

115TH CONGRESS
1ST SESSION

S. 2139

To amend the Food Security Act of 1985 to address critical conservation conditions under the regional conservation partnership program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

Mr. VAN HOLLEN (for himself, Mr. KAINE, Mrs. CAPITO, Mr. CASEY, Mr. MANCHIN, Mr. CARDIN, Mr. WARNER, Mr. CARPER, Mr. COONS, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to address critical conservation conditions under the regional conservation partnership program, 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 “Chesapeake Bay Farm
5 Bill Enhancements Act of 2017”.

1 **SEC. 2. PURPOSES.**

2 Section 1271(b) of the Food Security Act of 1985
3 (16 U.S.C. 3871(b)) is amended by adding at the end the
4 following:

5 “(4) To encourage alignment of partnership
6 projects with other Federal, State, and local agen-
7 cies and programs addressing similar natural re-
8 source concerns in a coordinated manner.”.

9 **SEC. 3. DEFINITIONS.**

10 Section 1271A(1) of the Food Security Act of 1985
11 (16 U.S.C. 3871a(1)) is amended by adding at the end
12 the following:

13 “(E) The conservation reserve program es-
14 tablished under subchapter B of chapter 1 of
15 subtitle D.

16 “(F) The Watershed Protection and Flood
17 Prevention Act (16 U.S.C. 1001 et seq.), other
18 than section 14 of that Act (16 U.S.C. 1012).”.

19 **SEC. 4. REGIONAL CONSERVATION PARTNERSHIPS.**

20 Section 1271B of the Food Security Act of 1985 (16
21 U.S.C. 3871b) is amended—

22 (1) by striking subsection (b) and inserting the
23 following:

24 “(b) MAXIMUM LENGTH.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term of a partnership agreement shall not be longer than 5 years.

“(2) EXCEPTIONS.—

“(A) CONCURRENT PROGRAM DEADLINE.—Subject to approval by the Secretary, the term of a partnership agreement may be longer than 5 years if the longer period is concurrent with a deadline established under a State or Federal program that relates specifically to the project.

“(B) 1-TIME EXTENSION.—The Secretary may extend a partnership agreement 1 time for a period that is not longer than 12 months if the Secretary determines that the extension is necessary to meet the objectives of the program.”;

(2) in subsection (c)(2)—

(A) by striking “An eligible” and inserting the following:

“(A) IN GENERAL.—An eligible”; and

(B) by adding at the end the following:

“(B) FORM.—A contribution of an eligible partner under this paragraph may be in the form of—

1 “(i) direct funding;
 2 “(ii) in-kind support; or
 3 “(iii) a combination of direct funding
 4 and in-kind support.

5 “(C) TREATMENT.—Any amounts ex-
 6 pended before the effective date of a partner-
 7 ship agreement under this section by an eligible
 8 partner for staff salaries or development of the
 9 partnership agreement shall be considered to be
 10 a part of the contribution of the eligible partner
 11 under this paragraph.”; and

12 (3) in subsection (d), by adding at the end the
 13 following:

14 “(5) FUNDING RENEWALS.—If an eligible part-
 15 ner demonstrates to the satisfaction of the Secretary
 16 that the eligible partner has made progress in ad-
 17 dressing one or more natural resource concerns by
 18 not later than the date that is 1 fiscal year before
 19 the date on which the partnership agreement ex-
 20 pires, the eligible partner may submit to the Sec-
 21 retary an application for a renewal of the partner-
 22 ship agreement, including a renewal of funding,
 23 through an expedited application process—

24 “(A) to continue to implement the partner-
 25 ship agreement;

1 “(B) to expand the scope of the partner-
2 ship agreement;

3 “(C) to enroll additional eligible producers;
4 or

5 “(D) to carry out other conservation activi-
6 ties relating to the project, including monitoring
7 and reporting on outcomes, as mutually agreed
8 by the Secretary and the eligible partner.

9 “(6) REVIEW.—To the extent practicable, after
10 receipt of an application under this subsection, the
11 Secretary shall provide to each applicant information
12 and feedback (including written information and
13 feedback, as the Secretary determines to be appro-
14 priate) throughout the annual program application
15 process for any improvements that could be made to
16 the application.”.

17 **SEC. 5. FUNDING ARRANGEMENTS THROUGH GRANT**
18 **AGREEMENTS.**

19 Section 1271C(b) of the Food Security Act of 1985
20 (16 U.S.C. 3871c(b)) is amended by striking paragraph
21 (2) and inserting the following:

22 “(2) FUNDING ARRANGEMENTS THROUGH
23 GRANT AGREEMENTS.—

24 “(A) IN GENERAL.—A partnership agree-
25 ment may be a grant agreement entered into

1 with an eligible partner in accordance with this
2 paragraph.

3 “(B) REQUIREMENTS.—Under a grant
4 agreement under subparagraph (A)—

5 “(i) using amounts made available to
6 carry out this subtitle, the Secretary shall
7 provide to the eligible partner a grant;

8 “(ii) the eligible partner shall carry
9 out eligible activities on eligible land (in-
10 cluding by contracting with one or more
11 producers, if the eligible partner deter-
12 mines the contracting to be appropriate),
13 on the condition that the eligible activities
14 directly or indirectly benefit agricultural
15 producers (including forestry producers),
16 to address natural resource concerns on a
17 regional or watershed scale, such as—

18 “(I) infrastructure investments
19 relating to agricultural or nonindus-
20 trial private forest production that
21 would benefit multiple producers, such
22 as a multiproducer irrigation water
23 delivery system;

24 “(II) projects addressing water
25 quality or quantity concerns in coordi-

1 nation with producers, including the
2 development and implementation of
3 watershed plans;

4 “(III) projects that use innova-
5 tive approaches to leveraging the Fed-
6 eral investment in conservation with
7 private financial mechanisms, in con-
8 junction with agricultural production
9 or forest resource management, such
10 as—

11 “(aa) the provision of per-
12 formance-based payments to pro-
13 ducers; and

14 “(bb) support for an envi-
15 ronmental market;

16 “(IV) projects that facilitate pilot
17 testing of new conservation practices,
18 technologies, or activities;

19 “(V) projects that promote the
20 long-term viability and sustainability
21 of agricultural land through innova-
22 tive agricultural land protection strat-
23 egies and mechanisms, including
24 projects that support the transfer of
25 land to beginning farmers and ranch-

1 ers, veteran farmers and ranchers, so-
 2 cially disadvantaged farmers and
 3 ranchers, and limited resource farm-
 4 ers and ranchers, as determined by
 5 the Secretary; and

6 “(VI) other projects for which
 7 the Secretary determines that the
 8 goals and objectives of the program
 9 would be easier to achieve through the
 10 grant agreement; and

11 “(iii) the Secretary may provide tech-
 12 nical and administrative assistance, as mu-
 13 tually agreed by the parties.

14 “(C) NONAPPLICABILITY OF ADJUSTED
 15 GROSS INCOME LIMITATION.—The adjusted
 16 gross income limitation described in section
 17 1001D(b)(1) shall not apply to the receipt by
 18 an eligible partner of a grant under this para-
 19 graph.

20 “(D) LIMITATION.—The Secretary may
 21 not use more than 30 percent of funding made
 22 available to carry out the program for grant
 23 agreements.

1 “(E) REPORTS.—An eligible partner that
2 enters into a grant agreement under this para-
3 graph shall submit to the Secretary—

4 “(i) any information that the Sec-
5 retary requires to prepare the report under
6 section 1271E(b); and

7 “(ii) an annual report that describes
8 the status of the project carried out by the
9 eligible partner, including a description
10 of—

11 “(I) the use of the grant funds;

12 “(II) any subcontracts awarded
13 using grant funds;

14 “(III) the producers receiving
15 funding using the grant funds;

16 “(IV)(aa) the progress made by
17 the project in addressing any natural
18 resource concerns, including in a
19 quantified form; and

20 “(bb) as appropriate, other envi-
21 ronmental, economic, or social out-
22 comes of the project; and

23 “(V) any other reporting data the
24 Secretary determines are necessary to

1 ensure compliance with the program
2 rules.”.

3 **SEC. 6. FUNDING.**

4 (a) IN GENERAL.—Section 1271D of the Food Secu-
5 rity Act of 1985 (16 U.S.C. 3871d) is amended—

6 (1) in subsection (a)—

7 (A) by striking “\$100,000,000” and in-
8 serting “\$300,000,000”; and

9 (B) by striking “for each of fiscal years
10 2014 through 2018” and inserting “for each
11 fiscal year”;

12 (2) in subsection (c)—

13 (A) in paragraph (1), by striking “for each
14 of fiscal years 2014 through 2018” and insert-
15 ing “for each fiscal year”; and

16 (B) by striking paragraph (2) and insert-
17 ing the following:

18 “(2) DURATION OF AVAILABILITY.—Any funds
19 or acres reserved under paragraph (1) shall remain
20 available for obligation only for the purposes of car-
21 rying out the program until expended.

22 “(3) DISTRIBUTION OF FUNDS.—To the max-
23 imum extent practicable, of projects receiving funds
24 or acres reserved under paragraph (1) from a cov-
25 ered program, the percentage of projects that shall

1 have purposes similar to the purposes of the applica-
2 ble covered program from which funds or acres were
3 reserved shall be approximately equal to the percent-
4 age of funds or acres reserved from the applicable
5 covered program.”;

6 (3) in subsection (d)—

7 (A) in paragraph (1), by striking “25 per-
8 cent of the funds and acres to projects based on
9 a State competitive process administered by the
10 State Conservationist, with the advice of the
11 State technical committee” and inserting the
12 following: “40 percent of the funds and acres to
13 projects based on a State or multistate competi-
14 tive process administered, as applicable, by the
15 State Conservationist or jointly by the State
16 Conservationists of each State participating in
17 the multistate process, with the advice of the
18 applicable State technical committees”;

19 (B) by striking paragraph (2);

20 (C) by redesignating paragraph (3) as
21 paragraph (2); and

22 (D) in paragraph (2) (as so redesignated),
23 by striking “35 percent” and inserting “60 per-
24 cent”;

25 (4) in subsection (e)—

1 (A) by striking “None of the funds” and
2 inserting the following:

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), none of the funds”; and

5 (B) by adding at the end the following:

6 “(2) PROJECT DEVELOPMENT AND OUT-
7 REACH.—Under a partnership agreement, the Sec-
8 retary may advance reasonable amounts of funding
9 for technical assistance to eligible partners to con-
10 duct project development and outreach activities in
11 a project area (including activities conducted before
12 the effective date of the partnership agreement), in-
13 cluding—

14 “(A) providing outreach and education to
15 producers for potential participation in the
16 project;

17 “(B) the development of a watershed or
18 habitat plan; and

19 “(C) establishing baseline metrics to sup-
20 port the development of the assessment re-
21 quired under section 1271B(c)(1)(E).”; and

22 (5) by adding at the end the following:

23 “(f) TECHNICAL ASSISTANCE.—

24 “(1) IN GENERAL.—At the time of project se-
25 lection, the Secretary shall identify and make pub-

1 lically available the amount that the Secretary shall
 2 use to provide technical assistance under the terms
 3 of the partnership agreement.

4 “(2) LIMITATION.—The Secretary shall limit
 5 costs of the Secretary for technical assistance to
 6 costs specific and necessary to carry out the objec-
 7 tives of the partnership agreement.

8 “(3) THIRD-PARTY PROVIDERS.—The Secretary
 9 shall develop and implement strategies to encourage
 10 third-party technical service providers to provide
 11 technical assistance to eligible partners pursuant to
 12 a partnership agreement.”.

13 (b) CONFORMING AMENDMENT.—Section 1271F(a)
 14 of the Food Security Act of 1985 (16 U.S.C. 3871f(a))
 15 is amended by striking “1271D(d)(3)” and inserting
 16 “1271D(d)(2)”.

17 **SEC. 7. CRITICAL CONSERVATION AREAS.**

18 Section 1271F of the Food Security Act of 1985 (16
 19 U.S.C. 3871f) is amended—

20 (1) by redesignating subsections (a) (as amend-
 21 ed by section 6(b)), (b), and (c) as subsections (b),
 22 (c), and (d), respectively;

23 (2) by inserting before subsection (b) (as so re-
 24 designated) the following:

25 “(a) DEFINITIONS.—In this section:

1 “(1) CRITICAL CONSERVATION AREA.—The
 2 term ‘critical conservation area’ means a geo-
 3 graphical area that contains a critical conservation
 4 condition that can be addressed through one or more
 5 covered programs.

6 “(2) CRITICAL CONSERVATION CONDITION.—
 7 The term ‘critical conservation condition’ means—

8 “(A) a condition of land that would benefit
 9 from water quality improvement, including
 10 through reducing erosion, promoting sediment
 11 control, and addressing nutrient management
 12 activities affecting large bodies of water of re-
 13 gional, national, or international significance;
 14 and

15 “(B) a condition of land that would benefit
 16 from water quantity improvement, including im-
 17 provement relating to—

18 “(i) groundwater, surface water, aquifer,
 19 or other water sources; or

20 “(ii) water retention and flood preven-
 21 tion.”;

22 (3) in subsection (b) (as so redesignated), by
 23 inserting “that address each critical conservation
 24 condition for which the critical conservation area is
 25 designated” before the period at the end;

1 (4) in subsection (c) (as so redesignated)—

2 (A) by redesignating paragraphs (1)
3 through (3) as paragraphs (2) through (4), re-
4 spectively;

5 (B) by inserting before paragraph (2) (as
6 so redesignated) the following:

7 “(1) IN GENERAL.—In designating a critical
8 conservation area under this section, the Secretary
9 shall identify one or more critical conservation condi-
10 tions that the critical conservation area contains, in-
11 cluding—

12 “(A) the geographical area of land that
13 contains the critical conservation condition; and

14 “(B) conservation goals and outcomes suf-
15 ficient to demonstrate that progress is being
16 made to address the critical conservation condi-
17 tions.”;

18 (C) in paragraph (2) (as so redesign-
19 nated)—

20 (i) by striking subparagraphs (C) and
21 (D) and inserting the following:

22 “(C) contains a critical conservation condi-
23 tion; or”; and

24 (ii) by redesignating subparagraph
25 (E) as subparagraph (D); and

1 (D) by striking paragraph (3) (as so reded-
 2 igned) and inserting the following:

3 “(3) REVIEW AND WITHDRAWAL.—The Sec-
 4 retary may—

5 “(A) review designations of critical con-
 6 servation areas under this section not more
 7 than once every 5 years; and

8 “(B) withdraw designation of a critical
 9 conservation area only if the Secretary deter-
 10 mines that the area is no longer a critical con-
 11 servation area.”;

12 (5) in subsection (d) (as so redesignated)—

13 (A) by redesignating paragraph (3) as
 14 paragraph (4);

15 (B) by inserting after paragraph (2) the
 16 following:

17 “(3) PRIORITY.—The Secretary shall give pri-
 18 ority to an application under this section that ad-
 19 dresses a critical conservation condition by—

20 “(A)(i) including a diversity of stake-
 21 holders in the project;

22 “(ii) building new partnerships at the local,
 23 State, and corporate levels;

24 “(iii) leveraging non-Federal financial and
 25 technical resources; and

1 “(iv) coordinating with other local, State,
2 or national efforts;

3 “(B) delivering a high percentage of envi-
4 ronmental benefits to address the conservation
5 goals and outcomes that shall be achieved for
6 the Secretary to determine that the land is no
7 longer a critical conservation area;

8 “(C) providing innovative conservation
9 methods and delivery, including outcome-based
10 performance measures and methods; or

11 “(D) implementing the project consistent
12 with multi-State watershed restoration plans.”;
13 and

14 (C) in paragraph (4) (as so redesignated),
15 by striking “area described in subsection
16 (b)(1)(D)” and inserting “condition described
17 in subsection (a)(2)(B)”;

18 (6) by adding at the end the following:

19 “(e) REPORTS.—Not later than December 31, 2018,
20 and each year thereafter, the Secretary shall submit to
21 the Committee on Agriculture of the House of Representa-
22 tives and the Committee on Agriculture, Nutrition, and
23 Forestry of the Senate a report describing the status of
24 each critical conservation condition for each critical con-
25 servation area designated under this section, including—

1 “(1) the conditions for which each critical con-
2 servation area is designated;

3 “(2) conservation goals and outcomes sufficient
4 to demonstrate that progress is being made to ad-
5 dress the critical conservation conditions;

6 “(3) the partnership agreements selected to ad-
7 dress each conservation goal and outcome; and

8 “(4) the extent to which each conservation goal
9 and outcome is being addressed by the partnership
10 agreements.”.

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