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SENATE REPUBLICAN POLICY COMMITTEE

Conference Report Highlights

May 14, 2008

Highlights of the Conference Report to Accompany H.R. 2419 – The Food and Energy Security Act of 2007

The Conference Report, H. Rept. 110-627, was filed on May 13, 2008.

Noteworthy

- On Thursday, the Senate will vote on passage of the Conference Report to accompany H.R. 2419, the farm bill.

- H.R. 2419 authorizes and extends for five years the major income support programs and authorities exercised by the United States Department of Agriculture (USDA). It also extends and makes changes to USDA's primary efforts in food and nutrition, conservation, trade, rural development, research forestry, credit, and crop insurance programs. The Conference Report creates an optional new revenue guarantee program, makes changes to loan rates and target prices for commodities, reauthorizes dairy income support programs, and establishes a new disaster assistance program. Included is language that increases baseline spending over five years on nutrition, conservation, and energy programs by $2.9 billion, $2.7 billion, and $600 million, respectively. Crop insurance programs are cut by $3.8 billion over the same period.

- CBO estimates that under the March 2007 revised baseline, enacting H.R. 2419 would increase direct spending by $0.5 billion over the FY 2008-2017 period. CBO estimates that revenues would increase under the legislation by $0.7 billion over the same period, leading to a net savings over the 10-year period of about $0.1 billion.

- CBO estimates total budget authority under H.R. 2419 will increase by $9.4 billion relative to the March 2007 baseline for a total of $297 billion for the FY 2008-2012 period. Total budget authority will increase by $5 billion relative to the March 2007 baseline for a total of $614 billion for the FY 2008-2017 period, including baseline spending and increases. Note: the spending growth in the 5 year window exceeds that of the 10 year window because the customs user fees offset takes place in 2015-2017.

- CBO estimates that changes in direct spending and revenues from enacting H.R. 2419 would cause an increase in the on-budget deficit greater than $5 billion in at least one of the 10-year periods between 2018 and 2057.

- The House passed the Conference Report today by a vote of 318-106.

- No Statement of Administration Policy (SAP) was available at press time. The Administration has noted that it intends to veto H.R. 2419 in its current form.

Key Provisions

Significant provisions of the Conference Report include the following:[1]

Funding Mechanism/Finance Committee Tax Title

Because a new budget resolution conference report has not been agreed to, the costs of the Conference Report will be measured relative to the March 2007 revised baseline, rather than a more recent baseline. Relative to the March 2007 revised baseline, the farm bill would increase direct spending by $0.5 billion over ten years. This spending is fully offset by changes in the Tax Title. According to the Congressional Budget Office (CBO), the Tax Title increases revenues by $0.7 billion for a net decrease in the deficit of $0.1 billion over the 2008-2017 time period. However, CBO estimates that changes in direct spending and revenues would cause an increase in the on-budget deficit greater than $5 billion in at least one of the 10-year periods between 2018 and 2057, violating Section 203 of the 2008 budget resolution, the long-term deficits point of order. A large portion of the increased revenues are a result of extending customs user fees that would otherwise have expired in 2014, through 2017. CBO estimates that these fees will amount to more than $2 billion per year in private sector mandates from 2015-2017.

Agricultural Disaster Relief Trust Fund

Similar to the Senate bill, the Conference Report amends the Federal Crop Insurance Act to create a permanent Agriculture Disaster Relief Trust Fund that provides payments to

[1] For a side-by-side of contents corresponding to each of the provisions below, see http://agriculture.house.gov/inside/FarmBill.html.

farmers and ranchers who suffer certain losses. Disaster payments will be made through five programs: Supplemental Revenue Program, Livestock Forage Program, Tree Assistance Program, Livestock Indemnity Program, and Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish. The Disaster Trust Fund will be funded through an allocation of tariffs. The transfer of funds to the trust fund will sunset September 30, 2011. Payments will be made for crop years after 2007. *This provision is estimated to cost $3.807 billion over five years and $3.807 billion over ten years.*

(For additional detail, see the description under the Tax Title)

Average Crop Revenue

As contained in the Senate bill, Title I of the Conference Report permits producers to choose to participate in a new program, the Average Crop Revenue Election Program, or ACRE option, instead of the traditional system of program benefits for covered commodities (direct payments, countercyclical payments, and loan programs). Producers will have the option, beginning with the 2009 crop year, to participate in a state-level revenue protection system. Participants will have agreed to a 20-percent reduction in direct payments and a 30-percent reduction in loan rates. In return, they are eligible for a state-based revenue guarantee on acres planted equal to 90 percent of the product of a state average yield factor times the national average price for the previous two years for the commodity.

Sugar

The sugar provisions in the Conference Report raise the loan rate for sugar a quarter cent a year for three years (to 18.75 cents for cane sugar and 24 cents for beet sugar). The Senate bill raised the sugar loan rate one cent per pound for raw sugar cane and set the loan rate for refined beet sugar at 128.5 percent of the loan rate for raw sugar cane.

Like the Senate-passed bill, the Conference Report establishes sugar allotments at 85 percent of domestic human consumption and establishes a program under which USDA manages surplus sugar such that it is converted into ethanol.

Dairy

Similar to the Senate bill, the Conference Report extends the Milk Income Loss Contract program (MILC) through the life of the farm bill and increases the payment rate to 45 percent of the difference between the Boston Class I price and the target price. The Conference Report also increases the target price and adjusts by a certain percentage whenever the National Average Dairy Feed Ration Cost is greater than $7.35 per hundredweight.

Nutrition

USDA's nutrition programs receive both the majority of the total funding in the Conference Report and the largest increases in above-baseline funding in the five and 10-year budget windows. For fiscal years 2008-2012, new spending in the nutrition title is $2.9 billion; for fiscal years 2008-2017, new spending is $9.2 billion.

The Conference Report provides $1.256 billion over the next 10 years to increase commodity purchases for food banks.

Like the Senate bill, the Conference Report expands the income deductions for beneficiaries, increases the cap on asset limits, and expands the Fresh Fruit and Vegetable Program account. The Conference Report expands the standard deduction from $134 to $144 and indexes it to inflation, includes an expansion of the Fresh Fruit and Vegetable Program, and expands food assistance to low-income seniors by $50 million over the next ten years.

Food Stamp/Nutrition Programs

The Conference Report does not include a provision contained in the Senate bill that would have weakened the work requirements in the Food Stamp program enacted as part of welfare reform. Also, the Conference Report does not include the provision that would have prohibited states from contracting out the review of applications for benefits or eligibility verification contained in the House-passed bill.

Conservation Program Increases

Like the nutrition title, the conservation title in the Conference Report receives significant increases in above-baseline spending. For fiscal years 2008-2012, new spending totals $2.7 billion; for fiscal years 2008-2017, new spending totals $4 billion.

Similar to the Senate bill, the Conference Report creates a new initiative focused on restoring the Chesapeake Bay and addresses the environmental and conservation needs of the surrounding region. $382 million in mandatory funding is provided for the program.

Energy

The Conference Report contains provisions similar to those in the Senate bill regarding biomass crop production, biomass loan guarantees, mandatory funding renewable energy and energy efficiency systems, mandatory spending to support advanced biofuels, federal procurement and labeling of biobased products, and biomass research and development.

The Conference Report provides $320 million in mandatory funding for loan guarantees for commercial scale biorefineries for advanced biofuels. It also provides $250 million in mandatory funding to provide grants and loan guarantees for renewable energy and energy efficiency systems for farmers, ranchers, and rural small businesses.

The Conference Report also provides $35 million in mandatory funding for grants to support repowering of existing biorefineries with biomass energy systems. Included in the energy title is $300 million in mandatory funding for the Bioenergy Program to provide payments to support the production of advanced biofuels, including biodiesel and cellulosic biofuels. The Conference Report continues the Biomass Research and Development program and provides $118 million in mandatory funding. Competitive grants to educate the public about effective biodiesel use and the benefits of biodiesel are continued with funding of $1 million per year.

Packer Ownership

Unlike the Senate bill, the Conference Report does ***not*** contain a ban on packer ownership of livestock.

The Senate bill contained provisions that prohibited packers from owning or feeding livestock directly, or through any arrangement that gives the packer control such that the producer is no longer materially participating in the management or production of the livestock. Packers would have been exempt from this provision if they owned livestock within 14 days of slaughter, if they were a cooperative, if they were not required to report under section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a), or if they owned one livestock processing plant.

H.R. 2419 as passed by the House contained no such prohibition.

Country of Origin Labeling

The Conference Report contains language requiring the labeling of certain commodities by September 30, 2008. Macadamia nuts are covered commodities for purposes of this requirement.

Title X, Section 10003 of the Senate bill and H.R. 2419 as passed by the House contained similar language concerning country-of origin-labeling (COOL). Under current law, retailers must provide COOL for fresh meats, produce, and peanuts by September 30, 2008 (the effective date for seafood was September 30, 2004). The Senate bill contained the 2008 deadline, established additional categories, and changed record-keeping requirements and fines for violations. Like the Conference Report, the Senate bill designated macadamia nuts as a covered commodity, a change not made in H.R. 2419 as passed by the House.

Payment Limits

The Conference Report establishes new standards for farm commodity and disaster program benefit eligibility. To receive farm program benefits, an individual's average adjusted gross non-farm income may not exceed $500,000. If average adjusted gross farm income exceeds $750,000, an individual will no longer be eligible to receive direct payments. The bill provides an average adjusted gross non-farm income cap of $1,000,000 for conservation programs unless two-thirds or more of the income of the person or legal entity is average adjusted gross farm income. The Secretary is authorized to waive the limitation on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.

Like the Senate bill, the Conference Report eliminates the three-entity rule and requires direct attribution of payments to specific individuals.

Under current law a producer may receive a combined $360,000 per year in direct payments, counter-cyclical payments, and marketing loans. A producer is limited annually to $40,000 for direct payments, $65,000 for counter-cyclical payments, and $75,000 for marketing loan gains and loan deficiency payments. The total of these amounts add to $180,000, but they can be doubled by treating a husband and wife as separate recipient units, or by a producer taking two additional payments through a second and third entity. In addition, a producer must meet a $2.5 million Adjusted Gross Income (AGI) means test, unless 75 percent of AGI is from farming. Gains achieved through loan repayment with certificates and forfeitures are not subject to limits.

"Davis-Bacon"

Section 9003 (Biorefinery Assistance) requires that an entity ensure that all laborers and mechanics working on the project be paid wages at rates not less than those prevailing in the locality, or Davis Bacon wages, as a condition on the acceptance of grant funds to pay for the development and construction of biorefineries, and loan guarantees to fund the development, construction, and retrofitting of biorefineries.

Specialty Crops

Similar to the Senate bill, the Conference Report provides $466 million in mandatory funds over 10 years for the specialty crop block grant program. Block grants are provided to states to support projects in research, marketing, education, pest and disease management, production, and food safety.

Food Safety

Section 10105 of the Conference Report establishes a food safety education initiative at USDA.

Commodity Exchange Act Reauthorization

The Conference Report renews the authority of and the authorization for appropriations for the Commodity Futures Trading Commission (CFTC) to continue operating through 2013. CFTC provisions were adopted by unanimous consent during floor consideration of the Senate bill. The Conference Report increases federal oversight authority over electronic trading facilities offering contracts that are determined to be performing a significant price discovery function and increases reporting requirements for such entities as well. Under the provision, the CFTC has unambiguous anti-fraud authority over foreign currency contracts offered to consumers. The language also extends the Commodity Futures Trading Commission's fraud authority to cover direct transactions between large traders and expands the civil and criminal penalties for violating the Commodity Exchange Act.

Discrimination Suit Against USDA/*Pigford* Suits

Similar to the Senate bill, the Conference Report establishes a right of action permitting claimants in the *Pigford* decision (*Pigford v. Glickman*, No. 97-1978 and No. 98-1693 (D.D.C. July 14, 2000)) who had not previously obtained a determination on the merits of a *Pigford* claim to petition in civil court to obtain such a determination. The Conference Report provides $100 million in mandatory funding for this provision along with an authorization for additional appropriation of funds as necessary.

Meat Inspection

Similar to the Senate bill, the Conference Report contains language permitting state-inspected facilities that have 25 employees or fewer to ship meat or poultry in interstate commerce, provided they meet all federal requirements and policies under the Federal Meat Inspection Act and the Poultry Products Inspection Act. State-inspected establishments that join this initiative will be inspected by a state inspector and be allowed to use the federal stamp of inspection on products.

Tax Title

Scoring information and provision summaries are based on information provided by CBO and the Finance Committee.

Supplemental Agricultural Disaster Assistance

Supplemental Agricultural Disaster Assistance Trust Fund. The bill creates a Disaster Trust Fund that will finance five programs that address agricultural disasters across the nation. These programs include the Supplemental Revenue Program, Livestock Forage Program, Tree Assistance Program, Livestock Indemnity Program, and Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish. The Disaster Trust Fund will be funded through an allocation of tariffs. The transfer of funds to the trust fund will sunset September 30, 2011. Payments will be made for crop years after 2007. *This provision is estimated to cost $3.807 billion over five years and $3.807 billion over ten years.*

- **The Supplemental Revenue Assistance Program (SURE)** covers crop losses due to natural disasters. To receive benefits from SURE, farmers must: 1) carry crop insurance on their entire farm; and 2) be located in a secretarially-declared disaster county or a contiguous county, or show proof of an individual loss of at least 50 percent. Farmers carrying higher levels of insurance will be eligible for higher payments. The Supplemental Revenue Program covers whole-farm crop losses.

- **The Livestock Forage Program** provides assistance to ranchers in areas affected by drought. These payments are based on the severity of the drought experienced in the rancher's county. Ranchers in areas with exceptional or extreme droughts will qualify for higher levels of assistance. In order to qualify for assistance ranchers must be located in a county that is experiencing a severe, extreme, or exceptional drought condition based upon the Drought Monitor.
- **The Tree Assistance Program** provides compensation for specialty crop farmers to replant trees and vines that have been destroyed by natural disasters such as hurricanes, freezing rain, or severe temperatures.
- **The Livestock Indemnity Program** provides compensation to ranchers for livestock that are lost due to disasters such as extreme heat, blizzards, hurricanes, or other conditions. Indemnity payments are 75 percent of the fair market value of the livestock.
- **Emergency Assistance for Livestock, Honeybees, and Farm Raised Fish** is a program that addresses unique disasters not covered by any other program within the Trust Fund. This program will provide assistance for unique or isolated disasters such as floods, tornadoes, hurricanes, or Colony Collapse Disorder.

Revenue Provision for Agriculture Program

Customs User Fees. Customs assesses *passenger and conveyance fees* to cover inspection costs for processing air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, cargo, and customs broker permits. Customs also assesses *merchandise processing* fees based on the value of the good entering into the United States. Such fees currently expire in December 2014. The Conference Report extends the passenger and conveyance processing fees to September 30, 2017 and the merchandise processing fees until November 14, 2017. The provision requires pre-payment of the inspection fees due in late fiscal year 2017 and merchandise processing fees in early 2018. The provision will require U.S. Customs and Border Protection to reconcile any overpayments with interest or underpayments within 30 days in order to ensure that the importer is held harmless for any error. *This provision is estimated to raise $10 billion over ten years.*

Conservation Provisions

Exclusion of Conservation Reserve Program Payments to Retired or Disabled Individuals from Self-Employment Taxes. Farmers enrolling their land in CRP receive payments for refraining from farming their property and for engaging in certain conservation practices mandated by the Department of Agriculture. These payments are described in the contract with the Department of Agriculture as "rental payments." On December 18, 2006, the IRS released Notice 2006-108, which sets forth a proposed revenue ruling concerning self-employment tax on CRP payments. In the Notice, the IRS holds that all CRP payments are not excluded from net income under the rental payments exception and are therefore subject to self-employment taxes regardless of whether or not the taxpayer is actively farming. The bill provides that CRP payments to retired or disabled individuals are to be treated as rental payments for tax purposes and are therefore excluded from self-employment taxes and will not reduce the individual's Social Security or disability payments. This provision is effective for payments made after December 31, 2007. *This provision is estimated to cost $84 million over five years and $192 million over ten years.*

Rural Heritage Conservation Extension. The Pension Protection Act of 2006 (PPA), Public Law 109-432, included an enhanced tax deduction for contributions of conservation easements. Prior to PPA, taxpayers could only deduct up to 30 percent of adjusted gross income (AGI) for donations of conservation easements to qualified conservation organizations or state or local governments. Taxpayers were allowed to carry-forward their deduction for up to 5 years. The enhanced deduction provision in PPA allowed all taxpayers to deduct up to 50 percent of their AGI for donations of conservation easements and carry forward the deduction for up to 15 years, and allowed ranchers and farmers to deduct up to 100 percent of their AGI for donations of conservation easements. The enhanced deduction provision expired at the end of 2007. The bill will extend the enhanced deduction for contributions of conservation easements through December 31, 2009. *This provision is estimated to cost $105 million over five years and $105 million over five years.*

Endangered Species Recovery Deduction. The bill establishes a tax deduction for the cost of actions to implement site-specific management measures included in recovery plans under the Endangered Species Act. This provision is effective for expenditures paid or incurred after December 31, 2008. *This provision is estimated to cost $72 million over five years and $283 million over ten years.*

Taxation of Qualified Timber Gain and Timber REIT Provisions. Under current law gains on timber sales are eligible for capital gains tax treatment. The bill provides an alternative maximum tax rate of 15 percent for gain on qualified timber harvest by a C corporation. Qualified timber gain is gain from the sale or exchange of timber held for at least 15 years. In addition, the bill provides for modernization of timber real estate investment trusts (REIT) rules for timber property, including: (1) clarifying that gains from the sale of timber held for less than one year is qualifying income; (2) providing that mineral royalty income is qualifying income; (3) changing the taxable REIT subsidiary asset test for timber REITs from 20 percent to 25 percent; and (4) making changes to the safe harbors for timber property sales. This provision is effective on the date of enactment and sunsets one year after the date of enactment. *This provision is estimated to cost $183 million over five years and $218 million over ten years.*

Forest Conservation Bonds. The bill establishes a national program allowing the issuance of $500 million in tax-credit timber conservation bonds, for issue by a qualified non-profit organization and for the acquisition of forest and forest lands that are subject to conservation restrictions. *This provision is estimated to cost $250 million over five years and $250 million over ten years.*

<u>Alternative and Renewable Fuels from Agriculture</u>

Cellulosic Biofuels Credit. Cellulosic biofuels can be produced from agricultural waste, wood chips, switch grass, and other non-food feedstocks. The bill includes a new, temporary cellulosic biofuels production tax credit for up to $1.01 per gallon, available through December 31, 2012. *This provision is estimated to cost $348 million over five years and $403 million over ten years.*

Comprehensive Biofuels Study. The bill directs the Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, to request that the National Academy of Sciences produce an analysis of current scientific findings relating to the future production of biofuels and the domestic effects of an increase in the production of biofuels. *This provision is estimated to have no revenue effect.*

Modification of the Incentives Relating to Alcohol Fuels (Volumetric Ethanol Excise Tax Credit). The bill reduces the 51¢ per-gallon incentive for ethanol to 45¢ per gallon for calendar year 2009 and thereafter. If Treasury makes a determination -- in consultation with EPA -- that 7.5 billion gallons of ethanol (including cellulosic ethanol) were not produced in or imported into the United States in 2008, the reduction in the credit amount will be delayed. If a determination is made that the threshold was not reached in 2008, the reduction for 2010 also will be delayed if the Secretary determines 7.5 billion gallons were not produced or imported in 2009. In the absence of a determination, the reduction remains in effect. In the event the determination is made subsequent to the start of a calendar year, those persons claiming the reduced amount prior to the Secretary's determination will be entitled to the difference between the correct credit amount for that year and the credit amount claimed, e.g. between 51¢ per gallon and 45¢ per gallon. *This provision is estimated to raise $1.203 billion over five years and $1.203 billion over ten years.*

Calculations of Volume of Alcohol for Fuel Credits. The Internal Revenue Code provides a per-gallon credit for the volume of alcohol used as a fuel or in a qualified mixture. For purposes of determining the number of gallons of alcohol with respect to which the credit is allowable, the volume of alcohol includes any denaturant, including gasoline. The denaturant must be added under a formula approved by the Secretary, and the denaturant cannot exceed 5 percent of the volume of such alcohol (including denaturants). This provision reduces the amount of allowable denaturants to 2 percent of the volume of the alcohol as regulated by the Alcohol and Tobacco Tax and Trade Bureau. *This provision is estimated to raise $124 million over five years and $124 million over ten years.*

Extension of Tariff on Ethanol. The bill extends the tariff on imported ethanol for two years (through December 31, 2010). This provision is effective on the date of enactment.

This provision is estimated to raise $70 million over five years and $70 million over ten years.

Duty Drawback on Imported Ethanol. This provision clarifies the eligibility for a drawback for jet fuel products. A drawback is a rebate on duties, fees, or taxes paid on imported goods when a U.S. business subsequently exports a "commercially interchangeable" good. Current law permits drawback claims for exported jet fuel on the basis of ethanol imports, even though such jet fuel exports are not blended with the ethanol imports. The Conference Report discontinues this practice for ethanol imports beginning on October 1, 2008, allowing for a phase-out of the current practice. Drawback claims for such imports must be filed by October 1, 2010. *This provision is estimated to raise $12 million over five years and $17 million over ten years.*

<u>Agricultural Investment Provisions</u>

Agricultural Bond Improvements. Agricultural Bonds (Aggie Bonds) are tax-exempt bonds issued by state and local governments to provide low interest loans for first-time ranchers and farmers. A first-time rancher or farmer is any individual who has never had a direct ownership interest in substantial farmland. Substantial farmland means a parcel of land that is larger than 30 percent of the median size of a farm in the county in which such parcel is located and that has a fair market value greater than $125,000. Aggie Bonds have not been updated in over 26 years. The bill changes Aggie Bonds by: (1) increasing the loan limit from $250,000 to $450,000 and indexing such limit amount for inflation; and (2) eliminating the dollar limitation in the definition of substantial farmland. This provision is effective for bonds issued after the date of enactment. *This provision is estimated to cost $4 million over five years and $20 million over ten years*.

Section 1031 Eligibility for Mutual Ditch, Reservoir, or Irrigation Company Stock. In general, section 1031 does not apply to any exchange of stock. The bill clarifies that the exchange of mutual ditch, reservoir, or irrigation company stock is effectively an exchange of real property and therefore qualifies for section 1031. This provision is effective for exchanges completed after the date of enactment. *This provision is estimated to cost $1 million over five years and $2 million over ten years.*

Agricultural Chemicals Security Tax Credit. The bill provides retailers of agricultural products and chemicals and manufacturers, formulators, or distributors of certain pesticides a business tax credit for 30 percent of costs for the protection of such chemicals or pesticides. Such protection costs include employee security training and background checks, installation of security equipment, and computer network safeguards. The bill sets a $2 million annual limit on such credit and a per facility limitation of $100,000 (reduced by credits received for the five prior taxable years). This provision is effective for expenses paid or incurred after the date of enactment. *This provision is estimated to cost $13 million over five years and $14 million over ten years.*

Equine Depreciation. The depreciation period for the cost of a race horse currently varies depending on the age of the race horse. The cost of race horses older than two years may be depreciated over three years. The cost of race horses that are two years old or younger when they are placed into service must be depreciated over seven years. The bill creates a uniform depreciation period of three years for all race horses. This provision is effective December 31, 2008 and expires December 31, 2013. *This provision is estimated to cost $229 million over five years and $126 million over ten years.*

Kansas Tornado Disaster Relief. The bill provides tax relief to the victims of tornadoes and storms that hit the Greensburg, Kansas area, including: (1) suspension of certain limitations on personal casualty losses; (2) extension of the replacement period for nonrecognition of gain; (3) providing an employee retention credit for employers affected by the May 4, 2007 storms and tornadoes; (4) special allowance for certain property acquired on or after May 5, 2007; (5) an increase in the amount allowed to be expensed under section 179; (6) expensing for certain demolition and clean-up costs; (7) special treatment of public utility property disaster losses; (8) extended carryback period for net operating losses attributable to storm losses; (9) special treatment of representations regarding income eligibility for purposes of qualified rental project requirements; and (10) special rules for the use of retirement funds. *This provision is estimated to cost $70 million over five years and $60 million over ten years.*

Modification to the Advance Coal Project Credit and the Gasification Project Credit. The bill will clarify that the Treasury has the ability to accept additional improvements (such as better environmental performance, carbon capture sequestration, and feedstock transportation savings) in post-credit allocations. *This provision is estimated to have no revenue effect.*

<u>Additional Revenue Raising Provisions</u>

Limitation on Farming Losses of Certain Taxpayers. The bill limits the amount of farming losses that a taxpayer may use to offset non-farm business income to the greater of $300,000 or the net farm income the taxpayer has received over the last five years. Losses that are limited in a particular year may be carried forward to subsequent years. This provision only applies to eligible taxpayers who receive any direct or counter-cyclical payments under title 1 of the Food and Energy Security Act of 2008, or Commodity Credit Corporation loans. For purposes of this provision, the bill broadens the definition of "farming business" to include the processing of commodities, without regard to whether such activity is incidental for a taxpayer otherwise engaged in a farming business with respect to such commodities. The provision is effective for taxable years beginning after December 31, 2009. *The provision is estimated to raise $206 million over five years and $479 million over ten years.*

Optional Self-Employment Tax. Through farm optional methods, farmers and ranchers may voluntarily pay Social Security taxes in order to earn quarters so that they can receive Social Security benefits. The bill modifies the farm optional method so that electing taxpayers may be eligible to secure four credits of Social Security benefit coverage each taxable year. The bill makes a similar modification to the nonfarm optional method. This provision is effective for taxable years beginning after December

31, 2007. *This provision is estimated to raise $46 million over five years and $105 million over ten years.*

Information Reporting for Commodity Credit Corporation Transactions. The Commodity Credit Corporation (CCC) may make market assistance loans to farmers of eligible commodities. A farmer receiving a CCC loan can use cash to repay such a loan, purchase CCC certificates for use in repayment of the loan, or deliver the pledged collateral as full payment for the loan at maturity. If a farmer uses cash instead of certificates to repay the loan, the farmer will receive a Form CCC-1099-G Information Return showing the market gain realized. For transactions prior to January 1, 2007, however, if a farmer uses CCC certificates to facilitate repayment of a CCC loan, the farmer will not receive an information return. For transactions after January 1, 2007, IRS Notice 2007-63 provides that the CCC must use Form 1099-G to report market gain associated with the repayment of a CCC loan whether the taxpayer repays the loan with cash or uses CCC certificates in repayment of the loan. The bill codifies the requirement of IRS Notice 2007-63. This provision is effective for loans repaid on or after January 1, 2007. *This provision is estimated to have no revenue effect*.

Corporate Payments. The tax title increased the required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 from 106.25 percent to 114 percent, an increase of 7.75 percentage points. This provision was added to the Conference Report to raise additional revenue based on CBO's score of the final Conference Report agreement. A final CBO score for this provision is not available.

<u>Agriculture and Economic Aid Trade Measures</u>

Caribbean Basin Initiative (CBI). The Caribbean Basin Initiative (CBI) provides preferential access to the U.S. market for certain products from select countries in the Caribbean basin region. Some of these countries are also eligible for enhanced benefits under the Caribbean Basin Trade Partnership Act (CBTPA) for certain apparel and other products. Such preferential access expires on September 30, 2008. The Conference Report extends these benefits for two years until September 30, 2010. *This provision is estimated to cost $161 million over ten years.*

Haiti Trade Preferences. The Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act provides duty-free access to the U.S. market for certain wire harness automotive components and certain apparel articles if they meet strict guidelines and rules of origin. The Conference Report expands the scope of the HOPE Act by simplifying the rules for allowing Haitian apparel to qualify for duty-free access to the U.S. market. These provisions, known as HOPE II, provide duty-free access for certain apparel articles which may, in certain circumstances, contain fabric from countries other than Haiti or the United States. HOPE II also includes a labor monitoring mechanism to assist Haitian producers in abiding by core labor standards and Haitian labor law.

The provision requires Haiti, in cooperation with the International Labor Organization, to establish a Technical Assistance Improvement and Compliance Needs Assessment and

Remediation (TAICNAR) program. Under the program, the International Labor Organization (ILO) is directed to inspect facilities of covered producers, assist Haiti in enforcing national labor laws and resolving labor disputes, and submit biannual reports concerning whether producers in Haiti are meeting specified labor standards.

The provision further establishes that the President "shall consider," for purposes of trade preference program participation, these reports in identifying whether a Haitian textile producer "has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards."

This provision is estimated to cost $112 million over ten years

First Sale. The practice of "first sale" allows an importer to assess the value of imported goods based on the first sale of goods destined for the United States, regardless of when that sale occurred. U.S. Customs and Border Protection (CBP) has proposed regulatory changes to assess duties on the "last sale" rather than the "first sale" value of goods. The Conference Report (1) requires CBP to collect information on the number of importers that value imports using the "first sale" methodology; (2) requires the United States International Trade Commission to provide Congress with a report on the number of importers using "first sale" methodology, and the value of those imports; and (3) expresses the sense of Congress that CBP should not implement its change in interpretation until at least January 1, 2011. *This provision is estimated to have no revenue effect.*

Wine Export Reform. Current law permits a firm to receive a refund on duties paid to import a product when a "commercially interchangeable" product is subsequently exported. Wine exporters can receive a refund of duties paid based on wine color (i.e. white wine exports can receive a duty refund for white wine imports). CBP has proposed tightening that standard to allow drawback based on specific wine varieties, rather than color. The Conference Report maintains current practice. *The provision is estimated to have no revenue effect.*

Softwood Lumber. Title III of the Conference Report contains a provision to enforce international agreements related to trade in softwood lumber. The Conference Report requires American importers of softwood lumber to declare that their imports are consistent with the terms of international agreements; obligates U.S. Customs and Border Protection to verify that the importer's declarations are true and accurate; and provides for the imposition of penalties for knowing violations. This provision will enter into force 60 days after the date of enactment, and will remain in force permanently. *This provision is estimated to have no revenue effect*

Administration Position

At press time, a SAP was not available. The Administration has indicated it would veto H.R. 2419.

Cost

Because a new budget resolution conference report has not been agreed to, the costs of the Conference Report will be measured relative to the March 2007 baseline, rather than a more recent baseline. Relative to the March 2007 baseline, the Conference Report would increase direct spending by $0.5 billion over ten years. This spending is fully offset by changes in the Tax Title. According to CBO, the Tax Title increases revenues by $0.7 billion for a net decrease in the deficit of $0.1 billion over the 2008-2017 time period. However, CBO estimates that changes in direct spending and revenues would cause an increase in the on-budget deficit greater than $5 billion in at least one of the 10-year periods between 2018 and 2057, violating Section 203 of the 2008 budget resolution, the long-term deficits point of order. A large portion of the increased revenues are a result of extending customs user fees that would otherwise have expired in 2014, through 2017. CBO estimates that these fees will amount to more than $2 billion per year in private sector mandates from 2015-2017.