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109TH CONGRESS
1ST SESSION

# H. R. 388

To provide for a Biofuels Feedstocks Energy Reserve, and to authorize the Secretary of Agriculture to make and guarantee loans for the production, distribution, development, and storage of biofuels.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2005

Ms. KAPTUR (for herself, Mr. ABERCROMBIE, Mr. BROWN of Ohio, Mr. FILNER, Mr. GRIJALVA, Mr. HINCHEY, Mr. KILDEE, Mr. OBERSTAR, Mr. RYAN of Ohio, and Mr. STRICKLAND) introduced the following bill; which was referred to the Committee on Agriculture

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# A BILL

To provide for a Biofuels Feedstocks Energy Reserve, and to authorize the Secretary of Agriculture to make and guarantee loans for the production, distribution, development, and storage of biofuels.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Biofuels Energy Independence Act of 2005''.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) The over reliance of the United States on imported petroleum creates a major strategic vulnerability for the Nation, with nearly half of the energy supply of the United States dependent on foreign sources.

(2) From the economically damaging Arab oil embargoes of 1973–74 and 1979 to the recession precipitated by rising oil prices which began in 1999, the economic stability of the United States has too often been shaken by economic forces outside its borders.

(3) Increasing fuel prices have been a particular hardship on small, independent businessmen, particularly truckers and farmers, who have no choice but to pay ever-increasing fuel bills while absorbing these higher costs in today's economic environment,

(4) This Act would shift America's dependence away from foreign petroleum as an energy source toward alternative, renewable, domestic agricultural sources. Its aim is to convert the current petroleum trade deficit to a trade balance by replacing foreign sources of supply with steady increases of biobased fuels through domestic production.

(5) Today, there are nearly 140,000,000 cars and 85,000,000 trucks on our highways. Of this

amount, approximately 3,300,000 cars and trucks already on our highways will run on 85 percent ethanol (E–85), and this number is increasing. For the 2005 model year, there are 20 different models of vehicles capable of running on E–85. Yet given this market, the alternative fuel is used less than 1 percent of the time given that of the more than 187,000 retail locations selling motor fuel in the United States, only 400 stations across 38 States sell E–85.

(6) Biodiesel production is also dramatically increasing, going from 5,000,000 gallons in 2001 to nearly 25,000,000 gallons in 2003. Daimler-Chrysler has also announced its intentions to initially fuel the Diesel Jeep Liberty with a 5 percent biodiesel blend, the first time a vehicle has been explicitly fueled with an alternative fuel as it rolls off the production line.

(7) Currently the United States annually consumes about 7,171,885,000 barrels of petroleum. (164,000,000,000 gallons of vehicle fuels and 5,600,00,000 gallons of heating oil.) In 2002, 62 percent of these fuels were imported, part of a total $358,200,000,000 trade deficit with the rest of the world. Since 1983, the United States importation of

petroleum and its derivatives has more than tripled, rising from 1,215,225,000 barrels in 1983 to 4,476,501,000 barrels in 2003.

(8) Further Strategic Petroleum Reserve policy should encourage domestic production to the greatest extent possible. Currently, the Strategic Petroleum Reserve holds 670,700,000 barrels (out of a potential 727,000,000 barrels), sufficient to cushion the United States from wild price swings for a period of 53 days. None of the fuel in this Reserve is bio-based. In fact, 92.2 percent of the Strategic Petroleum Reserve has been purchased from foreign sources—41.9 percent from Mexico, 24 percent from the United Kingdom, and over 20 percent from OPEC nations.

(9) Strategic Petroleum Reserve policy also should encourage the development of alternatives to the Nation's reliance on petroleum such as biomass fuels.

(10) As a first step in diversification, the Strategic Petroleum Reserve should exchange 2,100,000 barrels from our current reserves for 32,000,000 gallons of ethanol and biodiesel, which would comprise less than 2 percent of the United States market, but yield a doubling of ethanol products.

(11) The benefits of biofuels are as follows:

(A) ENERGY SECURITY.—

(i) Biofuels hold potential to address our dependence on foreign energy sources immediately. With agricultural surpluses, commodity prices have reached record lows; concurrently world petroleum prices have reached record highs and are expected to continue rising as global petroleum reserves are drawn down over the next 25 years. It also is clear that economic conditions are favorable to utilize domestic surpluses of biobased oils to enhance the Nation's energy security.

(ii) In the short term, biofuels can supply at least one-fifth of current United States fuel demand using existing technologies and capabilities. Additional plant research, newer processing and distribution technologies, and placing additional acres under cultivation can yield even greater results.

(iii) Biofuels can be used with existing petroleum infrastructure and conventional equipment.

(B) ECONOMIC SECURITY.—

(i) Continued dependence upon imported sources of oil means our Nation is strategically vulnerable to disruptions in our oil supply.

(ii) Renewable biofuels domestically produced directly replace imported oil.

(iii) Increased use of renewable biofuels would result in significant economic benefits to rural and urban areas and also reduce the trade deficit.

(iv) According to the Department of Agriculture, a sustained annual market of 100,000,000 gallons of biodiesel alone would result in $170,000,000 in increased income to farmers.

(v) Farmer-owned biofuels production has already resulted in improved income for farmers, as evidenced by the experience with State-supported rural development efforts in Minnesota where prices to corn producers have been increased by $1.00 per bushel. With the Department of Agriculture having forecast prices of $2.10 per bushel of corn for the 2004–2005 mar-

keting year, the portion of the corn crop that goes for ethanol has a farm value of $2,100,000,000.

(C) ENVIRONMENTAL SECURITY.—

(i) The use of grain-based ethanol reduces greenhouse gas emissions from 35 to 46 percent compared with conventional gasoline. Biomass ethanol provides an even greater reduction.

(ii) The American Lung Association of Metropolitan Chicago credits ethanol-blended reformulated gasoline with reducing smog-forming emissions by 25 percent since 1990.

(iii) Ethanol reduces tailpipe carbon monoxide emissions by as much as 30 percent.

(iv) Ethanol reduces exhaust volatile organic compounds emissions by 12 percent.

(v) Ethanol reduces toxic emissions by 30 percent.

(vi) Ethanol reduces particulate emissions, especially fine-particulates that pose

a health threat to children, senior citizens, and those with respiratory ailments.

(vii) Biodiesel contains no sulfur or aromatics associated with air pollution.

(viii) The use of biodiesel provides a 78.5 percent reduction in $CO_2$ emissions compared to petroleum diesel and when burned in a conventional engine provides a substantial reduction of unburned hydrocarbons, carbon monoxide, and particulate matter.

# TITLE I—NATIONAL BIOFUELS DEVELOPMENT

**SEC. 101. LOANS AND LOAN GUARANTEES.**

(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the ''Secretary'') may make and guarantee loans for the production, distribution, development, and storage of biofuels.

(b) ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), an applicant for a loan or loan guarantee under this section shall be eligible to receive such a loan or loan guarantee if—

(A) the applicant is a farmer, member of an association of farmers, member of a farm co-

operative, municipal entity, nonprofit corporation, State, or Territory; and

(B) the applicant is unable to obtain sufficient credit elsewhere to finance the actual needs of the applicant at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(2) LOAN GUARANTEE ELIGIBILITY PRECLUDES LOAN ELIGIBILITY.—An applicant who is eligible for a loan guarantee under this section shall not be eligible for a loan under this section.

(c) LOAN TERMS.—

(1) INTEREST RATE.—Interest shall be payable on a loan under this section at the rate at which interest is payable on obligations issued by United States for a similar period of time.

(2) REPAYMENT PERIOD.—A loan under this section shall be repayable in not less than 5 years and not more than 20 years.

(d) REVOLVING FUND.—

(1) ESTABLISHMENT.—The Secretary shall establish a revolving fund for the making of loans under this section.

(2) DEPOSITS.—The Secretary shall deposit into the revolving fund all amounts received on account of loans made under this section.

(3) PAYMENTS.—The Secretary shall make loans under this section, and make payments pursuant to loan guarantees provided under this section, from amounts in the revolving fund.

(e) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out this section.

(f) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of loans and loan guarantees under this section, there are authorized to be appropriated to the revolving fund established under subsection (d) of this section such sums as may be necessary for fiscal years 2005 through 2010.

# TITLE II—BIOFUELS FEEDSTOCKS ENERGY RESERVE PROGRAM

**SEC. 201. ESTABLISHMENT.**

The Secretary of Agriculture (in this title referred to as the ''Secretary'') may establish and administer a reserve of agricultural commodities (known as the ''Biofuels Feedstocks Energy Reserve'') for the purpose of—

(1) providing feedstocks to support and further the production of energy from biofuels; and

(2) supporting the biofuels energy industry when production is at risk of declining due to reduced feedstocks or significant commodity price increases.

**SEC. 202. PURCHASES.**

(a) IN GENERAL.—The Secretary may purchase agricultural commodities at commercial rates, subject to subsection (b), in order to establish, maintain, or enhance the Biofuels Feedstocks Energy Reserve when—

(1)(A) the commodities are in abundant supply; and

(B) there is need for adequate carryover stocks to ensure a reliable supply of the commodities to meet the purposes of the reserve; or

(2) it is otherwise necessary to fulfill the needs and purposes of the biofuels energy reserve program.

(b) LIMITATION.—The agricultural commodities purchased for the Biofuels Feedstocks Energy Reserve shall be—

(1) of the type and quantity necessary to provide not less than 1-year's utilization for renewable energy purposes; and

(2) in such additional quantities to provide incentives for research and development of new renewable fuels and bio-energy initiatives.

**SEC. 203. RELEASE OF STOCKS.**

Whenever the market price of a commodity held in the Biofuels Feedstocks Energy Reserve exceeds 100 percent of the economic cost of producing the commodity (as determined by the Economic Research Service using the best available information, and based on a 3-year moving average), the Secretary shall release stocks of the commodity from the reserve at cost of acquisition, in amounts determined appropriate by the Secretary.

**SEC. 204. STORAGE PAYMENTS.**

(a) IN GENERAL.—The Secretary shall provide for the storage of agricultural commodities purchased for the Biofuels Feedstocks Energy Reserve by making payments

to producers for the storage of the commodities. The payments shall—

(1) be in such amounts, under such conditions, and at such times as the Secretary determines appropriate to encourage producers to participate in the program; and

(2) reflect local, commercial storage rates, subject to appropriate conditions concerning quality management and other factors.

(b) ANNOUNCEMENT OF PROGRAM.—

(1) TIME OF ANNOUNCEMENT.—The Secretary shall announce the terms and conditions of the storage payments for a crop of a commodity by—

(A) in the case of wheat, December 15 of the year in which the crop of wheat was harvested;

(B) in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested; and

(C) in the case of other commodities, such dates as may be determined by the Secretary.

(2) CONTENT OF ANNOUNCEMENT.—In the announcement, the Secretary shall specify the maximum quantity of a commodity to be stored in the Biofuels Feedstocks Energy Reserve that the Sec-

retary determines appropriate to promote the orderly marketing of the commodity, and to ensure an adequate supply for the production of biofuels.

(c) RECONCENTRATION.—The Secretary may, with the concurrence of the owner of a commodity stored under this program, reconcentrate the commodity stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of the commodity covered by the producer's or warehouseman's commitment.

(d) MANAGEMENT.—Whenever a commodity is stored under this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of the commodity in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodity that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The

Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(e) REVIEW.—In announcing the terms and conditions under which storage payments will be made under this section, the Secretary shall review standards concerning the quality of a commodity to be stored in the Biofuels Feedstocks Energy Reserve, and such standards should encourage only quality commodities, as determined by the Secretary. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of the commodities stored in the reserve.

**SEC. 205. USE OF COMMODITY CREDIT CORPORATION.**

The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to carry out this title. To the maximum extent practicable consistent with the effective and efficient administration of this title, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

**SEC. 206. REGULATIONS.**

Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue such regulations as are necessary to carry out this title.

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