

107TH CONGRESS
2D SESSION

S. 1960

To amend the Biomass Research and Development Act of 2000 to encourage production of biobased energy products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2002

Mr. HARKIN (for himself, Mr. FITZGERALD, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Biomass Research and Development Act of 2000 to encourage production of biobased energy products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Biobased Energy In-
5 centive Act of 2002”.

6 **SEC. 2. PRODUCTION OF BIOBASED ENERGY PRODUCTS.**

7 The Biomass Research and Development Act of 2000
8 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

1 (1) by redesignating section 310 as section 311;

2 and

3 (2) by inserting after section 309 the following:

4 **“SEC. 310. PRODUCTION OF BIOBASED ENERGY PRODUCTS.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) BIOBASED ENERGY PRODUCT.—The term
7 ‘biobased energy product’ means biodiesel or ethanol
8 fuel.

9 “(2) BIODIESEL.—The term ‘biodiesel’ means a
10 monoalkyl ester that meets the requirements of
11 ASTM D6751.

12 “(3) ELIGIBLE COMMODITY.—The term ‘eligible
13 commodity’ means wheat, corn, grain sorghum, bar-
14 ley, oats, rice, soybeans, sunflower seed, rapeseed,
15 canola, safflower, flaxseed, mustard, crambe, sesame
16 seed, cottonseed, and cellulosic commodities (such as
17 hybrid poplars and switch grass).

18 “(4) ELIGIBLE PRODUCER.—The term ‘eligible
19 producer’ means a producer that—

20 “(A) uses an eligible commodity to produce
21 a biobased energy product; and

22 “(B) enters into a contract with the Sec-
23 retary under subsection (b)(2).

24 “(5) NEW PRODUCER.—The term ‘new pro-
25 ducer’ means an eligible producer that has not used

1 an eligible commodity to produce a biobased energy
2 product during the preceding fiscal year.

3 “(b) BIOBASED ENERGY INCENTIVE PROGRAM.—

4 “(1) ESTABLISHMENT.—The Secretary shall es-
5 tablish a biobased energy incentive program under
6 which the Secretary shall make payments to eligible
7 producers to promote the use of eligible commodities
8 to produce biobased energy products.

9 “(2) CONTRACTS.—

10 “(A) IN GENERAL.—To be eligible to re-
11 ceive a payment, an eligible producer shall enter
12 into a contract with the Secretary under which
13 the producer shall agree to increase the use of
14 eligible commodities to produce biobased energy
15 products during 1 or more fiscal years.

16 “(B) QUARTERLY PAYMENTS.—Under a
17 contract—

18 “(i) the eligible producer shall agree
19 to increase the use of eligible commodities
20 to produce biobased energy products dur-
21 ing each fiscal year covered by the con-
22 tract; and

23 “(ii) the Secretary shall make pay-
24 ments to the eligible producer for each
25 quarter of the fiscal year.

1 “(3) AMOUNT.—Subject to paragraphs (6)
2 through (8), the amount of a payment made to an
3 eligible producer for a fiscal year under this sub-
4 section shall be determined by multiplying—

5 “(A) the payment quantity for the fiscal
6 year determined under paragraph (4); by

7 “(B) the payment rate determined under
8 paragraph (5).

9 “(4) PAYMENT QUANTITY.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (B), the payment quantity for payments
12 made to an eligible producer for a fiscal year
13 under this subsection shall equal the difference
14 between—

15 “(i) the quantity of eligible commod-
16 ities that the eligible producer agrees to
17 use, under the contract entered into with
18 the Secretary, to produce biobased energy
19 products during the fiscal year; and

20 “(ii) the quantity of eligible commod-
21 ities that the eligible producer used to
22 produce biobased energy products during
23 the preceding fiscal year.

24 “(B) NEW PRODUCERS.—The payment
25 quantity for payments made to a new producer

1 for the first fiscal year of a contract under this
2 subsection shall equal 25 percent of the quan-
3 tity of eligible commodities that the eligible pro-
4 ducer uses to produce biobased energy products
5 during the fiscal year.

6 “(5) PAYMENT RATE.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), the payment rate for payments
9 made to an eligible producer under this sub-
10 section for the use of an eligible commodity
11 shall be determined by the Secretary to com-
12 pensate the eligible producer for the local value
13 of—

14 “(i) in the case of corn, 1 bushel of
15 corn for each 3 bushels of additional corn
16 that is used to produce a biobased energy
17 product; and

18 “(ii) in the case of each other eligible
19 commodity, an equivalent quantity deter-
20 mined by the Secretary.

21 “(B) SMALL-SCALE PRODUCERS.—The
22 payment rate for payments made to an eligible
23 producer that has an annual capacity of less
24 than 60,000,000 gallons of biobased energy
25 products shall be at least 25 percent higher

1 than the payment rate for other eligible pro-
2 ducers, as determined by the Secretary.

3 “(6) PRORATION.—If the amount made avail-
4 able for a fiscal year under subsection (d)(2)(A) is
5 insufficient to allow the payment of the amount of
6 the payments that eligible producers (that apply for
7 the payments) otherwise would have a right to re-
8 ceive under this subsection, the Secretary shall pro-
9 rate the amount of the funds among all such eligible
10 producers.

11 “(7) OVERPAYMENTS.—If the total amount of
12 payments that an eligible producer receives for a fis-
13 cal year under this section exceeds the amount the
14 eligible producer should have received under this
15 subsection, the producer shall repay the amount of
16 the overpayment to the Secretary, plus interest (as
17 determined by the Secretary).

18 “(8) LIMITATION.—No eligible producer shall
19 receive more than 7 percent of the total amount
20 made available for a fiscal year under subsection
21 (d)(2)(A).

22 “(9) RECORDKEEPING AND MONITORING.—To
23 be eligible to receive a payment under this sub-
24 section, an eligible producer shall—

1 “(A) maintain for at least 3 years records
2 relating to the production of biobased energy
3 products; and

4 “(B) make the records available to the
5 Secretary to verify eligibility for the payments.

6 “(10) OTHER REQUIREMENTS.—To be eligible
7 to receive a payment under this subsection, an eligi-
8 ble producer shall meet other requirements of Fed-
9 eral law (including regulations) applicable to the
10 production of biodiesel or ethanol fuel.

11 “(c) AVAILABILITY OF BIOBASED ENERGY PROD-
12 UCTS.—The Secretary shall establish a program to en-
13 courage wider availability of biobased energy products to
14 consumers of gasoline and diesel fuels.

15 “(d) FUNDING.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 the Secretary shall use the funds, facilities, and au-
18 thorities of the Commodity Credit Corporation to
19 carry out this section.

20 “(2) FISCAL YEAR LIMITATIONS.—The amount
21 of funds of the Commodity Credit Corporation used
22 to carry out this section shall not exceed—

23 “(A) in the case of subsection (b),
24 \$150,000,000 for fiscal year 2003 and each
25 subsequent fiscal year; and

1 “(B) in the case of subsection (c),
2 \$10,000,000 for fiscal year 2003 and each sub-
3 sequent fiscal year.”.

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