

115TH CONGRESS
2D SESSION

S. 2557

To amend the Food Security Act of 1985 to improve conservation programs,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2018

Mrs. ERNST (for herself, Mr. BROWN, Mr. GRASSLEY, and Mr. CASEY) 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 improve
conservation programs, 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 “Give Our Resources
5 the Opportunity to Work Act of 2018”.

6 **SEC. 2. CONSERVATION RESERVE PROGRAM.**

7 (a) INELIGIBLE LAND.—Section 1231 of the Food
8 Security Act of 1985 (16 U.S.C. 3831) is amended—

9 (1) by redesignating subsections (c) through (i)
10 as subsections (d) through (j), respectively; and

1 (2) by inserting after subsection (b) the fol-
 2 lowing:

3 “(c) INELIGIBLE LAND.—

4 “(1) IN GENERAL.—The Secretary shall not in-
 5 clude in the conservation reserve program estab-
 6 lished under this subchapter—

7 “(A) except as provided in paragraphs (2)
 8 and (3)(B), prime farmland or class I, II, or III
 9 land (as defined in the Soil Survey Manual of
 10 the Department of Agriculture) (or successor
 11 definitions) that is—

12 “(i) not highly erodible; and

13 “(ii) eroding at a level that is less
 14 than the soil loss tolerance level of the
 15 land; or

16 “(B) all of the land on a farm that is larg-
 17 er than 10 acres.

18 “(2) EXEMPTIONS.—In carrying out paragraph
 19 (1)(A), the Secretary shall exempt—

20 “(A) land that is eligible under subsection
 21 (b)(3); and

22 “(B) land that—

23 “(i) is eligible under subsection (b)(4);
 24 and

25 “(ii) is—

- 1 “(I) a grass sod waterway;
2 “(II) a contour grass sod strip;
3 “(III) a prairie strip;
4 “(IV) a filterstrip;
5 “(V) a riparian buffer;
6 “(VI) a wetland buffer;
7 “(VII) a saturated buffer;
8 “(VIII) a bioreactor; or
9 “(IX) a similar partial field that
10 will improve water quality if the land
11 is enrolled in the conservation reserve
12 program using continuous sign-up
13 under section 1234(d)(2)(A)(ii), as
14 determined by the Secretary.

15 “(3) PORTION OF FIELD.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (C), in the case of a field described in
18 subparagraph (B), the Secretary shall enroll
19 only the land described in clause (ii) of that
20 subparagraph.

21 “(B) LAND DESCRIBED.—A field described
22 in this subparagraph is a field that contains—

23 “(i) land that is excluded under para-
24 graph (1)(A); and

25 “(ii) land that is—

1 “(I) not excluded under para-
2 graph (1)(A); and

3 “(II) eligible under subsection
4 (b).

5 “(C) EXCEPTION.—In the case of a field
6 described in subparagraph (B) more than 90
7 percent of the land of which is land described
8 in clause (ii) of that subparagraph, the Sec-
9 retary may enroll all of the land of the field.”.

10 (b) ENROLLMENT.—Subsection (e) of section 1231 of
11 the Food Security Act of 1985 (16 U.S.C. 3831) (as re-
12 designated by subsection (a)) is amended—

13 (1) in paragraph (1), by striking “during—” in
14 the matter preceding subparagraph (A) and all that
15 follows through the period at the end of subpara-
16 graph (E) and inserting “not more than 24,000,000
17 acres.”;

18 (2) in paragraph (2)(A)—

19 (A) by striking “limitations” and inserting
20 “limitation”;

21 (B) by striking “2,000,000” and inserting
22 “3,000,000”; and

23 (C) by striking “2018” and inserting
24 “2023”; and

25 (3) by adding at the end the following:

1 “(3) ENROLLMENT OF CONSERVATION BUFF-
 2 ERS TO FOSTER CLEAN LAKES, ESTUARIES, AND
 3 RIVERS.—

4 “(A) IN GENERAL.—For purposes of ap-
 5 plying the limitation in paragraph (1), the Sec-
 6 retary shall give priority to the enrollment in
 7 the conservation reserve program under this
 8 subchapter of land that—

9 “(i) is described in subsection
 10 (c)(2)(B)(ii); and

11 “(ii) shall have a positive impact, as
 12 determined by the Secretary, on the water
 13 quality of—

14 “(I) a lake;

15 “(II) an estuary; or

16 “(III) a river.

17 “(B) SEDIMENT AND NUTRIENT LOAD-
 18 INGS.—In carrying out subparagraph (A), the
 19 Secretary shall focus on land that—

20 “(i) is located in a watershed im-
 21 pacted by sediment and nutrient; and

22 “(ii) if enrolled, will reduce sediment
 23 loadings, nutrient loadings, and harmful
 24 algal blooms, as determined by the Sec-
 25 retary.

1 “(C) MINIMUM ACREAGE.—Of the acres
2 enrolled in the conservation reserve under para-
3 graph (1), not less than 4,000,000 acres shall
4 be—

5 “(i) of land described in subparagraph
6 (A); and

7 “(ii) newly enrolled during fiscal years
8 2019 through 2028.”.

9 (c) PAYMENT RATES.—Section 1234 of the Food Se-
10 curity Act of 1985 (16 U.S.C. 3834) is amended—

11 (1) in subsection (c)—

12 (A) by redesignating paragraphs (1) and
13 (2) as subparagraphs (A) and (B), respectively,
14 and indenting appropriately; and

15 (B) by inserting before subparagraph (A)
16 (as so redesignated) the following:

17 “(1) SIGNING AND PRACTICE INCENTIVE PAY-
18 MENTS.—

19 “(A) IN GENERAL.—In the case of a con-
20 tinuous enrollment contract, the Secretary may
21 make a signing incentive payment or a practice
22 incentive payment to an owner or operator of
23 eligible land in an amount sufficient to encour-
24 age participation in the program established
25 under this subchapter.

1 “(B) LIMITATION ON MAKING PAY-
 2 MENTS.—The Secretary may only make a pay-
 3 ment described in subparagraph (A) if the na-
 4 tional average market price received by pro-
 5 ducers during the previous 12-month marketing
 6 year for all covered commodities is greater than
 7 the national average market price received by
 8 producers during the most recent 10 marketing
 9 years for all covered commodities.

10 “(2) TREE THINNING AND OTHER PRAC-
 11 TICES.—”;

12 (2) in subsection (d)—

13 (A) in paragraph (3), by adding at the end
 14 the following:

15 “(D) PRIORITY FOR LOW COST OFFERS.—
 16 In determining the acceptability of contract of-
 17 fers for new general enrollments, the Secretary
 18 shall—

19 “(i) give priority to a contract offer
 20 that maximizes the conservation value of
 21 the land that is the subject of the contract
 22 offer relative to the cost of the contract;
 23 and

24 “(ii) assign the cost value factor de-
 25 scribed in clause (i) a weight of not less

than 25 percent in any ranking scheme used by the Secretary in determining the acceptability of contract offers.”;

(B) in paragraph (5)—

(i) in subparagraph (C)—

(I) by striking “The Secretary may use” and inserting “With respect to”; and

(II) by striking “rental rates” and inserting the following: “rental rates, the Secretary—

“(i) shall apply the limitation described in subsection (g)(1)(A); and

“(ii) may use the estimates”; and

(ii) by adding at the end the following:

“(D) LIMITATION.—Subject to subsection (g), the amount of an annual rental payment paid to an owner or operator under this subchapter, in the case of general enrollment, shall not be greater than 80 percent of the applicable estimate of the county average market dryland cash rental rates for cropland derived from the survey conducted under subparagraph (A).”; and

1 (3) in subsection (g)—

2 (A) in paragraph (1), by striking “exceed
3 \$50,000” and inserting the following: “ex-
4 ceed—

5 “(A) \$50,000; and

6 “(B) \$240 per acre.”; and

7 (B) in paragraph (2)(A), by striking “this
8 subsection” and inserting “paragraph (1)”.

9 **SEC. 3. CONSERVATION STEWARDSHIP PROGRAM.**

10 (a) DEFINITIONS.—Section 1238D of the Food Secu-
11 rity Act of 1985 (16 U.S.C. 3838d) is amended—

12 (1) in paragraph (2)(B)—

13 (A) in clause (i), by striking “and” at the
14 end;

15 (B) in clause (ii), by striking the period at
16 the end and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(iii) development of a comprehensive
19 conservation plan, as defined in section
20 1238G(f)(1).”; and

21 (2) in paragraph (7), by striking the period at
22 the end and inserting the following: “through the
23 use of—

24 “(A) quality criteria under a resource man-
25 agement system;

1 “(B) predictive analytics tools;

2 “(C) data from past and current enroll-
3 ment in the program; and

4 “(D) other methods that measure con-
5 servation and improvement in priority resource
6 concerns.”.

7 (b) ESTABLISHMENT.—Section 1238E(a) of the
8 Food Security Act of 1985 (16 U.S.C. 3838e(a)) is
9 amended in the matter preceding paragraph (1) by strik-
10 ing “2018” and inserting “2023”.

11 (c) STEWARDSHIP CONTRACTS.—Section 1238F of
12 the Food Security Act of 1985 (16 U.S.C. 3838f) is
13 amended—

14 (1) in subsection (b), by striking paragraph (1)
15 and inserting the following:

16 “(1) RANKING OF APPLICATIONS.—

17 “(A) IN GENERAL.—In evaluating contract
18 offers submitted under subsection (a), the Sec-
19 retary shall rank applications based on—

20 “(i) the natural resource conservation
21 and environmental benefits that result
22 from the conservation treatment on all ap-
23 plicable priority resource concerns at the
24 time of submission of the application; and

1 “(ii) the degree to which the proposed
2 conservation activities increase natural re-
3 source conservation and environmental
4 benefits.

5 “(B) ADDITIONAL CRITERION.—If 2 or
6 more applications receive the same ranking
7 under subparagraph (A), the Secretary shall
8 rank those contracts based on the extent to
9 which the actual and anticipated conservation
10 benefits from each contract are provided at the
11 lowest cost relative to other similarly beneficial
12 contract offers.”; and

13 (2) in subsection (e)—

14 (A) in paragraph (2)—

15 (i) by inserting “new or improved”
16 after “integrate”; and

17 (ii) by inserting “demonstrating con-
18 tinuous improvement during the additional
19 5-year period,” after “operation,”; and

20 (B) in paragraph (3)—

21 (i) in subparagraph (A)—

22 (I) by striking “to meet” and in-
23 serting “to plan, install, maintain,
24 and actively manage conservation ac-

1 tivities that allow the producer to
2 meet or exceed”; and

3 (II) by striking “on the agricul-
4 tural operation”; and

5 (ii) in subparagraph (B), by striking
6 “to exceed the stewardship threshold of”
7 and inserting “to adopt or improve con-
8 servation activities, as determined by the
9 Secretary, to achieve higher levels of per-
10 formance with respect to not less than”.

11 (d) DUTIES OF THE SECRETARY.—Section 1238G of
12 the Food Security Act of 1985 (16 U.S.C. 3838g) is
13 amended—

14 (1) in subsection (c)(2), by striking “all finan-
15 cial” and all that follows through the period at the
16 end and inserting the following: “all—

17 “(A) financial assistance, including pay-
18 ments made under subsections (d)(2)(B), (e),
19 and (f);

20 “(B) technical assistance; and

21 “(C) any other expenses associated with
22 enrollment or participation in the program.”;

23 (2) in subsection (d), by adding at the end the
24 following:

1 “(5) PAYMENT FOR COVER CROP ACTIVITIES.—

2 The amount of a payment under this subsection for
 3 cover crop activities shall be not less than 125 per-
 4 cent of the annual payment amount determined by
 5 the Secretary under paragraph (2).”;

6 (3) in subsection (e)—

7 (A) in the subsection heading, by inserting

8 “AND MANAGEMENT-INTENSIVE ROTATION
 9 GRAZING” after “ROTATIONS”;

10 (B) by striking paragraph (2);

11 (C) by redesignating paragraphs (1) and
 12 (4) as paragraphs (2) and (1), respectively;

13 (D) by moving paragraph (1) (as so redesi-
 14 gnated) so as to appear before paragraph (2)
 15 (as so redesignated);

16 (E) in paragraph (1) (as so redesign-
 17 nated)—

18 (i) by redesignating subparagraphs

19 (A) through (D) and (E) as clauses (i)
 20 through (iv) and (vi), respectively, and in-
 21 denting appropriately;

22 (ii) by striking the paragraph designa-
 23 tion and all that follows through “the
 24 term” in the matter preceding clause (i)

1 (as so redesignated) and inserting the fol-
 2 lowing:

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) MANAGEMENT-INTENSIVE ROTA-
 5 TIONAL GRAZING.—The term ‘management-in-
 6 tensive rotational grazing’ means a grazing sys-
 7 tem in which animals are regularly and system-
 8 atically moved to fresh pasture in a manner
 9 that—

10 “(i) maximizes the quantity and qual-
 11 ity of forage growth;

12 “(ii) improves manure distribution
 13 and nutrient cycling;

14 “(iii) increases carbon sequestration
 15 from greater forage harvest;

16 “(iv) improves the quality and quan-
 17 tity of cover for wildlife;

18 “(v) provides permanent cover to pro-
 19 tect the soil from erosion; and

20 “(vi) improves water quality.

21 “(B) RESOURCE-CONSERVING CROP ROTA-
 22 TION.—The term”; and

23 (iii) in subparagraph (B) (as so des-
 24 ignated)—

1 (I) in clause (iv) (as so redesignated),
 2 nated), by striking “and” at the end;
 3 and

4 (II) by inserting after clause (iv)
 5 (as so redesignated) the following:

6 “(v) builds soil carbon; and”;

7 (F) in paragraph (2) (as so redesignated),
 8 by striking “improve resource-conserving” and
 9 all that follows through the period at the end
 10 and inserting the following: “improve, manage,
 11 and maintain—

12 “(A) resource-conserving crop rotations; or

13 “(B) management-intensive rotational
 14 grazing.”;

15 (G) in paragraph (3)—

16 (i) by striking “paragraph (1)” and
 17 inserting “paragraph (2)”; and

18 (ii) by striking “and maintain” and
 19 all that follows through the period at the
 20 end and inserting “or improve, manage,
 21 and maintain resource-conserving crop ro-
 22 tations or management-intensive rotational
 23 grazing for the term of the contract.”; and

24 (H) by adding at the end the following:

1 “(4) MINIMUM AMOUNT OF PAYMENT.—An ad-
 2 ditional payment provided under paragraph (2) shall
 3 be in an amount that is not less than \$20 per
 4 acre.”;

5 (4) by redesignating subsections (f) through (i)
 6 as subsections (g) through (j), respectively;

7 (5) by inserting after subsection (e) the fol-
 8 lowing:

9 “(f) PAYMENT FOR COMPREHENSIVE CONSERVATION
 10 PLAN.—

11 “(1) DEFINITION OF COMPREHENSIVE CON-
 12 SERVATION PLAN.—In this subsection, the term
 13 ‘comprehensive conservation plan’ means a conserva-
 14 tion plan that meets or exceeds the stewardship
 15 threshold for each priority resource concern identi-
 16 fied by the Secretary under subsection (a)(2).

17 “(2) PAYMENT FOR COMPREHENSIVE CON-
 18 SERVATION PLAN.—The Secretary shall provide an
 19 additional annual payment to a producer that devel-
 20 ops and implements a comprehensive conservation
 21 plan.

22 “(3) AMOUNT OF PAYMENT.—

23 “(A) IN GENERAL.—An additional annual
 24 payment under paragraph (2) shall be in an

1 amount not less than \$1,000 and not greater
2 than \$3,000 per year.

3 “(B) CRITERIA.—The Secretary shall de-
4 termine the amount of payment under subpara-
5 graph (A) based on—

6 “(i) the number of priority resource
7 concerns addressed in the comprehensive
8 conservation plan; and

9 “(ii) the number of types of land uses
10 included in the comprehensive conservation
11 plan.”; and

12 (6) in subsection (j) (as so redesignated), by
13 striking “subsection (f)” and inserting “subsection
14 (g)”.

15 **SEC. 4. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

16 (a) PURPOSES.—Section 1240(4) of the Food Secu-
17 rity Act of 1985 (16 U.S.C. 3839aa(4)) is amended by
18 striking “livestock, pest or irrigation management” and
19 inserting “crops and livestock, pest management, irriga-
20 tion management”.

21 (b) ESTABLISHMENT AND ADMINISTRATION.—

22 (1) IN GENERAL.—Section 1240B of the Food
23 Security Act of 1985 (16 U.S.C. 3839aa–2) is
24 amended—

1 (A) by redesignating subsections (c)
 2 through (i) as subsections (d) through (j), re-
 3 spectively;

4 (B) by inserting after subsection (b) the
 5 following:

6 “(c) PROGRAM COORDINATION.—The Secretary shall
 7 coordinate management of the program and the conserva-
 8 tion stewardship program under subchapter B of chapter
 9 2 to facilitate the ability of a participant in the program
 10 to enroll in the conservation stewardship program after
 11 meeting the stewardship threshold for not less than 2 pri-
 12 ority resource concerns.”; and

13 (C) in paragraph (4)(B) of subsection (e)
 14 (as so redesignated)—

15 (i) in clause (i)—

16 (I) by striking “Not more than”
 17 and inserting “The Secretary shall
 18 provide not less than”;

19 (II) by striking “may be pro-
 20 vided”; and

21 (III) by striking “the purpose of”
 22 and inserting “all costs relating to”;
 23 and

24 (ii) in clause (ii), by striking “90-day”
 25 and inserting “180-day”.

1 (2) CONFORMING AMENDMENTS.—Section
 2 1240B of the Food Security Act of 1985 (16 U.S.C.
 3 3839aa-2) is amended—

4 (A) in paragraph (2) of subsection (g) (as
 5 so redesignated), by striking “subsection (g)”
 6 and inserting “subsection (h)”; and

7 (B) in paragraph (2) of subsection (h) (as
 8 so redesignated), by striking “subsection (f)”
 9 and inserting “subsection (g)”.

10 **SEC. 5. FUNDING AND ADMINISTRATION.**

11 (a) COMMODITY CREDIT CORPORATION.—Section
 12 1241 of the Food Security Act of 1985 (16 U.S.C. 3841)
 13 is amended—

14 (1) in subsection (a)—

15 (A) in the matter preceding paragraph (1),
 16 by striking “fiscal year 2019” and inserting
 17 “each of fiscal years 2019 through 2023”; and

18 (B) in paragraph (5), by striking “prac-
 19 ticable—” in the matter preceding subpara-
 20 graph (A) and all that follows through the pe-
 21 riod at the end of subparagraph (E) and insert-
 22 ing “practicable, \$1,750,000,000 for each of
 23 fiscal years 2019 through 2023, of which not
 24 less than \$500,000,000 for each fiscal year
 25 shall be for management activities that assist

1 producers that protect sources of drinking
2 water.”;

3 (2) in subsection (b), by striking “fiscal year
4 2019” and inserting “each of fiscal years 2019
5 through 2023”; and

6 (3) in subsection (h)(1)—

7 (A) in the matter preceding subparagraph
8 (A), by striking “2018” and inserting “2023”;
9 and

10 (B) by striking “5 percent” each place it
11 appears and inserting “15 percent”.

12 (b) ACREAGE LIMITATIONS.—Section 1244(f)(1) of
13 the Food Security Act of 1985 (16 U.S.C. 3844(f)(1)) is
14 amended—

15 (1) in subparagraph (A)—

16 (A) in the subparagraph heading, by in-
17 serting “CONSERVATION RESERVE PROGRAM”
18 before “ENROLLMENTS”;

19 (B) by striking “25” and inserting “15”;
20 and

21 (C) by striking “and wetland reserve ease-
22 ments under section 1265C” and inserting “,
23 except that any land included in that program
24 in a county greater than 15 percent of the crop-
25 land of which is included in that program on

1 the day before the date of enactment of the
2 Give Our Resources the Opportunity to Work
3 Act of 2018 may continue to be so included
4 until the date on which the contract covering
5 the land expires.”; and

6 (2) in subparagraph (B), by striking “10” and
7 inserting “15”.

8 **SEC. 6. REPORT ON LAND ACCESS, TENURE, AND TRANSI-**
9 **TION.**

10 Not later than 1 year after the date of enactment
11 of this Act, the Secretary of Agriculture, in consultation
12 with the Chief Economist, shall submit to Congress and
13 make publicly available a report identifying—

14 (1) the barriers that prevent or hinder the abil-
15 ity of beginning farmers and ranchers and histori-
16 cally underserved producers to acquire or access
17 farmland;

18 (2) the extent to which Federal programs, in-
19 cluding agricultural conservation easement pro-
20 grams, land transition programs, and financing pro-
21 grams, are improving—

22 (A) farmland access and tenure for begin-
23 ning farmers and ranchers and historically un-
24 derserved producers; and

1 (B) farmland transition and succession;
2 and

3 (3) the regulatory, operational, or statutory
4 changes that are necessary to improve—

5 (A) the ability of beginning farmers and
6 ranchers and historically underserved producers
7 to acquire or access farmland;

8 (B) farmland tenure for beginning farmers
9 and ranchers and historically underserved pro-
10 ducers; and

11 (C) farmland transition and succession.

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