

118TH CONGRESS
1ST SESSION

S. 1400

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

IN THE SENATE OF THE UNITED STATES

MAY 2, 2023

Mr. BRAUN (for himself, Mr. BENNET, and Mr. MARSHALL) 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 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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