicized by the Secretary and the Cotton Board immediately after such public announcement. Requires the referendum to be held within 12 months after the end of the sign-up period, if requested by the requisite number of persons.

The Senate bill has no comparable provision.

The House amendment provides that the new section 8(c)(3) will require that the amendment to the order provided for in section 8(c) not be effective if it is disapproved by a majority of cotton producers and importers of cotton voting in the referendum.

The Conference substitute adopts the House provision, with an amendment providing that if a subsequent referendum is requested, not more than 20 percent of such requests may be from producers from any one State or importers of cotton.

(54) Suspension and termination of orders [H1477]

The Senate bill has no comparable provision.

The House amendment amends section 9(b) of the Act to provide for the representation of importers in a referendum to suspend or terminate an order under the Act, by—

(1) authorizing the Secretary to conduct a referendum at any time; and

(2) requiring the Secretary to hold a referendum on request of a number of producers and importers (if importers are subject to the order) equivalent to at least 10 percent of those persons voting in the most recent referendum to determine whether cotton producers and importers subject to the order favor the termination or suspension of the order.

Will also require the Secretary to suspend or terminate the order at the end of the marketing year, as defined in the order, whenever the Secretary determines suspension or termination of the order is approved by a majority of producers and importers (if importers are subject to the order) voting in the referendum who, during a representative period determined by the Secretary—

(1) have been engaged in the production and importation of cotton; and

(2) produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum.

The Conference substitute adopts the House provision.

(55) Amendments to the order [S2124 new § 8(e) of the Act; H1478]

The Senate bill provides disapproval of any alternative order or an amendment shall not operate to invalidate the order in effect on the date of the referendum.

The House amendment provides that section 1478 of the bill will amend section 10(a) of the Act to require the provisions of the Act applicable to orders to be applicable to amendments to orders.

The new section 10(b) will prohibit any amendment to an order from being effective unless the Secretary determines that—

(1) with respect to an amendment referred to in section 8(b) or (8)(c) of the Act, the amendment is approved by producers and importers of cotton as provided therein; or

(2) with respect to any other amendment, that the amendment is approved by a majority of cotton producers and importers subject to the order voting in the referendum.

The new section 10(c) will prohibit the disapproval of any amendment to an order issued under the Act from being deemed to invalidate such order.

The Conference substitute adopts the House provision.

(56) Termination of producer refunds [S2125; H1479]

The Senate bill terminates the Cotton Board's authority to process refunds if the alternative order is approved in a referendum.

The House amendment provides that section 1479 will amend section 11 of the Act by adding a new subsection (b) to require that the right of a producer to demand a refund under section 11(a) (the current section 11 of the Act) will—

(1) terminate if the proposed amendment of the order is approved in the referendum provided for under the new section 8 of the Act;

(2) terminate 30 days after the date the Secretary announces the results of such referendum, if such proposed amendment is approved; and

(3) be reinstated if such amendment should be disapproved in any subsequent referendum.

The Conference substitute adopts the House provision.

(57) Definitions [S2126; H1480]

(58) "Cotton" to include importers

The Senate bill provides that §2126 defines "cotton" to mean all upland cotton harvested in the United States and imports of upland cotton, including the upland cotton content of the products derived thereof (other than industrial products as defined by the Secretary).

De minimis amounts of imported cotton may be exempt from assessments to minimize the administrative burden but provide for maximum participation of imports in assessments.

The House amendment provides that §1480 will amend section 17 of the Act to amend the current definitions of "cotton" and "handler" to provide for imports of cotton, and to define "import" and "importer".

§1480(1) amends the definition of the term "cotton" to—

(A) include imports of upland cotton; and

(B) exclude any entry of imported cotton by an importer that has a value or weight less than any de minimis figure established by the Secretary. Any such de minimis figure must be established so as to minimize the burden in administering the assessment provision but still to provide for the maximum participation of imports of cotton in the assessment provisions of the Act.

The Conference substitute adopts the House provision with an amendment including the upland cotton content of the products derived from upland cotton in the definition of the term "cotton".

(59) "Handler" to include importers

The Senate bill provides that the definition of a "handler" is expanded to include any person who imports cotton.

The House amendment provides that § 1480(2) will amend the definition of the term seas "handler" to include any person who imports cotton, including de minimis amounts of cotton.

The Conference substitute adopts the House provision.

(60) "Imports" and "Importer"

The Senate bill provides that an "importer" is defined as any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States.

The House amendment provides that § 1480(3) will provide that—

(A) the term "importer" will mean any person who enters, or withdraws from warehouse, cotton produced outside the United States for consumption in the customs territory of the United States; and

(B) the term "import" will mean any such entry, or withdrawal from warehouse, of any such cotton.

The Conference substitute adopts the House provision, with an amendment to delete the reference to cotton "produced outside the United States".

(61) Clarifying amendment [S2127]

The Senate bill amends § 7(e) of the Act (regarding payment of assessments) to clarify that the provisions of § 7(e) shall not apply to cottonseed and the products derived from cotton and its seed.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision, with an amendment directing the Secretary of Agriculture and the Commissioner of Customs to submit reports on the implementation of this Act one year after the date on which imports begin to be subject to assessments. An additional report from the General Accounting Office is required after three years.

*Subtitle H—Processor-Funded Fluid Milk Promotion Program**(62) Subtitle B—Processor-Funded Milk Promotion Program Short Title [SB 121]*

The Senate bill provides that this subtitle may be cited as the "Fluid Milk Promotion Act of 1990". (Section 121)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision (Sec. 1999A).

(63) Findings and Declaration of Policy [SB 122]

The Senate bill lists several findings about the importance of milk in the human diet and the role of the dairy industry in the economy of the United States. This section also includes a policy statement that it is in the public interest to strengthen the position of the dairy industry in the marketplace and to expand uses for Class I fluid milk products. (Section 122)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include findings recognizing the importance to the dairy industry of its fluid milk segment and the benefits to be derived from implementation of a coordinated program of advertising and promotion of fluid milk. (Sec. 1999B).

(64) Definitions

The Senate bill defines certain terms used in the subtitle. (Section 123)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment (Sec. 1999C).

(65) Authority to Issue Orders

The Senate bill requires the Secretary to issue and amend orders applicable to all processors of milk. The Secretary may issue orders authorizing the collection of assessments on Class I fluid milk products and use the assessments for research and advertising as prescribed by this subtitle. Only one national order may be in effect at any time. (Section 124)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment (Sec. 1999D).

(66) Notice and Hearings

The Senate bill provides that if the Secretary receives a request for the issuance of an order under this subtitle, and specific proposal for a plan, from Class I processors representing not less than 30 percent of Class I fluid milk product sales, the Secretary may propose the issuance of an order under this subtitle. (Section 125)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide for a period of notice and comment to begin after publication of a proposed order (Sec. 1999E).

(67) Findings and Issuance of Orders

The Senate bill provides that after notice and comment are given, the Secretary shall issue the order for the program. (Section 126)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that an approved order shall take effect not later than 180 days after the proposed order is published (Sec. 1999F).

(68) Regulations

The Senate bill authorizes the Secretary to issue such regulations as may be necessary to carry out this subtitle and grants various authorities to the Secretary. (Section 127)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision (Sec. 1999G).

(69) Required Terms in Orders

The Senate bill provides that the order shall establish a National Processor Advertising and Promotion Board. Members of the Board shall represent marketing regions established in this section. This section states the terms of office and powers and duties of the Board. This section also requires the Board to develop a budget to implement the order and sets out conditions for handling the financing of the program as well as for maintaining the books and records of the Board. This section also prohibits the use of funds to influence legislation or government policy, or to permit the Board to contract with processor organizations for certain services and also prohibits branded advertising. (Section 128)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to provide that the Secretary shall establish 12 through 15 regions and be required to appoint 5 at-large members to the board including at least 3 fluid milk processors and at least 1 member of the general public. The Conference substitute requires that the Department of Agriculture be reimbursed for all costs associated with conducting a referendum and provides that within one year from the effective date of an order the Board shall spend not more than 5 percent of assessment receipts on administrative expenses. The Conference substitute deletes the Senate provisions which would have prohibited the Board from contracting for services with processor organizations. (Sec. 1999H)

The Conference substitute provides that privileged and confidential information obtained by the Secretary from any processor's books and records may only be revealed to the public in connection with a suit or administrative hearing.

The Conference substitute would require that the Board coordinate with the National Dairy Promotion and Research Board in the collection of assessments. It would also require that the Secretary provide for an annual independent evaluation of the effectiveness of the order.

(70) Permissive Terms

The Senate bill provides for additional terms for each order, including different payment and reporting schedules, advertising, research and development, and reserve funds. (Sec. 129)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting provisions for the order to designate different payment and reporting schedules for processors (Sec. 1999I)

(71) Assessments

The Senate bill provides that the assessment is to be added to all Class I milk differentials or minimum prices. The assessment shall not be deducted from the payment made to a producer for Class I milk sold to a processor. This section also sets the conditions and procedures for the collection and assignment of the assessments to the Board. (Section 130)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

The Conference substitute requires collection of the assessment under an approved order on all marketings of fluid milk products in consumer-type packages. Assessments shall not reduce producer prices paid under Federal milk marketing orders and shall not reduce amounts handlers must pay to producers for products sold to a processor. The assessment shall not be added to the Class I price under the Federal milk marketing orders and shall not be deducted from the price of milk paid to a producer by a handler.

The Managers are aware that milk producers are currently subject to assessment under the Dairy Promotion Program established under the Dairy Product Stabilization Act of 1983. The Managers are determined that the fluid milk promotion program established in this substitute should in no way cause the reduction of milk producer income. The Secretary is directed to take necessary steps to ensure the protection of producer income in the event that an order is approved pursuant to the subtitle. The Conference substitute also provides that no more than one assessment under this subtitle may be charged on any unit of fluid milk product. (Sec. 1999J).

(72) Petition and Review

The Senate bill allows a person subject to an order issued under this subtitle to file a petition with the Secretary challenging the legality of the order or requesting a modification in the order. This section establishes the procedures for a hearing and ruling on the petition. (Section 131)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment (Sec. 1999K).

(73) Enforcement

The Senate bill establishes the jurisdiction of the courts, civil penalties and legal enforcement procedures for the order. (Section 132)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that any appeal of a penalty assessed or of a cease-and-desist order issued by the Secretary may be appealed to a district court of the United States (Sec. 1999L).

(74) Investigations and Power to Subpoena

The Senate bill authorizes the Secretary to make such investigations that the Secretary considers necessary to carry out the order or to determine if a person has engaged in practices that constitute a violation of this subtitle. This section also gives the Secretary the right to administer oaths, subpoena witnesses and take evidence in relation to this subtitle. (Section 133)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment (Sec. 1999M).

(75) Requirements of Referendum

The Senate bill requires that the Secretary conduct a referendum among Class I processors to determine if the processors favor the implementation of the order. This section sets out procedures for this referendum. Implementation of an order is to occur if favored by processors voting in the referendum who represent 60 percent or more of the volume of Class I fluid milk products represented in the referendum (Section 134).

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that a referendum be conducted within the 60-day period immediately preceding the effective date of an order. Implementation of the order is to occur if the Secretary determines from the referendum that it is favored by: (1) at least 50 percent of fluid milk processors voting in the referendum; and (2) fluid milk processors representing 60 percent or more of the volume of fluid milk products marketed by all processors in the United States during a representative period. The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with conducting the referendum (Sec. 1999N).

(76) Suspension or Termination of Orders

The Senate bill provides that the Secretary may terminate or suspend the operation of the order if the Secretary finds that it does not effectuate the declared policy of this subtitle. This section also provides for other referenda in the order. An order may be suspended or terminated if suspension or termination is favored by Class I processors voting in a referendum who represent, as determined by the Secretary, 60 percent or more of the volume of Class I fluid milk products. (Section 135)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that any order in effect under the subtitle shall be terminated on December 31, 1996. The Conference substitute provides that an order is to be terminated or suspended if such an action is favored by: (1) at least 50 percent of fluid milk processors voting in the referendum; and (2) fluid milk processors representing 40 percent or more of the volume of fluid milk products marketed by all processors in the United States during a representative period. (Sec. 1999O).

(77) Amendments

The Senate bill allows the Secretary to conduct up to one referendum each year on the assessment rate and to adjust the assessment rate. (Section 136)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that adjustment to the assessment rate shall be made if found to be favored by: (1) at least 50 percent of fluid milk processors voting in the referendum; and (2) fluid milk processors representing 60 percent or more of the volume of fluid milk products marketed by all processors in the United States

during a representative period. The Conference substitute also provides that in no event may the rate of assessment exceed 20 cents per hundredweight (Sec. 1999P).

(78) Independent Evaluation of Programs

The Senate bill requires the Comptroller General of the U.S. to review and evaluate the order no later than two years after the date of enactment. (Section 137)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that the Comptroller General's report be submitted by January 1, 1995 (Sec. 1999Q).

(79) Authorization of Appropriations

The Senate bill authorizes such funds as may be necessary to carry out this subtitle. However, the funds so appropriated shall not be available for the payment of the expenses or expenditures of the Board in administering any provision of any order issued under this subtitle. (Section 138)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision (Sec. 1999R).

Subtitle I—Miscellaneous Provisions

(80) Producer Research and Promotion Board Accountability [H 1414]

The Senate bill has no comparable provision.

The House amendment has a Sense of Congress stating that the federally-authorized checkoff boards should diligently perform their statutory obligations, and should review their charters to ensure that their duties have not been inappropriately delegated.

The Conference accepts the House provision.

(81) Consistency with U.S. International Obligations [H 1494]

The Senate bill has no comparable provision.

The House amendment prohibits the provisions of any commodity research and promotion program from being applied to commodity imports unless applied in a nondiscriminatory manner consistent with U.S. international obligations.

The Conference substitute adopts the House provision with an amendment to require the Secretary of Agriculture—

(1) prior to the promulgation of, or amendment to, any order or plan under a research and promotion program relating to research and promotion of any agricultural commodity or product, after the date of enactment of this title, where such order or plan would provide for an assessment on imports, to consult with the United States Trade Representative regarding the consistency of the provisions of the order or plan with the international obligations of the United States; and

(2) to take all steps necessary and appropriate to ensure that any order or plan or amendment to such order or plan, and the implementation and enforcement of any order or plan or amendment to such order or plan, or program as it relates to

imports is nondiscriminatory and in compliance with the international obligations of the United States, as interpreted by the United States Trade Representative.

The Conference substitute would also prohibit anything in section 1999T from being construed as providing for a cause of action under such section.

It is the expectation of the conferees that, in the event that the U.S. Trade Representative has reason to believe that a provision of U.S. law relating to any commodity research and promotion program is in conflict with U.S. international obligations (for example, as a result of a GATT panel report), the U.S. Trade Representative shall so notify the Congress. The conferees further expect that the Secretary of Agriculture, with the concurrence of the U.S. Trade Representative would, in such a case, submit to the Congress proposed legislation to bring U.S. law into compliance with U.S. international obligations.

(82) Agricultural Product Promotion and Enhancement [H 1841]

The Senate bill has no comparable provision.

The House amendment has a Sense of Congress that commodity checkoff programs should—

- (1) focus their efforts on improving marketing conditions for their products;
- (2) provide consumers with information on certain public issues; and
- (3) pursue new food and nonfood uses for agricultural products.

The Conference substitute deletes the House provision.

TITLE XX—GRAIN QUALITY

(1) Short Title

The Senate bill provides that the short title will be the "Grain Quality Incentives Act of 1990". (Section 1801)

The House amendment does not provide a short title.

The Conference substitute adopts the Senate provision.

(2) Committee on Grain Quality and Grain Quality Coordinator

The Senate bill requires the Secretary to establish a USDA Committee on Grain Quality that will be chaired by a Grain Quality Coordinator who will—(1) evaluate problems with U.S. grain quality; (2) inform foreign buyers how to properly identify grain in purchase contracts to obtain the quality of grain desired; (3) review USDA activities to determine if they are consistent with subtitle A of Title III of the Senate bill and other laws relating to grain quality competitiveness; (4) coordinate Federal Government activities with respect to grain quality competitiveness; and (5) investigate and communicate through the Secretary, to the Committees on Agriculture concerning—(a) USDA actions that are intended to improve U.S. grain quality or that are inconsistent with such improvement; (b) production and marketing conditions that discourage quality improvements; (c) the interrelationship of various agencies' rules and actions relating to grain production, handling, storage, transportation, and processing as they affect grain quality; (d)

recommendations for legislative or regulatory changes addressing grain quality issues; (e) progress in and potential opportunities and benefits from the international harmonization of sanitary and phytosanitary requirements affecting grain; (f) alternative forms of financial and technical assistance available and needed by producers operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and (g) progress on the implementation of requirements of other sections of the subtitle. (Section 1811)

The House amendment is the same, with a provision that the Committee on Grain Quality will remain in existence for at least 10 years. The House provision does not mention the Occupational Safety and Health Administration. (Section 1801)

The Conference substitute adopts the House provision, with a modification that the Committee on Grain Quality will remain in existence through January 1, 2001.

(3) Benefits and Costs Associated With Improved Grain Quality

The Senate bill requires the Secretary to estimate the economic impact of making major changes necessary to carry out the title's amendments to the United States Grain Standards Act (USGSA) (changing grades and standards and imposing cleanliness limits on grain). (Section 1812)

The House amendment is the same as the Senate bill, with technical differences. (Section 1802)

The Conference substitute adopts the Senate provision, with technical changes.

(4) Classification, Grades and Standards Design Framework

The Senate bill amends section 2(b) of the USGSA. Adds provisions requiring that official U.S. standards for grain: (1) reflect economic value-based characteristics in the intermediate and end uses of grain; and (2) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain. (Section 1821)

The House amendment is the same as the Senate, except it omits the requirement that grain standards reflect economic value based characteristics in the intermediate uses of grain. (Section 1803)

The Conference substitute adopts the House provision. The managers note that there are several "end-users" of grain. In the case of wheat, a miller is the end-user of the raw grain, the baking industry is the end-user of the flour, and the consumer is the ultimate end-user of the product. In developing grain standards for the end-user, the Administrator should consider that there are several stages in the chain of processing grains that could be considered "end-users", from the miller, or processor, through the baker, or feed manufacturer.

(5) Improving the Cleanliness of Grain

The Senate bill requires the Federal Grain Inspection Service (FGIS) administrator to establish or amend standards to include economically and commercially practical levels of cleanliness for No. 3 or better grain (subject to economic justification). The Administrator is required to make this finding within 1 year of the date of enactment. In setting requirements for cleanliness characteris-

tics, the Administrator must consider technical constraints, economic benefits and costs, price competitiveness of U.S. production, and levels met by competitors. The Administrator must also follow required rule-making procedures and phase in the requirements. Subsequent revision of cleanliness limits must be conducted consistent with the schedule of the Administrator for reviewing grain standards. If such limits are set, they must be fully implemented within 5 years. (Section 1822)

The House amendment amends section 4(b) of the USGSA. It requires the FGIS Administrator to study costs benefits to the U.S. grain industry, from producer to end user, of marketing cleaner grain. The study must identify—(1) the need to establish new or revised current factors relating to grain cleanliness; and (2) appropriate limits for cleanliness factors taking into consideration the technical ability and practicability of the commercial market to comply with such limits, the economic benefits and costs to the grain industry, and domestic and international demand.

If the Administrator determines that establishing new or revised current factors relating to cleanliness would be in the best economic interest of United States agriculture, the Administrator must establish or amend the standards to include economically and commercially practical levels of cleanliness for the grain. The Administrator must make a determination under this clause no later than 2 years air enactment of this paragraph.

In setting requirements for cleanliness characteristics under section 4(b) of the USGSA, the limits must be fully implemented not later than 3 years after the determination is made regarding cleanliness factors. Subsequent revision of cleanliness limits must be conducted consistent with the schedule of the Administrator for reviewing grain standards. (Section 1804)

The Conference substitute adopts the Senate provision with modifications. The substitute provides that this provision shall apply to wheat, corn, soybeans, barley and sorghum. Further, the provision requires that the Administrator make a finding, but does not specify a date. The limits described in this provision, if set, must be fully implemented within 6 years of enactment. The managers note that FGIS has a Cooperative Agreement with the Economic Research Service regarding the costs and benefits of cleaning grain. The managers request that the results of that investigation be shared with the respective Committees as such studies are completed.

(6) Cargo Loading Requirements

The Senate bill amends section 7 of the USGSA, and directs that except as otherwise authorized by the Administrator, or except on the request of a purchaser, grain officially inspected and weighed for export shall be loaded aboard the final carrier according to a plan that favors neither the seller or buyer. (Section 1823)

The House amendment is the same, except that such grain must be loaded according to a plan that provides for certification of quality as accurately as practical. (Section 1807)

The Conference substitute drops both provisions. These provisions were motivated by two concerns; first, recipients of sublots from a cargo sometimes receive grain that falls below contract

specifications because the cargo lacks uniformity; and second, there was a finding by the FGIS that the loading plan in current use had a statistical bias favoring the seller. The managers note that the FGIS published a final rule in the Federal Register on June 13, 1990, to revise the shiplot inspection plan (Cu-Sum Plan). Specific changes to the inspection plan included: (1) establishing new breakpoints; (2) limiting review inspections of material portions to one filed review; (3) requiring that review inspection results of material portions be averaged with prior results unless a material error is detected; (4) defining a material error as a difference of more than two standard deviations; (5) designating a material portion as the single subplot exceeding the breakpoint value; (6) including wheat protein under the shiplot inspection plan for shipments specifying a minimum or maximum amount of protein; (7) requiring a special certification statement when the protein range of a lot exceeds 1.0 percentage point; and (8) offering, upon request, an optional inspection service whereby component samples are analyzed. These changes were implemented on September 11, 1990. On the basis of this newly implemented loading plan, and its purported fairness, conferees agree to forgo inclusion of a cargo loading provision in this legislation. It is the full intent of Congress that the inspection plan for export grain be equally fair to both the buyer and seller. Congress expects the FGIS to periodically evaluate its inspection plan against statistical standards and actual cargo conditions to insure that the buyer and seller are being treated fairly.

(7) Grade Determining Factors Related to Physical Soundness and Purity

The Senate bill amends section 4 of the USGSA by adding a new subsection (c) which requires the Administrator, in establishing standards under section 4(a) of the USGSA, to establish official grade determining factors and factor limits that reflect the levels of soundness and purity that are consistent with intermediate and end-use performance goals of the major foreign and domestic users of each grain for which official grades are established.

The soundness and purity levels established for grades No. 3 and better must facilitate the general utilization of these grades for acquiring grain that meets the general expectations of performance with minimal need for additional specification.

The Administrator is required to evaluate existing grade determining factors and factor limits to determine a nature and level of adverse soundness and purity conditions of grain that unacceptably limit the performance of grades No. 3 and better grain for normal intended uses. Prior to implementing changes in such factors and limits, the Administrator must follow established rule-making procedures. (Section 1824)

The House amendment amends section 4 of the USGSA by adding a new subsection (c) which requires the Administrator, in establishing standards under section 4(a) of the USGSA, to establish for each grain, official grade determining factors and factor limits that reflect the levels of soundness and purity that are consistent with intermediate and end-use performance goals of the major foreign and domestic users of each grain for which official grades are established.

The soundness and purity levels established for grades No. 3 and better must provide users of such standards the best possible information from which to determine end-use product quality.

The Administrator is required to establish factor limits that will provide that grain meeting the requirements for grades No. 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain. (Section 1805)

The Conference substitute adopts the House provision with a modification to require the Secretary implement rule-making procedures in carrying out this section.

(8) Prohibition of Contamination

The Senate bill authorizes FGIS discretion to prohibit contamination of sound and pure grain through the introduction of nongrain substances, toxic grain exceeding established tolerances, or unmerchantable grain (to the extent that its combination with grades 3 or better will preclude the resultant combination from meeting performance levels expected of the grades, if FGIS determines that the action is practical and necessary to provide that such grains are safe and meet performance levels required by 4(c)(1) of USGSA). Does not prohibit the marketings of any grain so long as the grade or condition is properly identified.

No prohibition can be imposed against blending an entire grade of grain. Prior to taking action under this subsection, the Administrator must follow established rule-making procedures, including the solicitation of public comment, in identifying and defining actions and conditions subject to prohibition. (Section 1825)

The House amendment amends section 13 of the USGSA by adding a new subsection (e) authorizing FGIS to prohibit the contamination of sound and pure grain through the introduction of (1) nongrain substances; and (2) grain that is unfit for the ordinary commercial purposes for which such grain is intended to be used (to the extent that its combination with grades No. 3 or better will preclude the resultant combination from meeting the performance levels expected of such grades and as is required by section 4(c)(1) of the USGSA). Provisions dealing with rulemaking, prohibition of blending and entire grade and marketing properly identified grain are similar to the Senate bill. (Section 1808)

The Conference substitute adopts the House provision, with amendments. The substitute authorizes prohibition of blending the following: (A) non-grain substances, (B) grain unfit for ordinary commercial purposes, or (C) grain that exceeds Food and Drug Administration action limits or Environmental Protection Agency tolerance levels. The amendments adopt the Senate language on prohibition of blending an entire grade of grain, rule making and marketing properly identified grain. The substitute requires that any prohibitions pursuant to (e)(1)(C) be reported to other appropriate public health agencies.

(9) Sense of Congress Concerning Tests For Purity

The Senate bill encourages FGIS to develop tests for mycotoxins and pesticide residues and incorporate these tests into the grain inspection system. (Section 1826)

The House amendment is the same. (Section 1809)

The Conference substitute adopts the Senate provision.

(10) Sense of Congress Concerning Cooperative Enforcement of Federal Grain Requirements

The Senate bill encourages Food Drug Administration and the Environmental Protection Agency to seek assistance from and cooperate with FGIS in enforcing quality, purity, and safety laws and regulations that apply to grain. (Section 1827)

The House amendment is the same. (Section 1810)

The Conference substitute adopts the House provision.

(11) Aflatoxin Testing

The Senate bill amends section 5 of the USGSA by prohibiting the export of Urn from the United States unless it has been officially tested for aflatoxin or unless FGIS waives testing for emergency or other circumstances that would not impair the objectives of USGSA. (Section 1828)

The House amendment amends section 5 of the USGSA by authorizing and directing FGIS to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination. The House provision also requires the Secretary to establish uniform standards for testing equipment and uniform testing procedures and sampling techniques that may be used by processor, refiners, the operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States. (Section 1806)

The Conference substitute adopts the House provision with an amendment allowing an exemption if the buyer and seller of the grain agree to waive the test. The managers concluded that a buyer and seller may agree not to have corn tested for aflatoxin. However, if a buyer and seller desire an official USDA test and certification for aflatoxin, such test must be conducted by USDA. This does not preclude buyer and seller from utilizing private (unofficial) testing laboratories in lieu of USDA official testing.

(12) Entry Quality Standards for All Farmer-Owned Reserve Grains

The Senate bill amends section 110 of the Agricultural Act of 1949 by adding a new subsection requiring that in announcing the terms and conditions of the producer storage program under that Act, the Secretary must establish standards concerning the quality of grain that may be allowed to be stored under the program, and such standards should encourage only quality grain to be pledged as collateral for such loans. Additionally, the Secretary must establish inspection, maintenance, and stock rotation requirements as are necessary to maintain the quality of such grain. (Section 1832)

The House amendment also amends section 110 of the Agricultural Act of 1949 by adding a new subsection requiring that in announcing the terms and conditions of the producer storage program under that Act, the Secretary must review standards concerning the quality of grain that may be allowed to be stored under the program, and such standards should encourage only quality grain to be pledged as collateral for such loans. Additionally, the Secretary must review inspection, maintenance, and stock rotation re-

quirements and take the necessary steps to maintain the quality of such grain. (Section 1811)

The Conference substitute adopts the House provision.

(13) Price Support Loan Incentives For Quality Grain

The Senate bill amends section 403 of the Agricultural Act of 1949, adding a provision requiring the Secretary to establish premiums and discounts relating to cleanliness factors, in addition to any other adjustments in the support price related to quality, for crops of wheat, feed grains, soybeans beginning with 1991 crops. (Section 1832)

The House amendment is the same as the Senate provision. (Section 1812)

The Conference substitute adopts the Senate provision.

(14) Quality Requirements for Commodity Credit Corporation-Owned Grain

The Senate bill amends the Agricultural Act of 1949 by adding a new section 407A. Section 407A requires that the Secretary establish minimum quality standards that apply to grain stored for CCC. In establishing such standards, the Secretary must consider factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance. Also requires the Commodity Credit Corporation to utilize FGIS approved procedures to inspect and evaluate the condition of the grain it acquires. (Section 1833)

The House amendment is the same as the Senate provision, but adds that in no case may the new section 407A require the use of an official inspection unless the producer so requests. (Section 1813)

The Conference substitute adopts the House provision. The managers note that there have been reports of elevator operators misrepresenting the quality of grain delivered to the CCC. It is the intention of the managers that the CCC should utilize this provision, and other authorities, to preclude the misrepresentation and potential for fraud in the resale of government owned grain.

(15) Establishing Quality as a Goal for Commodity Credit Corporation Programs

The Senate bill amends the Commodity Credit Corporation Charter Act to require that CCC activities, when practical, promote quality in the production and marketing of crops and livestock in the U.S. (Section 1834)

The House amendment is the same as the Senate provision, except that it does not amend the CCC Charter Act. (Section 1814)

The Conference substitute adopts the House provision.

(16) Seed Variety Information

The Senate bill requires that grain submitted for public testing must be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Agricultural Research Service. Also requires the Extension Service to disseminate varietal performance information to plant breeders, producers, and end users. (Section 1841)

The House amendment is the same as the Senate provision, except the results of the evaluations are to be made available to the Secretary and the Secretary is responsible for the dissemination of varietal performance information to plant breeders, producers, and end users. (Section 1815)

The Conference substitute adopts the House provision. The Managers note that the Agricultural Research Service is one of the largest repositories of information on the subject within the Department and that the Extension service has a long record of providing information, including varietal performance information to plant breeders, producers and end users.

(17) Survey of Grain Varieties

The Senate bill requires that the National Agricultural Statistics Service periodically conduct, compile and publish a survey of grain varieties produced in the U.S. (Section 1842)

The House amendment is the same as the Senate provision, except that the Secretary is required to carry out the provisions of the section. (Section 1816)

The Conference substitute adopts the House provision. The Managers note that the National Agricultural Statistics Service has a long history of conducting and carrying out surveys of this type.

(18) Analysis of Variety Survey Data

The Senate bill requires the Agricultural Research Service to analyze the variety surveys conducted in conjunction with available applied research information on intrinsic quality attributes of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics. (Section 1843)

The House amendment is the same as the Senate provision, except that the analysis and evaluations are to be performed by the Secretary and the Secretary must disseminate such information to breeders, producers and end users. (Section 1817)

The Conference substitute adopts the House provision. The Managers note that the Agricultural Research Service has expertise in the area of intrinsic quality characteristics.

(19) Sense of Congress Concerning End-use Performance Research

The Senate bill encourages the Secretary, the Agricultural Research Service, and land-grant universities, to adjust their financial priorities to give increased emphasis to grain variety evaluation and the development of objective tests for end-use properties. (Section 1844)

The House amendment is the same as the Senate provision. (Section 1818)

The Conference substitute adopts the Senate provision.

(20) Sense of Congress Concerning Cooperation on Objective Testing

The Senate provision encourages cooperative efforts, including the sharing of funds and personnel, between the FGIS, the Agricultural Research Service, and land-grant universities in identifying grain quality-related characteristics, developing tests, and designing grain standards; also specifically encourages FGIS to utilize the

research capabilities of the ARS and the land-grant universities in such efforts. (Section 1845)

The House amendment is the same as the Senate provision. (Section 1819)

The Conference substitute adopts the Senate provision.

(21) Authority to Assist Farmers and Elevator Operators

The Senate bill authorizes the Secretary to provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment. (Section 1851)

The House amendment is the same as the Senate provision. (Section 1820)

The Conference substitute adopts the Senate provision.

(22) Standardizing Commercial Inspections.

The Senate bill requires that the Secretary establish a list of approved grain testing equipment and develop inspection procedures. FGIS shall implement a voluntary inspection certification program for country elevators and others conducting first point of delivery inspection. (Section 1852)

The House amendment is the same as the Senate provision, except that FGIS must additionally provide information on proper use of equipment, application of grain standards, and availability of inspection services, including appeal inspection services. The House provision also does not contain the certification program described in the Senate bill. (Section 1821)

The Conference substitute adopts the House provision.

TITLE XXI—ORGANIC CERTIFICATION

(1) Findings and Purposes

The Senate bill lists several findings of Congress, including a statement that there is a need for a national program to standardize and promote the production of food through organic farming methods.

The Senate bill states that the purpose of this Act is to:

(1) establish national standards governing the labeling of organically produced products;

(2) provide consumers with reliable information concerning which products are organically produced;

(3) assure consumers that products labeled organically produced are not produced with or handled with substances that cause adverse health or environmental effects;

(4) encourage environmental stewardship through the increased adoption of organic, sustainable farming methods;

(5) assist emerging and important food industry sectors that produce, process, and market organically produced products;

(6) provide market incentives to encourage the use of organic, sustainable farming methods;

(7) preserve the integrity of organic food programs that have been implemented by States and encourage other States to adopt organic food programs; and

(8) facilitate interstate commerce in fresh and processed food that is organically produced. (Section 1602)

The House amendment does not contain findings. The House amendment states that the purpose of this Act is to:

(1) establish national standards governing the labeling of organically produced products;

(2) assure consumers that organically produced products meet a consistent standard; and

(3) facilitate interstate commerce in fresh and processed food that is organically produced. (Section 1495A)

The Conference substitute adopts the House provision.

(2) Definitions

The Senate bill sets forth definitions for the following terms: agricultural products, botanical pesticides, certifying agents, certified organic farms and handling operations, crop year, governing State official, growing medium, handle, handler, handling operation, individual, micronutrients, National List, organic farm plan, organically produced, organically produced label, pesticide, processing, producer, program, State organic certification program, synthetic, and transition farm. (Section 1603)

The House amendment contains identical definitions for the following terms: agricultural products; botanical pesticide; certifying agent; certified organic farm; certifying organic handling operation; crop year; governing state official; handle; individual; national list; organically produced; pesticide; processing; producer; secretary; and synthetic. The House amendment does not contain definitions for growing medium; handler; handling operation; micronutrients; organic plan; organically produced label; program; state organic certification program; and transition farm. (Section 1495B)

The Conference substitute adopts the Senate provision with an amendment deleting definitions for growing medium, organically produced label, and transition farm.

(3) Establishment of Label

The Senate bill requires the Secretary to establish a USDA label stating that an agricultural product has been "organically produced" to be affixed on products produced according to the standards in this title. A second label may be authorized that indicates the State origin of the product and the certifying body of such product.

The Senate bill provides that as of September 1, 1992, no labels will be allowed which state or imply that a product has been organically produced other than the USDA organically produced label and any authorized State label, except:

(1) Secretary may permit the word "organic" to be used on the principal display panel for food if that food, excluding water and salt, contains at least 50 percent organically-produced ingredients. The Secretary may also allow the word "organic" to be used on the ingredient panel for food if that food, excluding water and salt, contains less than 50 percent organically produced ingredients. "Organic" may be used only to describe ingredients that are organically produced and no USDA label is authorized to be used in these instances.

(2) Farmers who sell less than \$5,000 of agricultural products may represent their product as organic without certification but no USDA label is authorized to be used in this instance.

(3) The Secretary may determine that imported organic food may be sold within the U.S. if such food has been produced following guidelines at least equivalent to U.S. requirements, but no USDA label is authorized to be used in these instances. (Section 1612)

The House amendment contains a similar provision however no USDA label is established. The House amendment provides that as of October 1, 1993, no state or private labels or market information will be allowed which state or imply that a product has been organically produced unless all standards in this title are met. The same three exemptions provided for in the Senate bill are included. (Section 1495D)

The Conference substitute adopts the House provision. The Managers encourage the Secretary to determine a procedure to implement the label flexibility provided for processed food in this section by October 1, 1993 in order to allow for continued trade of such products.

(4) Mandatory Program Requirements

The Senate bill requires that any organic program must require all labeled products to be produced in accordance with this title, and provide for periodic on-site inspections and residue testing. An organic program must also provide certain specified appeal, enforcement, conflict-of-interest, and freedom-of-information procedures. (Section 1613)

The House amendment contains a similar provision, with the addition of two requirements: notification of appropriate health agencies of any residue violation and collection of reasonable fees. (Section 1495E)

The Conference substitute adopts the House provision with an amendment modifying language concerning notification of health officials in the case of residue detections.

(5) Discretionary Program Requirements

The Senate bill provides that any organic program may provide for the assessment of fees for participants, additional State requirements, the possibility of certifying parts of a farm or handling operation, and an exemption for farms subject to a government emergency pest or disease treatment program. (Section 1613)

The House amendment contains a similar provision, excluding the assessment of fees and with the additional requirement that the Secretary consult with the National Organic Standards Board regarding emergency pest or disease treatments. (Section 1495E)

The Conference substitute adopts the House provision.

(6) Prohibited Crop Production Practices and Materials

The Senate bill provides that prohibited practices include use of the following: certain seed, seedlings and planting practices; irrigation water unless it has been analyzed and approved by the certifying agent; certain soil amendments; certain crop management practices; natural poisons that have long-term effects and persist in the

environment; and plastic mulches, unless they are removed at the end of each season. (Section 1615)

The House amendment contains a similar provision with three differences. The prohibitions on the use of irrigation water, contaminated organic matter, and micronutrients at toxic levels are not included. (Section 1495H)

The Conference substitute adopts the House provision.

(7) Animal Production Practices and Materials

The Senate bill contains a requirement that livestock be fed organically grown feed. Prohibited practices for livestock production include use of the following: certain feed additives including plastic pellets for roughage, and feed formulas containing urea and medicated feeds; growth promoters and hormones; synthetic internal parasiticides on a routine basis; administration of medication other than vaccinations; and use of impure drinking water. Recordkeeping procedures are stipulated. Drinking water may be analyzed to determine whether it is impure and so contaminated as to cause contamination of livestock products.

The Senate bill requires that livestock be raised according to the standards set forth in this section for certain periods of time: from the second day of life for poultry; for four months prior to sale of eggs for laying hens; at least one year for dairy; and for the entire life for all other slaughter livestock.

The Senate bill further provides that the Secretary may accept certification, by certifying agents, at the point of slaughter as proof that the meat and poultry have been raised in accordance with this title. (Section 1616)

The House amendment contains a similar provision with four differences: (1) there is no explicit prohibition on the use of medicated feed; (2) no required analysis of drinking water; (3) no four month provision for laying hens; and (4) no provision to allow the Secretary to accept the certification at the point of slaughter. (Section 1495I)

The Conference substitute adopts the House provision with an amendment which requires the Secretary to hold hearings and develop regulations regarding livestock standards in addition to those specified in this title. The Managers clearly do not intend for the Secretary to engage in formal rulemaking. Rather the Managers recognize the need to further elaborate on the standards set forth in the title and expect that by holding public discussions with interested parties and with the National Organic Standards Board, the Secretary will determine the necessary standards no later than the implementation date of October 1, 1993.

The Managers believe that the establishment of an organic labeling program will benefit those producers of agricultural commodities and products that choose to produce and market products that are organically produced. The creation of a uniform standard as to the meaning of "organically produced" protects the consumer from misleading information and enables these producers to cultivate a market for their particular products.

By enacting this program, the Managers are not asserting any preference as to any particular type of agricultural product. The "organic" label is not intended to imply any special health benefits

or innate qualities of an agricultural commodity or product. For example, this program establishes standards for the organic production of meat and poultry products. Such products, if organically produced, are not necessarily more safe than ordinary meat and poultry products.

The "organic" label, or the establishment of this organic program is also not intended to indicate any opinion about traditional agricultural production. The "organic" label does not guarantee more healthy food than that produced using conventional systems.

The Managers direct the Secretary of Agriculture to develop detailed regulations, with notice and public comment, to guide the implementation of the standards for livestock products provided under this Title. Such regulations should be finalized by October, 1993—the implementation date for this Title.

The Managers note that the Senate bill included a paragraph stating that the Secretary, in carrying out the provision of this title, the Federal Egg Products Inspection Act, the Meat Inspection Act, the Poultry Products Inspection Act or any other Act concerning the misbranding of meat and poultry products, may accept a certification provided by a certifying agent at the point of slaughter as proof that the meat and poultry were produced in accordance with this title. The Secretary has indicated that this paragraph is unnecessary as he already has the discretion to accept certification at the point of slaughter and intends to implement the organic program in this manner so as avoid the costly requirement of sending USDA inspectors to every organic farming operation in order to verify claims.

(8) Recordkeeping

The Senate bill requires all organic producers and handlers to keep records, including a detailed history of substances used, for at least 5 years. (Section 1618)

The House amendment includes the same provision with the additional requirement that handlers keep records of the sources, handling, and disposition of all ingredients or production aids used. (Section 1495L)

The Conference substitute adopts the Senate provision.

(9) Contents of National List

The Senate bill provides that the National List may include prohibitions on natural substances which otherwise would be allowed under this title but which the National Organic Standards Board and the Secretary determine to be harmful to human health or the environment and inconsistent with organic farming.

The Senate bill provides further that the National List may include exemptions for substances otherwise prohibited but which the National Organic Standards Board and the Secretary determine are harmless to human health and the environment, are necessary because of the unavailability of wholly natural substitute products, and are determined to be consistent with organic farming practices. Such exemptions, however, must meet one of the following three criteria: (1) the substance is used in production and contains a synthetic active ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; phere-

mones; detergents; horticultural oils; treated seed; fish emulsions; vitamins and minerals; livestock parasiticides and medicines; and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers; (2) the substance contains synthetic inert ingredients; or (3) the substance is used in processing and is non-synthetic but not organically produced. (Section 1625)

The House amendment contains a similar provision with three differences: (1) there is no allowance for production aids on the National List; (2) there is no allowance for products with synthetic inert ingredients on the National List; and (3) the Secretary is required to consult with the Secretary of Health and Human Services and the Administrator of EPA regarding the contents of the National List. (Section 1495Q)

The Conference substitute adopts the House provision with an amendment that adds production aids to the category of synthetic active ingredients and the category of synthetic inert ingredients not of toxicological concern to the Administrator of EPA as possible exemptions on the National List. The Managers note that in the future it may be necessary to further develop a list of categories for processed food exemptions and therefore encourage the Secretary, working with the National Organic Standards Board, to recommend such a list to the Congress as soon as practicable in order to facilitate implementation of the national standards by October 1, 1993.

(10) Development of National List

The Senate bill requires the Secretary to establish a National List based upon a Proposed National List developed by the National Organic Standards Board. The Secretary may not include exemptions for synthetic substances other than those recommended by the National Organic Standards Board. The Proposed National List must be published in the Federal Register for public comment. (Section 1625)

The House amendment contains the same provision, with an additional requirement that no substance be listed which has been prohibited by Federal regulatory action. (Section 1495Q)

The Conference substitute adopts the House provision.

(11) National Organic Standards Board

The Senate bill requires the Secretary to appoint a 13-member National Organic Standards Board to assist in the development of standards and to specifically form a proposed National List. The membership of Board as well as Board procedures are designated. The members of the Board are not compensated. The Board is required to hire a staff director and the Secretary may detail USDA staff to work with the Board. (Section 1626)

The House amendment contains the same provision, adding two more members—a certifying agent and a scientist—to bring the total to 15 on the Board. (Section 1495R)

The Conference substitute adopts the House provision.

(12) Procedures for Board's Recommendations for National List

The Senate bill directs the Board to conduct a thorough evaluation of substances that may be included on the National List. Specific steps are set out. Among other things the Board shall: use Technical Advisory Panels to assist the Board in making determinations on substances to be included on the National List; review substances on the National List every 5 years; review all botanical pesticides for possible inclusion on the National List; advise the Secretary and the EPA Administrator on whether to establish a registration program for organic production materials; and advise the Secretary concerning residue testing for organic products. (Section 1626)

The House amendment contains a similar provision, with the Board given the additional responsibility to advise the Secretary on emergency pest and disease treatments and there is no responsibility to advise on the development of a registration program. (Section 1495R)

The Conference substitute adopts the House provision.

(13) Violations of Organic Program

The Senate bill contains the following penalties for violations: for misusing or tampering with the organically produced label—up to \$50,000 and 2 years imprisonment; and for issuing false certifications—program ineligibility for 5 years. Producers and certifying agents must be provided notice and an opportunity to be heard. (Section 1627)

The House amendment contains a similar provision, but with a reduction in penalty for misusing an organic labels to a civil penalty of \$10,000. The House amendment provides that nothing in this title shall alter the authority of the Secretary of Agriculture under the Poultry Products Inspection Act, the Administrator of the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act or the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act. (Section 1495S)

The Conference substitute adopts the House provision.

(14) National Organic Promotion Advisory Committee

The Senate bill directs the Secretary to establish an advisory committee to acquire information and advice from representatives of organic farming and handling sector concerning: the establishment of legislation creating an organic promotion, research, and consumer education program; the development of an initial referendum and structure for such program; an organic research program; and any other aspect of organic production, research education, or promotion of concern to the Secretary.

The Advisory Committee shall have 15 members (including a chairperson) appointed from nominations received from organic certifying organizations, States, and other interested parties. Membership is specifically set out. The Committee is sunsetted in three years. (Section 1641)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting the National Organic Promotion Advisory Committee.

(15) Duties of Organic Advisory Committee

The Senate bill requires the Advisory Committee to provide recommendations concerning: the establishment of an orderly procedure for the development and financing of a program of research, promotion, and consumer information concerning organically produced agricultural products; the establishment of a democratic process under which organic farmers and handlers may determine whether to have a national organic promotion program after 1992; ways to maintain, develop, and expand markets for the organic industry; and research and extension programs on agricultural production systems and materials used or potentially to be used in organic production. Reports are required to be submitted to the Secretary and House and Senate agriculture committees. (Section 1641)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting this section.

Administration

Both the Senate bill and the House amendment required the Secretary to issue regulations not later than 180 days after the date of enactment of this title.

The Conference substitute amends this requirement substituting 540 days after the date of enactment of this title.

(16) Appropriations

The Senate bill authorizes such sums as may be necessary. (Section 1642)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting authorization for appropriations.

(17) National Transition Label Demonstration Program

The Senate bill requires the Secretary to establish a National Transition Label Demonstration Program to help evaluate the impact a transition label would have on consumer purchasing decisions and organic markets and to assess whether the availability of a transition label would motivate farmers to adopt more sustainable agricultural practices. (Section 1651)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting the transition label demonstration program.

(18) Administration of Transition Label Program

The Senate bill Secretary shall make a grant from funds to at least 4 States that: have implemented a State organic certification program under chapter I; can designate a limited marketing area where a transition label could be used and controlled; and submits a competitive proposal. States that receive these grants must: design a demonstration project that meets the specifications of the Secretary; select a number of farming operations to participate in the Program as transition farms; authorize the sale of the products

of the selected farms in retail establishments in such State; and submit a final report. (Section 1652)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting this section.

(19) Establishment of Transition Label

The Senate bill requires the Secretary to establish an experimental USDA label to be affixed to agricultural products that have been produced on selected transition farms that states that the agricultural product has been produced in "transition to organic". (Section 1653)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting this section.

(20) Reports on Transition Label Program

The Senate bill requires that, within 2 years after the date of enactment of this title, the chief executive officer of a State shall submit a final report detailing the results of the Program to the Secretary and the House and Senate agriculture committees. (Section 1654)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting this section.

(21) Appropriations for Transition Label Program

The Senate bill authorizes such funds as may be necessary to carry out the transition label program. (Section 1655)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting this section.

(22) Organic Production Research

The Senate bill requires the Secretary to establish a research program related to the production and marketing of organic products. Grants may be provided to facilitate such research. The Secretary shall provide for research to, among other things, study the toxicity levels of toxic synthetic and natural substances used in organic production, measure levels of background contamination of toxic substances, develop economical residue testing procedures, develop efficacious protocols and materials for handling organically produced products, and improve the technology of organic livestock production. The Secretary is required to consult with the National Organic and Standards Board and the National Organic Promotion Advisory Committee established under Chapter II concerning specific research topics that are necessary. Such sums as may be necessary to carry out this program are authorized. (Section 1661)

The House amendment contains no comparable provision.

The Conference substitute adopts the House provision, thereby deleting the organic production research program.