

115TH CONGRESS
1ST SESSION

S. 909

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

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2017

Mr. THUNE 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 extend and 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 “Conservation Program
5 Improvement Act of 2017”.

6 **SEC. 2. IMPROVEMENTS TO CONSERVATION RESERVE PRO-**
7 **GRAM.**

8 (a) EXTENSION.—Section 1231(a) of the Food Secu-
9 rity Act of 1985 (16 U.S.C. 3831(a)) is amended by strik-
10 ing “2018” and inserting “2023”.

1 (b) ENROLLMENT.—Section 1231(d) of the Food Se-
 2 curity Act of 1985 (16 U.S.C. 3831(d)) is amended—

3 (1) in paragraph (1), by striking “during—” in
 4 the matter preceding subparagraph (A) and all that
 5 follows through the period at the end and inserting
 6 “during each of fiscal years 2019 through 2023 not
 7 more than 30,000,000 acres, not including any land
 8 that is transferred under section 1235(f).”; and

9 (2) by adding at the end the following:

10 “(3) STATE TARGET ACREAGE ENROLLMENT.—

11 “(A) IN GENERAL.—During each of fiscal
 12 years 2019 through 2023, to the maximum ex-
 13 tent practicable, the Secretary shall carry out
 14 this subchapter in such a manner as to enroll
 15 and maintain acreage in the conservation re-
 16 serve in accordance with the target acreage for
 17 each State, as determined under subparagraph
 18 (B).

19 “(B) TARGET ACREAGE.—The target acre-
 20 age referred to in subparagraph (A) for a State
 21 shall be equal to the product obtained by multi-
 22 plying—

23 “(i) the quotient (rounded to the
 24 eighth decimal point) obtained by divid-
 25 ing—

1 “(I) the average number of acres
 2 of land in the State enrolled in the
 3 conservation reserve during each of
 4 fiscal years 2007 through 2016; by

5 “(II) the average number of
 6 acres of land enrolled in the conserva-
 7 tion reserve nationally during each of
 8 fiscal years 2007 through 2016; and
 9 “(ii) 30,000,000.”.

10 (c) RESTRICTIONS ON LAND PLANTED TO TREES.—
 11 Section 1231 of the Food Security Act of 1985 (16 U.S.C.
 12 3831) is amended by adding at the end the following:

13 “(j) RESTRICTIONS ON LAND PLANTED TO TREES.—

14 “(1) REDUCTION OF BASE ACRES.—In a case in
 15 which, as result of a contract under this subchapter,
 16 the base acres (as defined in section 1111 of the Ag-
 17 ricultural Act of 2014 (7 U.S.C. 9011)) on a farm
 18 that are enrolled in the conservation reserve is great-
 19 er than the acres of available cropland on the farm,
 20 the Secretary shall permanently reduce the number
 21 of base acres of the farm by the number of acres
 22 that are planted to trees under the conservation plan
 23 described in section 1232(a)(1).

24 “(2) RENEWAL.—No contract under this sub-
 25 chapter may be renewed with respect to any acreage

1 that is planted to trees under the conservation plan
2 described in section 1232(a)(1).”.

3 (d) HAYING AND GRAZING.—Section 1233(b) of the
4 Food Security Act of 1985 (16 U.S.C. 3833(b)) is amend-
5 ed—

6 (1) in paragraph (2)—

7 (A) by redesignating subparagraphs (A)
8 and (B) as clauses (i) and (ii), respectively, and
9 indenting appropriately;

10 (B) in the matter preceding clause (i) (as
11 so designated), by striking “in permitting those
12 activities” and inserting the following: “in per-
13 mitting—

14 “(A) those activities”;

15 (C) in subparagraph (A)(ii) (as so des-
16 ignated), by adding “and” at the end; and

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

18 “(B) those activities and the activities de-
19 scribed in paragraph (4), not more than $\frac{1}{3}$ of
20 the acres covered by the contract may be har-
21 vested during any year;”;

22 (2) in paragraph (3)(B), in the matter pre-
23 ceding clause (i), by striking “grazing,” the first
24 place it appears and inserting “grazing outside the
25 normal grazing period described in paragraph (5),”;

1 (3) by redesignating paragraphs (4) and (5) as
2 paragraphs (6) and (7), respectively; and

3 (4) by inserting after paragraph (3) the fol-
4 lowing:

5 “(4) mechanical harvesting of vegetative cover,
6 without any restriction on the use of the vegetative
7 cover harvested (except harvesting the vegetative
8 cover for seed), subject to the conditions that—

9 “(A) the harvesting may not occur more
10 frequently than once every 3 years; and

11 “(B) the annual rental rate for the acres
12 harvested during a year shall be reduced by 25
13 percent;

14 “(5) grazing during the applicable normal graz-
15 ing period determined under subclause (I) of section
16 1501(c)(3)(D)(i) of the Agricultural Act of 2014 (7
17 U.S.C. 9081(c)(3)(D)(i)), without any restriction on
18 grazing during the primary nesting period, subject
19 to the conditions that—

20 “(A) the grazing shall be at 25 percent of
21 the normal carrying capacity determined under
22 that subclause; and

23 “(B) the annual rental rate for the acres
24 harvested during a year shall be reduced by 25
25 percent;”.

1 (e) WELLHEAD PROTECTION.—Section 1234(g) of
 2 the Food Security Act of 1985 (16 U.S.C. 3834(g)) is
 3 amended—

4 (1) in paragraph (1), by striking “The total”
 5 and inserting “Except as provided in paragraphs (2)
 6 and (3), the total”; and

7 (2) by adding at the end the following:

8 “(3) WELLHEAD PROTECTION.—Paragraph (1)
 9 shall not apply to rental payments received by a
 10 rural water district or association for land that is
 11 enrolled under this subchapter for the purpose of
 12 protecting a wellhead.”.

13 (f) TRANSITION OPTION FOR CERTAIN FARMERS OR
 14 RANCHERS.—Section 1235 of the Food Security Act of
 15 1985 (16 U.S.C. 3835) is amended—

16 (1) in subsection (c)(1)(B)(iii), by striking “a
 17 retired or retiring owner or operator to a beginning
 18 farmer or rancher or socially disadvantaged farmer
 19 or rancher” and inserting “an eligible owner or oper-
 20 ator to a covered farmer or rancher (as those terms
 21 are defined in subsection (f)(1))”; and

22 (2) in subsection (f)—

23 (A) by redesignating paragraphs (1) and
 24 (2) as paragraphs (2) and (3), respectively;

1 (B) by inserting before paragraph (2) (as
2 so designated) the following:

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

4 “(A) COVERED FARMER OR RANCHER.—

5 The term ‘covered farmer or rancher’ means—

6 “(i) a beginning farmer or rancher;

7 “(ii) a veteran farmer or rancher (as
8 defined in section 2501(e) of the Food, Ag-
9 riculture, Conservation, and Trade Act of
10 1990 (7 U.S.C. 2279(e))); or

11 “(iii) a socially disadvantaged farmer
12 or rancher.

13 “(B) ELIGIBLE OWNER OR OPERATOR.—

14 The term ‘eligible owner or operator’ means a
15 farmer or rancher who is—

16 “(i) an owner or operator who is re-
17 tired or retiring; or

18 “(ii) an owner who is not less than 65
19 years of age.”;

20 (C) in paragraph (2) (as designated by
21 subparagraph (A))—

22 (i) in the matter preceding subpara-
23 graph (A), by striking “a retired farmer or
24 rancher” and all that follows through
25 “‘covered farmer or rancher’)” and insert-

ing “an eligible owner or operator to a covered farmer or rancher”;

(ii) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;

(iii) by inserting before subparagraph (B) (as so designated) the following:

“(A) allow, without any penalty, the eligible owner or operator to terminate the contract entered into under this subchapter during the 3-year period ending on the date on which the contract would expire;”;

(iv) by striking “retired or retiring owner or operator” each place it appears and inserting “eligible owner or operator”;

(v) by striking subparagraph (D) (as designated by clause (ii)) and inserting the following:

“(D) require the covered farmer or rancher to develop and implement, and provide to the covered farmer or rancher technical and financial assistance in the development of, a comprehensive conservation plan that addresses any resource concerns and meets such sustainability criteria as the Secretary may establish;” and

1 (vi) in subparagraph (E) (as des-
 2 ignated by clause (ii)), by striking “by not
 3 later than” and all that follows through
 4 “ownership or lease” and inserting “at any
 5 time during the period beginning on the
 6 date that is 1 year before the date of ter-
 7 mination of the contract”; and

8 (D) by adding at the end the following:

9 “(4) ELIGIBILITY.—An eligible owner or oper-
 10 ator who may qualify for the option under para-
 11 graph (2) shall include an eligible owner or operator
 12 who entered into a contract under this subchapter
 13 not later than 2 years before the date of enactment
 14 of this paragraph.”.

15 **SEC. 3. MODIFICATIONS TO CONSERVATION EASEMENT**
 16 **PROGRAMS.**

17 Title XII of the Food Security Act of 1985 (16
 18 U.S.C. 3801 et seq.) is amended by inserting after subtitle
 19 E the following:

20 **“Subtitle F—Other Conservation**
 21 **Provisions**

22 **“SEC. 1251. MODIFICATIONS TO CONSERVATION EASEMENT**
 23 **PROGRAMS.**

24 “(a) DEFINITION OF COVERED PROGRAM.—In this
 25 section, the term ‘covered program’ means—

1 “(1) the conservation reserve program estab-
2 lished under subchapter B of chapter 1 of subtitle
3 D;

4 “(2) the farmable wetland program carried out
5 under section 1231B;

6 “(3) the special conservation reserve enhance-
7 ment program described in section 1234(g)(2);

8 “(4) the agricultural conservation easement
9 program established under subtitle H;

10 “(5) the healthy forests reserve program estab-
11 lished under section 501 of the Healthy Forests Res-
12 toration Act of 2003 (16 U.S.C. 6571); or

13 “(6) any similar program, as determined by the
14 Secretary, that is established on or after the date of
15 enactment of the Conservation Program Improve-
16 ment Act of 2017.

17 “(b) MODIFICATIONS.—Notwithstanding any other
18 provision of law applicable to a covered program, subject
19 to subsection (c), the Secretary shall—

20 “(1) allow land enrolled in a covered program
21 to be—

22 “(A) modified for water management, gen-
23 eral maintenance, vegetative cover control, wild-
24 life habitat management, or any other purpose,

1 subject to the condition that the modification
2 shall be approved jointly by—

3 “(i) the State department of natural
4 resources (or equivalent State agency); and

5 “(ii) the technical committee estab-
6 lished under section 1261(a) of the State;

7 or

8 “(B) exchanged for land that has equal or
9 greater conservation, wildlife, ecological, and
10 economic values, as determined by the Sec-
11 retary; and

12 “(2) provide for the modification of an agree-
13 ment, a contract, or an easement under a covered
14 program if the Secretary determines that the modi-
15 fication—

16 “(A) would facilitate the practical adminis-
17 tration and management of the land covered by
18 the agreement, contract, or easement; and

19 “(B) would not adversely affect the func-
20 tions and values for which the agreement, con-
21 tract, or easement was established.

22 “(c) REQUIREMENTS.—

23 “(1) ENROLLED ACREAGE.—Any modification
24 or exchange under subsection (b) shall not result in

1 a net loss of acreage enrolled in the covered pro-
2 gram.

3 “(2) EXCHANGED ACRES.—Any land for which
4 an exchange is made under subsection (b) shall sat-
5 isfy all requirements for enrollment in the covered
6 program.

7 “(d) COSTS.—A party to an agreement, a contract,
8 or an easement under a covered program that requests
9 a modification or exchange under subsection (b) shall be
10 responsible for all costs of the modification or exchange,
11 including—

12 “(1) an appraisal to determine whether the eco-
13 nomic value of the land for which an exchange is
14 made under subsection (b) is equal to or greater
15 than the value of the land removed from the covered
16 program;

17 “(2) the repayment of the costs paid by the
18 Secretary for any restoration of land removed from
19 the covered program;

20 “(3) if applicable, a survey of property bound-
21 aries, including review and approval by the applica-
22 ble agency;

23 “(4) preparation and recording in accordance
24 with standard real estate practices of any exchange,
25 including requirements for title approval by the Sec-

1 retary, subordination of liens, and amended war-
2 ranty easement deed recording; and
3 “(5) any applicable recording and legal fees.”.

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