

118TH CONGRESS  
1ST SESSION

# H. R. 3036

To amend the Food Security Act of 1985 to modify the delivery of technical assistance, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2023

Mr. BAIRD (for himself and Ms. SPANBERGER) introduced the following bill;  
which was referred to the Committee on Agriculture

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## A BILL

To amend the Food Security Act of 1985 to modify the delivery of technical assistance, 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 “Increased TSP Access  
5 Act of 2023”.

6 **SEC. 2. DELIVERY OF TECHNICAL ASSISTANCE.**

7 Section 1242 of the Food Security Act of 1985 (16  
8 U.S.C. 3842) is amended—

9 (1) in subsection (a)—

1 (A) by redesignating paragraph (2) as  
2 paragraph (3); and

3 (B) by inserting after paragraph (1) the  
4 following:

5 “(2) NON-FEDERAL CERTIFYING ENTITY.—The  
6 term ‘non-Federal certifying entity’ means a non-  
7 Federal entity or State agency described in subpara-  
8 graph (A) or (B), respectively, of subsection (e)(4).”;

9 (2) in subsection (b), by striking “science-  
10 based, site-specific practices designed” and inserting  
11 “timely, science-based, and site-specific practice de-  
12 sign and implementation assistance”;

13 (3) in subsection (d), by inserting “(including  
14 private sector entities)” after “non-Federal entities”;

15 (4) in subsection (e)—

16 (A) in paragraph (2), by striking “Food,  
17 Conservation, and Energy Act of 2008” and in-  
18 serting “Increased TSP Access Act of 2023”;

19 (B) in paragraph (3)—

20 (i) in subparagraph (A), by striking  
21 “ensure” and all that follows through “en-  
22 gineering,” and inserting “ensure that  
23 third-party providers with expertise in the  
24 technical aspects of conservation planning,  
25 watershed planning, environmental engi-

1           neering, conservation practice design, im-  
2           plementation, and evaluation, or other  
3           technical skills, as determined by the Sec-  
4           retary,”; and

5                   (ii) in subparagraph (C), by inserting  
6           “by the Secretary” after “established”;  
7           and

8           (C) by striking paragraphs (4) and (5) and  
9           inserting the following:

10           “(4) CERTIFICATION.—The Secretary shall cer-  
11           tify a third-party provider through—

12                   “(A) a certification process administered  
13           by the Secretary, acting through the Chief of  
14           the Natural Resources Conservation Service;

15                   “(B) a non-Federal entity (other than a  
16           State agency) approved by the Secretary to per-  
17           form the certification; or

18                   “(C) a State agency with statutory author-  
19           ity to certify, administer, or license profes-  
20           sionals in one or more fields of natural re-  
21           sources, agriculture, or engineering approved by  
22           the Secretary to perform the certification.

23           “(5) TIMELY DECISIONS.—Not later than 10  
24           business days after the date on which the Secretary  
25           receives a notification submitted by a non-Federal

1 certifying entity that the non-Federal certifying enti-  
2 ty has certified a third-party provider, the Secretary  
3 shall—

4 “(A) review the certification; and

5 “(B) if the certification is satisfactory to  
6 the Secretary, include the name of the third-  
7 party provider on the registry of certified third-  
8 party providers maintained by the Secretary.

9 “(6) NON-FEDERAL CERTIFYING ENTITY PROC-  
10 ESS.—

11 “(A) ESTABLISHMENT.—Not later than  
12 180 days after the date of enactment of the In-  
13 creased TSP Access Act of 2023, the Secretary  
14 shall establish a process for the certification of  
15 third-party providers by non-Federal certifying  
16 entities, with the goal of increasing third-party  
17 provider capacity, including the certification of  
18 qualified agricultural retailers, cooperatives,  
19 professional societies, service providers, and or-  
20 ganizations described in section 1265A(3)(B)(i).

21 “(B) ELIGIBILITY OF NON-FEDERAL CER-  
22 TIFYING ENTITIES.—In determining the eligi-  
23 bility of a non-Federal certifying entity under  
24 subparagraph (A), the Secretary shall con-  
25 sider—

1           “(i) the ability of the non-Federal cer-  
2           tifying entity to assess qualifications of a  
3           third-party provider and certify third-party  
4           providers at scale;

5           “(ii) the experience of the non-Federal  
6           certifying entity in working with third-  
7           party providers and eligible participants;

8           “(iii) the expertise of the non-Federal  
9           certifying entity in the technical and  
10          science-based aspects of conservation deliv-  
11          ery described in paragraph (3)(A);

12          “(iv) the history of the non-Federal  
13          certifying entity in working with agricul-  
14          tural producers; and

15          “(v) such other qualifications as the  
16          Secretary determines to be appropriate.

17          “(C) APPROVAL.—Not later than 40 busi-  
18          ness days after the date on which the Secretary  
19          receives an application submitted by a non-Fed-  
20          eral certifying entity to certify third-party pro-  
21          viders under this section, the Secretary shall  
22          make a decision on whether to approve the non-  
23          Federal certifying entity to certify third-party  
24          providers.

1           “(D) DUTIES OF NON-FEDERAL CERTI-  
2           FYING ENTITIES.—A non-Federal certifying en-  
3           tity approved by the Secretary to certify third-  
4           party providers shall—

5                   “(i) assess the ability of a third-party  
6                   provider to appropriately provide technical  
7                   assistance to eligible participants;

8                   “(ii) provide training to ensure that a  
9                   third-party provider certified by the non-  
10                  Federal certifying entity is qualified to  
11                  provide that technical assistance;

12                  “(iii) submit to the Secretary a timely  
13                  notice of—

14                          “(I) each third-party provider  
15                          certified by the non-Federal certifying  
16                          entity, for inclusion on the registry of  
17                          certified third-party providers main-  
18                          tained by the Secretary; and

19                          “(II) each third-party provider  
20                          the certification of which is withdrawn  
21                          by the non-Federal certifying entity.

22           “(7) STREAMLINED CERTIFICATION.—Not later  
23           than 180 days after the date of enactment of the In-  
24           creased TSP Access Act of 2023, the Secretary shall  
25           provide a streamlined certification process for a

1 third-party provider that has an appropriate spe-  
2 cialty certification, including a certified crop advisor  
3 certified by the American Society of Agronomy, a  
4 professional engineer, or a holder of a technical cer-  
5 tification approved by the Secretary.”; and

6 (5) in subsection (f)—

7 (A) in paragraph (2), in the matter pre-  
8 ceeding subparagraph (A), by inserting “or a  
9 non-Federal certifying entity” after “third-  
10 party provider”;

11 (B) by striking paragraph (3) and insert-  
12 ing the following:

13 “(3) REVIEW.—Not later than 1 year after the  
14 date of enactment of the Increased TSP Access Act  
15 of 2023, and additionally thereafter at the discretion  
16 of the Secretary, the Secretary shall—

17 “(A) review certification requirements for  
18 third-party providers;

19 “(B) make any adjustments considered  
20 necessary by the Secretary to improve participa-  
21 tion and the quality and effectiveness of con-  
22 servation practices implemented and adopted  
23 with support from technical service providers;

24 “(C) conduct outreach to and receive input  
25 from third-party providers, both that currently

1 participate in the program under this section  
2 and those that no longer participate in the pro-  
3 gram, and entities, organizations, and associa-  
4 tions providing or supporting consultative serv-  
5 ices to agriculture, livestock, and forest pro-  
6 ducers to assess barriers and opportunities for  
7 the use of third-party provider assistance for  
8 improved conservation program delivery; and

9 “(D) set a target utilization rate for third-  
10 party providers.”;

11 (C) in paragraph (4)(A)(i), by inserting  
12 “maintenance,” after “outreach,”; and

13 (D) by striking paragraph (5) and insert-  
14 ing the following:

15 “(5) PAYMENT AMOUNTS.—

16 “(A) IN GENERAL.—The Secretary shall  
17 establish fair and reasonable amounts of pay-  
18 ments for technical services provided by third-  
19 party providers at rates equivalent to, but that  
20 do not exceed, technical assistance provided by  
21 the Secretary.

22 “(B) CONSIDERATIONS.—In determining  
23 fair and reasonable payment amounts under  
24 subparagraph (A), the Secretary shall consider  
25 specialized equipment, frequency of site visits,



1 training, travel and transportation, and such  
2 other factors as the Secretary determines to be  
3 appropriate.

4 “(C) EXCLUSION.—A payment provided  
5 under another Federal program directly to an  
6 eligible participant for technical assistance pro-  
7 vided by a third-party provider certified under  
8 this section shall be—

9 “(i) excluded from cost-sharing re-  
10 quirements under the program under  
11 which the payment was provided; and

12 “(ii) equal to not more than 100 per-  
13 cent of the fair and reasonable payment  
14 amount for the applicable technical assist-  
15 ance determined under subparagraph (B).

16 “(6) TRANSPARENCY.—Not later than 1 year  
17 after the date of enactment of the Increased TSP  
18 Access Act of 2023, the Secretary shall provide ac-  
19 cessible public information on—

20 “(A) funds obligated to third-party pro-  
21 viders through—

22 “(i) contracts entered into between el-  
23 igible participants and individual third-  
24 party providers; and

1           “(ii) agreements with public and pri-  
2           vate sector entities to secure third-party  
3           technical assistance;

4           “(B) certification results, including—

5                 “(i) the number of third-party pro-  
6                 viders certified by the Secretary;

7                 “(ii) the number of non-Federal certi-  
8                 fying entities approved by the Secretary;

9                 “(iii) the number of third-party pro-  
10                viders certified by non-Federal certifying  
11                entities; and

12                “(iv) the number of third-party pro-  
13                viders certified based on State agency or  
14                professional association credentialing;

15           “(C) how third-party providers contribute  
16           to the quality and effectiveness of conservation  
17           practices implemented and adopted, and what  
18           improvements are needed; and

19           “(D) the target utilization rate set under  
20           paragraph (3)(D) and how actual utilization  
21           compares to that target rate.”.

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