

112TH CONGRESS  
1ST SESSION

# S. 1658

To reform and reauthorize agricultural programs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 5, 2011

Mr. LUGAR introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To reform and reauthorize agricultural 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Rural Economic Farm and Ranch Sustainability and  
6 Hunger Act of 2011” or the “REFRESH Act of 2011”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—PRODUCER SAFETY NET

Subtitle A—Revenue-Based Safety Net

- Sec. 1001. Aggregate risk and revenue management program.
- Sec. 1002. Supplemental insurance.

Subtitle B—Federal Crop Insurance Program

- Sec. 1201. Whole farm revenue insurance tools.
- Sec. 1202. Insurance availability.
- Sec. 1203. Crop insurance education assistance.

Subtitle C—Sugar Program Repeal

- Sec. 1301. Repeal of sugar program.
- Sec. 1302. Elimination of sugar price support and production adjustment programs.
- Sec. 1303. Elimination of sugar tariff and over-quota tariff rate.
- Sec. 1304. Application.

Subtitle D—Dairy Program Reform

PART I—DAIRY PRODUCER MARGIN PROTECTION AND DAIRY MARKET  
STABILIZATION PROGRAMS

- Sec. 1401. Definitions.
- Sec. 1402. Calculation of average feed cost and actual dairy producer margins.

SUBPART A—DAIRY PRODUCER MARGIN PROTECTION PROGRAM

- Sec. 1411. Establishment of dairy producer margin protection program.
- Sec. 1412. Eligibility and registration of dairy producers for margin protection program.
- Sec. 1413. Production history and annual production quantity of participating dairy producers.
- Sec. 1414. Basic margin protection.
- Sec. 1415. Supplemental margin protection.
- Sec. 1416. Effect of failure to pay administrative fees or premiums.
- Sec. 1417. No payment limitations.

SUBPART B—DAIRY MARKET STABILIZATION PROGRAM

- Sec. 1431. Establishment of dairy market stabilization program.
- Sec. 1432. Threshold for implementation and reduction in dairy producer payments.
- Sec. 1433. Producer milk marketings information.
- Sec. 1434. Calculation and collection of reduced dairy producer payments.
- Sec. 1435. Remitting monies to Commodity Credit Corporation.
- Sec. 1436. Suspension of reduced payment requirement.
- Sec. 1437. Audit requirements.
- Sec. 1438. Board of directors.

SUBPART C—COMMODITY CREDIT CORPORATION

- Sec. 1451. Use of Commodity Credit Corporation.

SUBPART D—DURATION

- Sec. 1461. Duration.

PART II—FEDERAL MILK MARKETING ORDER REFORM

- Sec. 1471. Required amendments to Federal milk marketing orders.
- Sec. 1472. Amendment process.
- Sec. 1473. Development of effective balancing programs for milk markets.
- Sec. 1474. Study on elimination of milk marketing orders.

#### PART III—REPEAL OF SUPERSEDED PROVISIONS

- Sec. 1481. Repeal of dairy product price support and milk income loss contract programs.
- Sec. 1482. Repeal of permanent price support authority for milk.
- Sec. 1483. Repeal of dairy export incentive program.
- Sec. 1484. Effective date.

#### TITLE II—CONSERVATION

##### Subtitle A—Conservation Reserve Program

- Sec. 2001. Conservation reserve program.
- Sec. 2002. Pilot program for enrollment of wetland and buffer acreage in conservation reserve.
- Sec. 2003. Duties of owners and operators.
- Sec. 2004. Payments.
- Sec. 2005. Contracts.
- Sec. 2006. Conversion of land subject to contract to other conserving uses.

##### Subtitle B—Easement Benefits Program

- Sec. 2101. Easement benefits program.

##### Subtitle C—Working Land Program

- Sec. 2201. Working land program.

##### Subtitle D—Other Conservation Programs

- Sec. 2301. Other conservation programs of the Food Security Act of 1985.
- Sec. 2302. Funding of conservation programs under Food Security Act of 1985.
- Sec. 2303. Cooperative conservation partnership initiative.
- Sec. 2304. Administrative requirements for conservation programs.
- Sec. 2305. Repeal of healthy forests reserve program.

#### TITLE III—NUTRITION

##### Subtitle A—Supplemental Nutrition Assistance Program

- Sec. 3001. Categorical eligibility limitations.
- Sec. 3002. Repeal of funding for employment and training programs.
- Sec. 3003. Repeal of incentive payments to States with low SNAP benefit allocation error rates.
- Sec. 3004. Quality control.

##### Subtitle B—Extensions

- Sec. 3101. Supplemental nutrition assistance program.
- Sec. 3102. Commodity distribution programs.
- Sec. 3103. Miscellaneous.

#### TITLE IV—ENERGY FROM RURAL AMERICA

- Sec. 4001. Definitions.  
 Sec. 4002. Biobased markets program.  
 Sec. 4003. Biorefinery assistance.  
 Sec. 4004. Rural Energy for America Program.  
 Sec. 4005. Repeal of feedstock flexibility program for bioenergy producers.  
 Sec. 4006. Biomass Crop Assistance Program.  
 Sec. 4007. Rural energy savings program.

#### TITLE V—TECHNICAL IMPROVEMENTS TO RESEARCH

- Sec. 5001. Matching fund requirement under McIntire-Stennis Cooperative Forestry Act.  
 Sec. 5002. Matching fund requirement under Hatch Act of 1887.  
 Sec. 5003. Matching fund requirement under Smith-Lever Act.  
 Sec. 5004. Biomass Research and Development Initiative.

#### TITLE VI—MISCELLANEOUS

- Sec. 6001. Budgetary effects.

### 1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-  
 3 retary of Agriculture.

## 4 **TITLE I—PRODUCER SAFETY** 5 **NET** 6 **Subtitle A—Revenue-Based Safety** 7 **Net**

### 8 **SEC. 1001. AGGREGATE RISK AND REVENUE MANAGEMENT** 9 **PROGRAM.**

10 (a) IN GENERAL.—Section 1105 of the Food, Con-  
 11 servation, and Energy Act of 2008 (7 U.S.C. 8715) is  
 12 amended to read as follows:

### 13 **“SEC. 1105. AGGREGATE RISK AND REVENUE MANAGEMENT** 14 **PROGRAM.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) ALTERNATIVE PRICE.—The term ‘alter-  
 17 native price’ means an average of the price for each

1 of the immediately preceding 4 years, as determined  
2 by the National Agricultural Statistics Service, for  
3 each crop for which the harvest price is unavailable.

4 “(2) ARRM.—The term ‘ARRM’ means the ag-  
5 gregate risk and revenue management program es-  
6 tablished under this section.

7 “(3) CRD.—The term ‘CRD’ means a crop re-  
8 porting district, as determined by the National Agri-  
9 cultural Statistics Service.

10 “(4) HARVEST PRICE.—The term ‘harvest  
11 price’ means the harvest price determined by the  
12 Risk Management Agency.

13 “(b) AVAILABILITY AND ELECTION OF ALTERNATIVE  
14 APPROACH.—

15 “(1) AVAILABILITY OF AGGREGATE RISK AND  
16 REVENUE MANAGEMENT PAYMENTS.—With respect  
17 to all covered commodities and peanuts on a farm,  
18 during each of the 2013 through 2017 crop years,  
19 the Secretary shall give the operator, tenant, or  
20 sharecropper, as appropriate, on the farm an oppor-  
21 tunity to make an annual election for all producers  
22 on the farm to receive aggregate risk and revenue  
23 management payments under this section for the  
24 crop year for which the election is made.

25 “(2) LIMITATIONS.—

1           “(A) IN GENERAL.—The total number of  
2           planted acres for which the producers on a farm  
3           may receive ARRM payments under this section  
4           shall be equal to the total number of acres  
5           planted to all covered commodities and peanuts  
6           on the farm.

7           “(B) NATIVE SOD.—

8           “(i) IN GENERAL.—Native sod (as de-  
9           fined in section 508(o)(1) of the Federal  
10          Crop Insurance Act (7 U.S.C. 1508(o)(1)))  
11          acreage that is tilled for the purpose of  
12          producing an annual crop after the date of  
13          enactment of the Rural Economic Farm  
14          and Ranch Sustainability and Hunger Act  
15          of 2011 shall not be considered acreage  
16          planted to the covered commodity or pea-  
17          nuts for harvest on a farm in a crop year  
18          for purposes of making ARRM payments  
19          under this section during the first 5 crop  
20          years of planting.

21          “(ii)        REQUIREMENT.—Ineligibility  
22          under clause (i) shall only apply to the ac-  
23          tual acreage of native sod that was con-  
24          verted to crop production.

25          “(3) ELECTION; TIME FOR ELECTION.—

1           “(A) IN GENERAL.—The Secretary shall  
2           provide notice to the operators, tenants, or  
3           sharecroppers, as appropriate regarding the op-  
4           portunity to make each of the elections de-  
5           scribed in paragraph (1).

6           “(B) NOTICE REQUIREMENTS.—The notice  
7           shall include—

8                   “(i) notice of the opportunity of the  
9                   operator, tenant, or sharecropper, as ap-  
10                  propriate, on a farm to make the election;  
11                  and

12                   “(ii) information regarding the man-  
13                  ner in which the election must be made  
14                  and the time periods and manner in which  
15                  notice of the election must be submitted to  
16                  the Secretary.

17           “(4) ELECTION DEADLINE.—Within the time  
18           period and in the manner prescribed pursuant to  
19           paragraph (3), the operator, tenant, or sharecropper,  
20           as appropriate, on a farm shall submit to the Sec-  
21           retary notice of an election made under paragraph  
22           (1).

23           “(5) EFFECT OF FAILURE TO MAKE ELEC-  
24           TION.—If the operators, tenants, or sharecroppers,  
25           as appropriate, on a farm fail to make an election

1 under paragraph (1) or fail to timely notify the Sec-  
2 retary of the election made, as required by para-  
3 graph (4), all of the producers on the farm shall be  
4 deemed to not have made the election described in  
5 paragraph (1), for the applicable crop years.

6 “(c) PAYMENTS REQUIRED.—

7 “(1) IN GENERAL.—In the case of producers on  
8 a farm who make an election under subsection (b)  
9 to receive ARRM payments for any of the 2013  
10 through 2017 crop years for all covered commodities  
11 and peanuts, the Secretary shall make ARRM pay-  
12 ments available to the producers on a farm in ac-  
13 cordance with this subsection.

14 “(2) ARRM PAYMENT.—

15 “(A) IN GENERAL.—Subject to paragraph  
16 (3), in the case of producers on a farm de-  
17 scribed in paragraph (1), the Secretary shall  
18 make ARRM payments available to the pro-  
19 ducers on a farm for each crop year if—

20 “(i) the actual CRD revenue for the  
21 crop year for the covered commodity or  
22 peanuts in the CRD determined under sub-  
23 section (e); is less than

24 “(ii) the ARRM program guarantee  
25 for the crop year for the covered com-

1           modity or peanuts in the CRD determined  
2           under subsection (d).

3           “(B) INDIVIDUAL LOSS.—The Secretary  
4           shall make ARRM payments available to the  
5           producers on a farm in a CRD for a crop year  
6           only if (as determined by the Secretary)—

7                   “(i) the actual farm revenue for the  
8                   crop year for the covered commodity or  
9                   peanuts, as determined under subsection  
10                  (g); is less than

11                   “(ii) the farm ARRM revenue guar-  
12                   antee for the crop year for the covered  
13                   commodity or peanuts, as determined  
14                   under subsection (f).

15           “(3) TIME FOR PAYMENTS.—In the case of  
16           each of the 2013 through 2017 crop years, the Sec-  
17           retary shall make ARRM payments beginning Octo-  
18           ber 1, or as soon as practicable thereafter, after the  
19           date of determination of the harvest price for the  
20           covered commodity or peanuts.

21           “(d) ARRM PROGRAM GUARANTEE.—

22                   “(1) CRD AMOUNT.—

23                   “(A) IN GENERAL.—For purposes of sub-  
24                   section (c)(2)(A) and subject to subparagraphs  
25                   (B) and (C), the ARRM program guarantee for

1 a crop year for a covered commodity or peanuts  
2 in a CRD shall equal 90 percent of the CRD  
3 average revenue, as determined under subpara-  
4 graph (B).

5 “(B) CRD AVERAGE REVENUE.—For pur-  
6 poses of subparagraph (A), the CRD average  
7 revenue shall be the average during the mar-  
8 keting years for the immediately preceding 5  
9 crops of a covered commodity and peanuts, ex-  
10 cluding the year in which the CRD revenue was  
11 the highest and the year in which the CRD rev-  
12 enue was the lowest in the period, of the prod-  
13 uct obtained by multiplying—

14 “(i) the CRD yield for the covered  
15 commodity or peanuts in a CRD deter-  
16 mined under paragraph (2); and

17 “(ii) the harvest price or alternative  
18 price for the covered commodity or pea-  
19 nuts.

20 “(C) MINIMUM AND MAXIMUM GUAR-  
21 ANTEE.—The ARRM program guarantee for a  
22 crop year for a covered commodity or peanuts  
23 under subparagraph (A) shall not decrease or  
24 increase more than 10 percent from the guar-  
25 antee for the preceding crop year.

1           “(D) DOUBLE-CROPPED ACREAGE.—Any  
2           crop subsequently planted on land determined  
3           for purposes of the Federal Crop Insurance Act  
4           (7 U.S.C. 1501 et seq.) to be prevented planted  
5           acreage shall not be included in calculating the  
6           ARRM program guarantee under subparagraph  
7           (A) or the actual farm revenue under subsection  
8           (g) unless the farm has a history of double-  
9           cropping and is located in a region in which  
10          double-cropping is an acceptable farming prac-  
11          tice, as determined by the Secretary.

12          “(2) ASSIGNED CRD YIELD.—If the Secretary  
13          cannot establish the CRD yield for each planted acre  
14          for a crop year for a covered commodity or peanuts  
15          in a CRD in accordance with subparagraph (A) or  
16          if the yield determined under subparagraph (A) is  
17          an unrepresentative average yield for the CRD (as  
18          determined by the Secretary), the Secretary shall as-  
19          sign a CRD yield for each planted acre for the crop  
20          year for the covered commodity or peanuts in the  
21          CRD on the basis of—

22                 “(A) previous average yields for a period of  
23                 5 crop years, excluding each of the crop years  
24                 with the highest and lowest yields; or

1           “(B) CRD yields for planted acres for the  
2           crop year for the covered commodity or peanuts  
3           in similar CRDs.

4           “(3) CRDS WITH IRRIGATED AND NONIRRI-  
5           GATED LAND.—In the case of a CRD in which at  
6           least 25 percent of the acreage planted to a covered  
7           commodity or peanuts in the CRD is irrigated and  
8           at least 25 percent of the acreage planted to the cov-  
9           ered commodity or peanuts in the CRD is not irri-  
10          gated, the Secretary shall calculate a separate  
11          ARRM program guarantee for the irrigated and  
12          nonirrigated areas of the CRD for the covered com-  
13          modity or peanuts.

14          “(e) ACTUAL CRD REVENUE.—

15                 “(1) IN GENERAL.—For purposes of subsection  
16                 (c)(2)(A), the amount of the actual CRD revenue for  
17                 a crop year of a covered commodity or peanuts shall  
18                 equal the product obtained by multiplying—

19                         “(A) the actual CRD yield for each planted  
20                         acre for the crop year for the covered com-  
21                         modity or peanuts determined under paragraph  
22                         (2); and

23                         “(B) the national average harvest price or  
24                         alternative price received by producers for the  
25                         crop year for the covered commodity or peanuts

1 as determined by the Risk Management Agen-  
2 cy.

3 “(2) ACTUAL CRD YIELD.—For purposes of  
4 paragraph (1)(A), the actual CRD yield for each  
5 planted acre for a crop year for a covered commodity  
6 or peanuts in a CRD shall equal (as determined by  
7 the Secretary)—

8 “(A) the quantity of the covered com-  
9 modity or peanuts that is produced in the CRD  
10 during the crop year; divided by

11 “(B) the number of acres that are planted  
12 to the covered commodity or peanuts in the  
13 CRD during the crop year.

14 “(f) FARM ARRM REVENUE GUARANTEE.—

15 “(1) IN GENERAL.—For purposes of subsection  
16 (c)(2)(B), the farm ARRM revenue guarantee for  
17 the crop year for a covered commodity or peanuts  
18 shall equal 90 percent of the average farm revenue  
19 as determined under paragraph (2).

20 “(2) AVERAGE FARM REVENUE.—The average  
21 farm revenue shall be equal to the sum obtained by  
22 adding—

23 “(A) the average during the marketing  
24 years for the immediately preceding 5 crops of  
25 a covered commodity and peanuts, excluding

1 the year in which the farm revenue was the  
2 highest and the year in which the farm revenue  
3 was the lowest in the period, of the product ob-  
4 tained by multiplying—

5 “(i) the actual production history, as  
6 determined using production records and  
7 data of the Risk Management Agency; and

8 “(ii) the harvest price or alternative  
9 price for the covered commodity or peanuts  
10 in a CRD; and

11 “(B) the amount of the per acre crop in-  
12 surance premium required to be paid by the  
13 producers on the farm for the applicable crop  
14 year for the covered commodity or peanuts on  
15 the farm.

16 “(g) ACTUAL FARM REVENUE.—For purposes of  
17 subsection (c)(2)(B) and except as provided in subsection  
18 (d)(1)(C), the amount of the actual farm revenue for a  
19 crop year for a covered commodity or peanuts shall equal  
20 the amount determined by multiplying—

21 “(1) the actual yield for the covered commodity  
22 or peanuts of the producers on the farm; and

23 “(2) the national average harvest price or alter-  
24 native price for the crop year for the covered com-  
25 modity or peanuts.

1       “(h) PAYMENT AMOUNT.—If ARRM payments are  
2 required to be paid for any of the 2013 through 2017 crop  
3 years of a covered commodity or peanuts under this sec-  
4 tion, the amount of the ARRM payment to be paid to the  
5 producers on the farm for the crop year under this section  
6 shall be equal to the product obtained by multiplying—

7               “(1) the lesser of—

8                       “(A) the difference between—

9                               “(i) the ARRM program guarantee  
10 for the crop year for the covered com-  
11 modity or peanuts in the CRD determined  
12 under subsection (d); and

13                               “(ii) the actual CRD revenue from the  
14 crop year for the covered commodity or  
15 peanuts in the CRD determined under sub-  
16 section (e); and

17                       “(B) 15 percent of the ARRM program  
18 guarantee for the crop year for the covered  
19 commodity or peanuts in the CRD determined  
20 under subsection (d);

21               “(2) 85 percent of the acreage planted to the  
22 covered commodity or peanuts for harvest on the  
23 farm in the crop year; and

24               “(3) the quotient obtained by dividing—

1           “(A) the actual production history for the  
2 covered commodity or peanuts of the producers  
3 on the farm, as determined using production  
4 records and data of the Risk Management  
5 Agency; and

6           “(B) the assigned CRD yield for each  
7 planted acre for the crop year for the covered  
8 commodity or peanuts in a CRD, as determined  
9 under subsection (d)(2).

10       “(i) CROP REPORTING DISTRICT ASSESSMENT.—The  
11 Secretary shall review CRDs in western States that have  
12 7 or fewer CRDs to assess whether additional CRDs in  
13 the States are necessary.”.

14       (b) CONFORMING AMENDMENTS.—

15           (1) REPEAL OF DIRECT AND COUNTER-CYCLI-  
16 CAL PAYMENTS FOR COVERED COMMODITIES AND  
17 PEANUTS.—

18           (A) IN GENERAL.—Sections 1103, 1104,  
19 1303, and 1304 of the Food, Conservation, and  
20 Energy Act of 2008 (7 U.S.C. 8713, 8714,  
21 8753, 8754) are repealed.

22           (B) APPLICATION.—The amendments  
23 made by paragraph (1) apply beginning with  
24 the 2013 crop year.

1           (2) PERIOD OF EFFECTIVENESS.—Section 1109  
2 of the Food, Conservation, and Energy Act of 2008  
3 (7 U.S.C. 8719) is amended by striking “2012” and  
4 inserting “2017”.

5           (3) SUSPENSION OF PERMANENT PRICE SUP-  
6 PORT AUTHORITY.—Section 1602 of the Food, Con-  
7 servation, and Energy Act of 2008 (7 U.S.C. 8782)  
8 is amended—

9                   (A) by striking “through 2012” each place  
10 it appears and inserting “through 2017”; and

11                   (B) by striking “December 31, 2012” each  
12 place it appears and inserting “December 31,  
13 2017”.

14           (4) TECHNICAL AMENDMENTS.—

15                   (A) Section 1001 of the Food, Conserva-  
16 tion, and Energy Act of 2008 (7 U.S.C. 8702)  
17 is amended by striking paragraph (1) and in-  
18 serting the following:

19                   “(1) AGGREGATE RISK AND REVENUE MANAGE-  
20 MENT PAYMENT.—The term ‘aggregate risk and rev-  
21 enue management payment’ means a payment made  
22 to producers on a farm under section 1105.”

23                   (B) Section 1101(d)(1) of the Food, Con-  
24 servation, and Energy Act of 2008 (7 U.S.C.  
25 8711(d)(1)) is amended by striking “average

1 crop revenue election” and inserting “aggregate  
2 risk and revenue management”.

3 (C) Section 1106 of the Food, Conserva-  
4 tion, and Energy Act of 2008 (7 U.S.C. 8716)  
5 is amended by striking “average crop revenue  
6 election” each place it appears in subsections  
7 (a)(1), (b), and (e) and inserting “aggregate  
8 risk and revenue management”.

9 (D) Section 1302(d)(1) of the Food, Con-  
10 servation, and Energy Act of 2008 (7 U.S.C.  
11 8752(d)(1)) is amended by striking “average  
12 crop revenue election” and inserting “aggregate  
13 risk and revenue management”.

14 (E) Section 1305 of the Food, Conserva-  
15 tion, and Energy Act of 2008 (7 U.S.C. 8755)  
16 is amended by striking “average crop revenue  
17 election” each place it appears in subsections  
18 (a)(1), (b), and (e) and inserting “aggregate  
19 risk and revenue management”.

20 (F) Section 1001 of the Food Security Act  
21 of 1985 (7 U.S.C. 1308) is amended—

22 (i) by striking “ACRE” each place it  
23 appears in the headings of subsections (b)  
24 and (c) and inserting “ARRM”;

1 (ii) by striking “ACRE” each place it  
 2 appears in the headings of paragraph (3)  
 3 of subsections (b) and (c) and inserting  
 4 “ARRM”; and

5 (iii) by striking “average crop revenue  
 6 election” each place it appears in sub-  
 7 sections (b) and (c) and inserting “aggre-  
 8 gate risk and revenue management”.

9 (G) Section 1001D of the Food Security  
 10 Act of 1985 (7 U.S.C. 1308–3a) is amended—

11 (i) in subsection (b)(C)(i), by striking  
 12 “average crop revenue election” and insert-  
 13 ing “aggregate risk and revenue manage-  
 14 ment”; and

15 (ii) in subsection (f), by striking  
 16 “2012” and inserting “2017”.

17 **SEC. 1002. SUPPLEMENTAL INSURANCE.**

18 (a) IN GENERAL.—Section 508(c)(4) of the Federal  
 19 Crop Insurance Act (7 U.S.C. 1508(c)(4)) is amended—

20 (1) by striking “The level of coverage” and in-  
 21 serting the following:

22 “(A) BASIC COVERAGE.—The level of cov-  
 23 erage”;

24 (2) by striking “Not later than” and inserting  
 25 the following:

1           “(B) PROVISION OF INFORMATION.—Not  
2 later than”; and

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

4           “(C) SUPPLEMENTAL COVERAGE.—

5           “(i) IN GENERAL.—Notwithstanding  
6 paragraph (3) and subparagraph (A), the  
7 Corporation may offer supplemental cov-  
8 erage, based on an area yield and loss  
9 basis, to cover that portion of a crop loss  
10 not covered under the individual yield and  
11 loss basis plan of insurance of a producer,  
12 including any revenue plan of insurance  
13 with coverage based in part on individual  
14 yield and loss.

15           “(ii) LIMITATION.—The sum of the  
16 indemnity paid to the producer under the  
17 individual yield and loss plan of insurance  
18 and the supplemental coverage may not ex-  
19 ceed 100 percent of the loss incurred by  
20 the producer for the crop.

21           “(iii) ADMINISTRATIVE AND OPER-  
22 ATING EXPENSE REIMBURSEMENT.—Not-  
23 withstanding subsection (k)(4), the reim-  
24 bursement rate for approved insurance  
25 providers for the supplemental coverage

1 shall equal 6 percent of the premium used  
2 to define the loss ratio.

3 “(iv) DIRECT COVERAGE.—If the Cor-  
4 poration determines that it is in the best  
5 interests of producers, the Corporation  
6 may offer supplemental coverage as a Cor-  
7 poration endorsement to existing plans and  
8 policies of crop insurance authorized under  
9 this title.

10 “(v) PAYMENT OF PORTION OF PRE-  
11 MIUM BY CORPORATION.—Notwithstanding  
12 subsection (e), the amount of the premium  
13 to be paid by the Corporation for supple-  
14 mental coverage offered pursuant to this  
15 subparagraph shall be determined by the  
16 Corporation, but may not exceed the sum  
17 of—

18 “(I) 50 percent of the amount of  
19 premium established under subsection  
20 (d)(2)(C)(i) for the coverage level se-  
21 lected; and

22 “(II) the amount determined  
23 under subsection (d)(2)(C)(ii) for the  
24 coverage level selected to cover oper-  
25 ating and administrative expenses.”.

1 (b) CONFORMING AMENDMENTS.—Section 508(d)(2)  
 2 of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(2))  
 3 is amended—

4 (1) in the matter preceding subparagraph (A),  
 5 by striking “additional coverage” and inserting “ad-  
 6 ditional and supplemental coverages”; and

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

8 “(C) In the case of supplemental coverage  
 9 offered under subsection (c)(4)(C), the amount  
 10 of the premium shall—

11 “(i) be sufficient to cover anticipated  
 12 losses and a reasonable reserve; and

13 “(ii) include an amount for operating  
 14 and administrative expenses, as determined  
 15 by the Corporation on an industry-wide  
 16 basis as a percentage of the amount of the  
 17 premium used to define loss ratio.”.

## 18 **Subtitle B—Federal Crop** 19 **Insurance Program**

### 20 **SEC. 1201. WHOLE FARM REVENUE INSURANCE TOOLS.**

21 (a) ESTABLISHMENT.—Section 508(c) of the Federal  
 22 Crop Insurance Act (7 U.S.C. 1508(c)) is amended by  
 23 adding at the end the following:

24 “(11) WHOLE FARM INSURANCE PLAN.—The  
 25 Corporation shall offer a whole farm insurance plan

1 that allows a producer to qualify for an indemnity  
2 if actual gross farm revenue is below 80 percent of  
3 the average gross farm revenue of the producer.”.

4 (b) ADJUSTED GROSS REVENUE INSURANCE PILOT  
5 PROGRAM.—Section 523(e) of the Federal Crop Insurance  
6 Act (7 U.S.C. 1523(e)) is amended—

7 (1) in paragraph (1), by striking “2004” and  
8 inserting “2014”;

9 (2) in paragraph (2), by striking subparagraph  
10 (A) and inserting the following:

11 “(A) IN GENERAL.—In addition to coun-  
12 ties otherwise included in the pilot program, the  
13 Corporation shall include in the pilot program  
14 for each of the 2010 through 2014 reinsurance  
15 years all States and counties that meet the cri-  
16 teria for selection (pending required rating), as  
17 determined by the Corporation.”; and

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

19 “(3) ELIGIBLE PRODUCERS.—The Corporation  
20 shall permit the producer of any type of agricultural  
21 commodity (including a producer of specialty crops,  
22 floricultural, ornamental nursery, and Christmas  
23 tree crops, turfgrass sod, seed crops, aquacultural  
24 products (including ornamental fish), sea grass and

1 sea oats, and industrial crops) to participate in a  
2 pilot program established under this subsection.”.

3 **SEC. 1202. INSURANCE AVAILABILITY.**

4 (a) CONDUCTING RESEARCH AND DEVELOPMENT.—  
5 Section 522(c) of the Federal Crop Insurance Act (7  
6 U.S.C. 1522(c)) is amended—

7 (1) in the subsection heading, by striking  
8 “CONTRACTING”;

9 (2) in paragraph (1), in the matter preceding  
10 paragraph (A), by striking “enter into contracts to  
11 carry out research and development to” and insert-  
12 ing “conduct activities or enter into contracts to  
13 carry out research and development to maintain or  
14 improve existing policies or develop new policies to”;

15 (3) in paragraph (2)—

16 (A) in subparagraph (A), by inserting  
17 “conduct research and development or” after  
18 “The Corporation may”; and

19 (B) in subparagraph (B), by inserting  
20 “conducting research and development or” after  
21 “Before”; and

22 (4) in paragraph (5), by inserting “after expert  
23 review in accordance with section 505(e)” after “ap-  
24 proved by the Board”.

1 (b) FUNDING.—Section 522(e) of the Federal Crop  
2 Insurance Act (7 U.S.C. 1522(e)) is amended—

3 (1) in paragraph (2)—

4 (A) in the paragraph heading, by striking  
5 “CONTRACTING” and inserting “CONDUCTING  
6 AND CONTRACTING FOR RESEARCH AND DEVEL-  
7 OPMENT”;

8 (B) in subparagraph (A), by inserting  
9 “conduct research and development and” after  
10 “the Corporation may use to”; and

11 (C) in subparagraph (B), by inserting  
12 “conduct research and development and” after  
13 “for the fiscal year to”;

14 (2) in paragraph (3), in the matter preceding  
15 subparagraph (A), by striking “to provide either re-  
16 imbursement payments or contract payments under  
17 this section for a fiscal year is not needed for such  
18 purposes” and inserting “for a fiscal year is not  
19 needed for the purposes for which the amount was  
20 made available”; and

21 (3) by striking paragraph (4).

22 **SEC. 1203. CROP INSURANCE EDUCATION ASSISTANCE.**

23 Section 524(a)(3) of the Federal Crop Insurance Act  
24 (7 U.S.C. 1524(a)(3)) is amended—

1 (1) in subparagraph (B), by striking “A grant”  
 2 and inserting “Subject to subparagraph (E), a  
 3 grant”; and

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

5 “(E) ALLOCATION TO STATES.—The Sec-  
 6 retary shall allocate funds made available to  
 7 carry out this subsection for each fiscal year in  
 8 a manner that ensures that grants are provided  
 9 to eligible entities in States based on the ratio  
 10 that the value of agricultural production of each  
 11 State bears to the total value of agricultural  
 12 production in all States, as determined by the  
 13 Secretary.”.

## 14 **Subtitle C—Sugar Program Repeal**

### 15 **SEC. 1301. REPEAL OF SUGAR PROGRAM.**

16 Section 156 of the Federal Agriculture Improvement  
 17 and Reform Act of 1996 (7 U.S.C. 7272) is repealed.

### 18 **SEC. 1302. ELIMINATION OF SUGAR PRICE SUPPORT AND**

#### 19 **PRODUCTION ADJUSTMENT PROGRAMS.**

20 (a) IN GENERAL.—Notwithstanding any other provi-  
 21 sion of law—

22 (1) a processor of any of the 2013 or subse-  
 23 quent crops of sugarcane or sugar beets shall not be  
 24 eligible for a loan under any provision of law with  
 25 respect to the crop; and

1           (2) the Secretary of Agriculture may not make  
2 price support available, whether in the form of a  
3 loan, payment, purchase, or other operation, for any  
4 of the 2013 and subsequent crops of sugar beets and  
5 sugarcane by using the funds of the Commodity  
6 Credit Corporation or other funds available to the  
7 Secretary.

8           (b) TERMINATION OF MARKETING QUOTAS AND AL-  
9 LOTMENTS.—

10           (1) IN GENERAL.—Part VII of subtitle B of  
11 title III of the Agricultural Adjustment Act of 1938  
12 (7 U.S.C. 1359aa et seq.) is repealed.

13           (2) CONFORMING AMENDMENT.—Section  
14 344(f)(2) of the Agricultural Adjustment Act of  
15 1938 (7 U.S.C. 1344(f)(2)) is amended by striking  
16 “sugar cane for sugar, sugar beets for sugar.”

17           (c) GENERAL POWERS.—

18           (1) SECTION 32 ACTIVITIES.—Section 32 of the  
19 Act of August 24, 1935 (7 U.S.C. 612c), is amended  
20 in the second sentence of the first paragraph—

21                   (A) in paragraph (1), by inserting “(other  
22 than sugar beets and sugarcane)” after “com-  
23 modities”; and

1 (B) in paragraph (3), by inserting “(other  
2 than sugar beets and sugarcane)” after “com-  
3 modity”.

4 (2) POWERS OF COMMODITY CREDIT CORPORA-  
5 TION.—Section 5(a) of the Commodity Credit Cor-  
6 poration Charter Act (15 U.S.C. 714c(a)) is amend-  
7 ed by inserting “, sugar beets, and sugarcane” after  
8 “tobacco”.

9 (3) PRICE SUPPORT FOR NONBASIC AGRICUL-  
10 TURAL COMMODITIES.—Section 201(a) of the Agri-  
11 cultural Act of 1949 (7 U.S.C. 1446(a)) is amended  
12 by striking “milk, sugar beets, and sugarcane” and  
13 inserting “, and milk”.

14 (4) COMMODITY CREDIT CORPORATION STOR-  
15 AGE PAYMENTS.—Section 167 of the Federal Agri-  
16 culture Improvement and Reform Act of 1996 (7  
17 U.S.C. 7287) is repealed.

18 (5) SUSPENSION AND REPEAL OF PERMANENT  
19 PRICE SUPPORT AUTHORITY.—Section 171(a)(1) of  
20 the Federal Agriculture Improvement and Reform  
21 Act of 1996 (7 U.S.C. 7301(a)(1)) is amended—

22 (A) by striking subparagraph (E); and

23 (B) by redesignating subparagraphs (F)  
24 through (I) as subparagraphs (E) through (H),  
25 respectively.

1           (6) STORAGE FACILITY LOANS.—Section  
2           1402(c) of the Farm Security and Rural Investment  
3           Act of 2002 (7 U.S.C. 7971) is repealed.

4           (d) TRANSITION PROVISIONS.—This section and the  
5           amendments made by this section shall not affect the li-  
6           ability of any person under any provision of law as in ef-  
7           fect before the application of this section and the amend-  
8           ments made by this section.

9           **SEC. 1303. ELIMINATION OF SUGAR TARIFF AND OVER-**  
10           **QUOTA TARIFF RATE.**

11           (a) ELIMINATION OF TARIFF ON RAW CANE  
12           SUGAR.—Chapter 17 of the Harmonized Tariff Schedule  
13           of the United States is amended by striking subheadings  
14           1701.11 through 1701.11.50 and inserting in numerical  
15           sequence the following new subheading, with the article  
16           description for such subheading having the same degree  
17           of indentation as the article description for subheading  
18           1701.11, as in effect on the day before the date of the  
19           enactment of this section:

“ | 1701.11.00 | Cane sugar ..... | Free           |           | 39.85¢/kg   | ”.

20           (b) ELIMINATION OF TARIFF ON BEET SUGAR.—  
21           Chapter 17 of the Harmonized Tariff Schedule of the  
22           United States is amended by striking subheadings  
23           1701.12 through 1701.12.50 and inserting in numerical  
24           sequence the following new subheading, with the article

1 description for such subheading having the same degree  
 2 of indentation as the article description for subheading  
 3 1701.12, as in effect on the day before the date of the  
 4 enactment of this section:

“ | 1701.12.00 | Beet sugar ..... | Free | | 42.05¢/kg | ”.

5 (c) ELIMINATION OF TARIFF ON CERTAIN REFINED  
 6 SUGAR.—Chapter 17 of the Harmonized Tariff Schedule  
 7 of the United States is amended—

8 (1) by striking the superior text immediately  
 9 preceding subheading 1701.91.05 and by striking  
 10 subheadings 1701.91.05 through 1701.91.30 and in-  
 11 sserting in numerical sequence the following new sub-  
 12 heading, with the article description for such sub-  
 13 heading having the same degree of indentation as  
 14 the article description for subheading 1701.12.05, as  
 15 in effect on the day before the date of the enactment  
 16 of this section:

“ | 1701.91.02 | Containing added coloring but not  
 containing added flavoring matter .. | Free | | 42.05¢/kg | ”;

17 (2) by striking subheadings 1701.99 through  
 18 1701.99.50 and inserting in numerical sequence the  
 19 following new subheading, with the article descrip-  
 20 tion for such subheading having the same degree of  
 21 indentation as the article description for subheading  
 22 1701.99, as in effect on the day before the date of  
 23 the enactment of this section:

“ | 1701.99.00 | Other ..... | Free | | 42.05g/kg | ”;

1 (3) by striking the superior text immediately  
 2 preceding subheading 1702.90.05 and by striking  
 3 subheadings 1702.90.05 through 1702.90.20 and in-  
 4 serting in numerical sequence the following new sub-  
 5 heading, with the article description for such sub-  
 6 heading having the same degree of indentation as  
 7 the article description for subheading 1702.60.22:

“ | 1702.90.02 | Containing soluble non-sugar solids  
 (excluding any foreign substances,  
 including but not limited to molas-  
 ses, that may have been added to or  
 developed in the product) equal to 6  
 percent or less by weight of the  
 total soluble solids ..... | Free | | 42.05g/kg | ”;

8 and

9 (4) by striking the superior text immediately  
 10 preceding subheading 2106.90.42 and by striking  
 11 subheadings 2106.90.42 through 2106.90.46 and in-  
 12 serting in numerical sequence the following new sub-  
 13 heading, with the article description for such sub-  
 14 heading having the same degree of indentation as  
 15 the article description for subheading 2106.90.39:

“ | 2106.90.40 | Syrups derived from cane or beet  
 sugar, containing added coloring  
 but not added flavoring matter ..... | Free | | 42.50g/kg | ”.

16 (d) CONFORMING AMENDMENT.—Chapter 17 of the  
 17 Harmonized Tariff Schedule of the United States is  
 18 amended by striking additional U.S. note 5.

1 (e) ADMINISTRATION OF TARIFF-RATE QUOTAS.—  
 2 Section 404(d)(1) of the Uruguay Round Agreements Act  
 3 (19 U.S.C. 3601(d)(1)) is amended—

4 (1) by inserting “or” at the end of subpara-  
 5 graph (B);

6 (2) by striking “; or” at the end of subpara-  
 7 graph (C) and inserting a period; and

8 (3) by striking subparagraph (D).

9 (f) EFFECTIVE DATE.—The amendments made by  
 10 this section apply with respect to goods entered, or with-  
 11 drawn from warehouse for consumption, on or after the  
 12 15th day after the date of the enactment of this Act.

13 **SEC. 1304. APPLICATION.**

14 Except as otherwise provided in this subtitle, this  
 15 subtitle and the amendments made by this subtitle shall  
 16 apply beginning with the 2013 crop of sugar beets and  
 17 sugarcane.

18 **Subtitle D—Dairy Program Reform**

19 **PART I—DAIRY PRODUCER MARGIN PROTECTION**  
 20 **AND DAIRY MARKET STABILIZATION PROGRAMS**

21 **SEC. 1401. DEFINITIONS.**

22 In this part:

23 (1) ACTUAL DAIRY PRODUCER MARGIN.—The  
 24 term “actual dairy producer margin” means the dif-

1       ference between the all-milk price and the average  
2       feed cost, as calculated under section 1402.

3           (2) ALL-MILK PRICE.—The term “all-milk  
4       price” means the average price received, per hun-  
5       dredweight of milk, by dairy producers for all milk  
6       sold to plants and dealers in the United States, as  
7       reported by the National Agricultural Statistics  
8       Service.

9           (3) ANNUAL PRODUCTION QUANTITY.—The  
10       term “annual production quantity” means the quan-  
11       tity of annual milk marketings determined for a  
12       dairy producer under section 1413(b) for each year  
13       in which the dairy producer participates in the mar-  
14       gin protection program.

15           (4) AVERAGE FEED COST.—The term “average  
16       feed cost” means the average cost of feed used by  
17       a dairy operation to produce a hundredweight of  
18       milk, determined under section 1402 using the sum  
19       of the following:

20                   (A) The product determined by multiplying  
21                   1.192 by the price of corn per bushel.

22                   (B) The product determined by multiplying  
23                   0.00817 by the price of soybean meal per ton.

24                   (C) The product determined by multiplying  
25                   0.0152 by the price of alfalfa hay per ton.

1           (5) BOARD OF DIRECTORS.—The term “board  
2 of directors” means the board of directors appointed  
3 by the Secretary under section 1438.

4           (6) CONSECUTIVE TWO-MONTH PERIOD.—The  
5 term “consecutive two-month period” refers to the  
6 two-month period consisting of the months of Janu-  
7 ary and February, March and April, May and June,  
8 July and August, September and October, or No-  
9 vember and December, respectively.

10          (7) DAIRY PRODUCER.—The term “dairy pro-  
11 ducer” means an individual or entity that directly or  
12 indirectly (as determined by the Secretary)—

13           (A) shares in the risk of producing milk;  
14 and

15           (B) makes contributions (including land,  
16 labor, management, equipment, or capital) to  
17 the dairy operation of the individual or entity  
18 that are at least commensurate with the share  
19 of the individual or entity of the proceeds of the  
20 operation.

21          (8) HANDLER.—

22           (A) IN GENERAL.—The term “handler”  
23 means a person making payment to a dairy pro-  
24 ducer for milk produced in the United States  
25 and marketed for commercial use.

1 (B) PRODUCER-HANDLER.—The term in-  
2 cludes a producer-handler.

3 (9) MARGIN PROTECTION PROGRAM.—The term  
4 “margin protection program” means the dairy pro-  
5 ducer margin protection program required by sub-  
6 part A.

7 (10) PARTICIPATING DAIRY PRODUCER.—The  
8 term “participating dairy producer” means a dairy  
9 producer that—

10 (A) registers under section 1412(b) to par-  
11 ticipate in the margin protection program under  
12 subpart A; and

13 (B) as a result of such registration, also  
14 participates in the stabilization program under  
15 subpart B.

16 (11) PRODUCTION HISTORY.—The term “pro-  
17 duction history” means the quantity of annual milk  
18 marketings determined for a dairy producer under  
19 section 1413(a).

20 (12) SECRETARY.—The term “Secretary”  
21 means the Secretary of Agriculture.

22 (13) STABILIZATION PROGRAM.—The term  
23 “stabilization program” means the dairy market sta-  
24 bilization program required by subpart B for all par-  
25 ticipating dairy producers.

1           (14) STABILIZATION PROGRAM BASE.—The  
2 term “stabilization program base”, with respect to a  
3 participating dairy producer, means the stabilization  
4 program base calculated for the producer under sec-  
5 tion 1431(b).

6           (15) UNITED STATES.—The term “United  
7 States”, in a geographical sense, means the 50  
8 States.

9 **SEC. 1402. CALCULATION OF AVERAGE FEED COST AND AC-**  
10 **TUAL DAIRY PRODUCER MARGINS.**

11       (a) CALCULATION OF AVERAGE FEED COST.—The  
12 Secretary shall calculate the national average feed cost for  
13 each month using the following data:

14           (1) The price of corn for a month shall be the  
15 price received during that month by farmers in the  
16 United States for corn, as reported by the National  
17 Agricultural Statistics Service.

18           (2) The price of soybean meal for a month shall  
19 be the central Illinois price for soybean meal, as re-  
20 ported by the Agricultural Marketing Service.

21           (3) The price of alfalfa hay for a month shall  
22 be the price received during that month by farmers  
23 in the United States for alfalfa hay, as reported by  
24 the National Agricultural Statistics Service.

1 (b) CALCULATION OF ACTUAL DAIRY PRODUCER  
2 MARGINS.—

3 (1) MARGIN PROTECTION PROGRAM.—For use  
4 in the margin protection program under subpart A,  
5 the Secretary shall calculate the actual dairy pro-  
6 ducer margin for each consecutive two-month period  
7 by subtracting—

8 (A) the average feed cost for that consecu-  
9 tive two-month period, determined in accord-  
10 ance with subsection (a); from

11 (B) the all-milk price for that consecutive  
12 two-month period.

13 (2) STABILIZATION PROGRAM.—For use in the  
14 stabilization program under subpart B, the Sec-  
15 retary shall calculate (not later than 20th of each  
16 month) the actual dairy producer margin for the  
17 preceding month by subtracting—

18 (A) the average feed cost for that pre-  
19 ceding month, determined in accordance with  
20 subsection (a); from

21 (B) the all-milk price for that preceding  
22 month.



1 (b) REGISTRATION PROCESS.—

2 (1) IN GENERAL.—The Secretary shall register  
3 all interested dairy producers in the margin protec-  
4 tion program. The Secretary shall specify the man-  
5 ner and form by which a dairy producer must reg-  
6 ister.

7 (2) TREATMENT OF MULTI-PRODUCER OPER-  
8 ATIONS.—If a dairy operation consists of more than  
9 one dairy producer, all of the dairy producers of the  
10 operation shall be treated as a single dairy producer  
11 for purposes of—

12 (A) registration to receive basic margin  
13 protection and purchase supplemental margin  
14 protection;

15 (B) payment of the administrative fee  
16 under subsection (d) and producer premiums  
17 under section 1415; and

18 (C) participation in the stabilization pro-  
19 gram under subpart B.

20 (3) TREATMENT OF PRODUCERS WITH MUL-  
21 TIPLE DAIRY OPERATIONS.—If a dairy producer op-  
22 erates two or more dairy operations, each dairy op-  
23 eration of the producer shall require a separate reg-  
24 istration to receive basic margin protection and pur-  
25 chase supplemental margin protection. Only those

1 dairy operations so registered shall be subject to the  
2 stabilization program.

3 (c) TIME FOR REGISTRATION.—

4 (1) EXISTING DAIRY PRODUCERS.—During the  
5 one-year period beginning on the date of the enact-  
6 ment of this Act, a dairy producer that is actively  
7 engaged in a dairy operation as of such date may  
8 register with the Secretary—

9 (A) to receive basic margin protection; and

10 (B) if the producer elects, to purchase sup-  
11 plemental margin protection.

12 (2) NEW ENTRANTS.—A dairy producer that  
13 has no existing interest in a dairy operation as of  
14 the date of the enactment of this Act, but that, after  
15 such date, establishes a new dairy operation, may  
16 register with the Secretary during the 180-day pe-  
17 riod beginning on the date on which the dairy oper-  
18 ation first markets milk commercially—

19 (A) to receive basic margin protection; and

20 (B) if the producer elects, to purchase sup-  
21 plemental margin protection.

22 (d) ADMINISTRATIVE FEE FOR REGISTRATION.—

23 (1) ADMINISTRATIVE FEE REQUIRED.—A dairy  
24 producer shall pay an administrative fee under this  
25 subsection to register for the margin protection pro-

1       gram. The participating dairy producer shall pay the  
2       administrative fee annually thereafter to remain reg-  
3       istered for the margin protection program.

4               (2) FEE AMOUNT.—The administrative fee for  
5       a dairy producer shall be as follows:

6               (A) If the dairy producer marketed less  
7       than 10 million pounds of milk in the previous  
8       calendar year, the administrative fee shall be  
9       equal to \$100.

10              (B) If the dairy producer marketed be-  
11       tween 10 million and 40 million pounds of milk  
12       in the previous calendar year, the administra-  
13       tive fee shall be equal to \$400.

14              (C) If the dairy producer marketed more  
15       than 40 million pounds of milk in the previous  
16       calendar year, the administrative fee shall be  
17       equal to \$1,000.

18              (e) RECONSTITUTION.—The Secretary shall ensure  
19       that a dairy producer does not reconstitute a dairy oper-  
20       ation for the sole purpose of receiving basic margin protec-  
21       tion, purchasing supplemental margin protection, or avoid-  
22       ing participation in the stabilization program.

1 **SEC. 1413. PRODUCTION HISTORY AND ANNUAL PRODUC-**  
2 **TION QUANTITY OF PARTICIPATING DAIRY**  
3 **PRODUCERS.**

4 (a) DETERMINATION OF PRODUCTION HISTORY.—

5 (1) DETERMINATION REQUIRED.—The Sec-  
6 retary shall determine the production history of the  
7 dairy operation of each participating dairy producer  
8 in the margin protection program.

9 (2) CALCULATION.—Except as provided in  
10 paragraph (3), the production history of a partici-  
11 pating dairy producer is equal to the highest annual  
12 milk marketings of the dairy producer during any  
13 one of the three calendar years immediately pre-  
14 ceding the dairy producer's registration for partici-  
15 pation in the margin protection program.

16 (3) NEW PRODUCERS.—If a dairy producer has  
17 been in operation for less than a year, the Secretary  
18 shall determine the production history of the dairy  
19 producer by extrapolating the actual milk mar-  
20 ketings for the months the dairy producer has been  
21 in operation to a yearly amount.

22 (4) NO CHANGE IN PRODUCTION HISTORY FOR  
23 BASIC MARGIN PROTECTION.—Once the production  
24 history of a participating dairy producer is deter-  
25 mined under paragraph (2) or (3), the production  
26 history shall not be subsequently changed for pur-

1 poses of determining the amount of any basic mar-  
2 gin protection payments for the dairy producer made  
3 under section 1414.

4 (b) DETERMINATION OF ANNUAL PRODUCTION  
5 QUANTITY FOR SUPPLEMENTAL MARGIN PROTECTION.—

6 (1) DETERMINATION REQUIRED.—If a dairy  
7 producer selects the growth option when purchasing  
8 supplemental margin protection under section 1415,  
9 the Secretary shall determine the annual production  
10 quantity of the dairy operation of the dairy producer  
11 under paragraph (2).

12 (2) CALCULATION.—The annual production  
13 quantity of a participating dairy producer is equal to  
14 the actual milk marketings of the dairy producer  
15 during each calendar year in which the dairy pro-  
16 ducer purchases supplemental margin protection, in-  
17 cluding the calendar year during which the dairy  
18 producer first purchases such supplemental margin  
19 protection.

20 (c) REQUIRED INFORMATION.—A participating dairy  
21 producer shall provide all information that the Secretary  
22 may require in order to establish—

23 (1) the production history of the dairy oper-  
24 ation of the dairy producer; and

1           (2) the annual production quantity of the dairy  
2           operation of the dairy producer if the dairy producer  
3           selects the growth option when purchasing supple-  
4           mental margin protection under section 1415.

5           (d) TRANSFER OF PRODUCTION HISTORY OR AN-  
6           NUAL PRODUCTION QUANTITY.—

7           (1) TRANSFER BY SALE.—

8           (A) REQUEST FOR TRANSFER.—If an ex-  
9           isting dairy producer, as described in section  
10           1412(c)(1), sells an entire dairy operation to  
11           another party, the seller and purchaser may  
12           jointly request that the Secretary transfer to  
13           the purchaser the seller's interest in—

14                   (i) production history of the dairy op-  
15                   eration; and

16                   (ii) if applicable, the annual produc-  
17                   tion quantity of the dairy operation for  
18                   each year in which the margin protection  
19                   program has been in effect.

20           (B) TRANSFER.—If the Secretary deter-  
21           mines that the seller has sold the entire dairy  
22           operation to the purchaser, the Secretary shall  
23           approve the transfer described in subparagraph  
24           (A), and, thereafter, the seller shall have no in-  
25           terest in—

1 (i) the production history of the sold  
2 dairy operation; or

3 (ii) if applicable, the annual produc-  
4 tion quantity of the dairy operation.

5 (2) TRANSFER BY LEASE.—

6 (A) REQUEST FOR TRANSFER.—If an ex-  
7 isting dairy producer, as described in section  
8 1412(c)(1), leases an entire dairy operation to  
9 another party, the lessor and lessee may jointly  
10 request that the Secretary transfer to the lessee  
11 for the duration of the term of the lease the les-  
12 sor's interest in—

13 (i) production history of the dairy op-  
14 eration; and

15 (ii) if applicable, the annual produc-  
16 tion quantity of the dairy operation for  
17 each year in which the margin protection  
18 program has been in effect.

19 (B) TRANSFER.—If the Secretary deter-  
20 mines that the lessor has leased the entire dairy  
21 operation to the lessee, the Secretary shall ap-  
22 prove the transfer described in subparagraph  
23 (A), and, thereafter, the lessor shall have no in-  
24 terest for the duration of the term of the lease  
25 in—

1 (i) the production history of the leased  
2 dairy operation; or

3 (ii) if applicable, the annual produc-  
4 tion quantity of the dairy operation.

5 (3) COVERAGE LEVEL.—

6 (A) BASIC MARGIN PROTECTION.—A pur-  
7 chaser or lessee to whom the Secretary trans-  
8 fers a production history or annual production  
9 quantity under this subsection may not obtain  
10 a different level of basic margin protection than  
11 the basic margin protection coverage held by  
12 the seller or lessor from whom the transfer was  
13 obtained.

14 (B) SUPPLEMENTAL MARGIN PROTEC-  
15 TION.—A purchaser or lessee to whom the Sec-  
16 retary transfers a production history or annual  
17 production quantity under this subsection may  
18 not obtain a different level of supplemental  
19 margin protection coverage than the supple-  
20 mental margin protection coverage held by the  
21 seller or lessor from whom the transfer was ob-  
22 tained.

23 (4) NEW ENTRANTS.—The Secretary may not  
24 transfer the production history or annual production

1 quantity determined for a dairy producer described  
2 in section 1412(e)(2) to another person.

3 (e) MOVEMENT AND TRANSFER OF PRODUCTION  
4 HISTORY OR ANNUAL PRODUCTION QUANTITY.—

5 (1) MOVEMENT AND TRANSFER AUTHOR-  
6 IZED.—Subject to paragraph (2), if a dairy producer  
7 moves from one location to another location, the  
8 dairy producer may maintain the production history  
9 and annual production quantity associated with the  
10 operation.

11 (2) NOTIFICATION REQUIREMENT.—A dairy  
12 producer shall notify the Secretary of any move of  
13 a dairy operation under paragraph (1).

14 (3) SUBSEQUENT OCCUPATION OF VACATED LO-  
15 CATION.—A party subsequently occupying a dairy  
16 operation location vacated as described in paragraph  
17 (1) shall have no interest in the production history  
18 or annual production quantity previously associated  
19 with the operation at such location.

20 **SEC. 1414. BASIC MARGIN PROTECTION.**

21 (a) ELIGIBILITY.—All participating dairy producers  
22 are eligible to receive basic margin protection under the  
23 margin protection program.

24 (b) PAYMENT THRESHOLD.—Participating dairy pro-  
25 ducers shall receive a basic margin protection payment

1 whenever the average actual dairy producer margin for a  
2 consecutive two-month period is less than \$4.00 per hun-  
3 dredweight of milk.

4 (c) BASIC MARGIN PROTECTION PAYMENT.—

5 (1) PAYMENT REQUIRED.—The Secretary shall  
6 make a basic margin protection payment to each  
7 participating dairy producer for a consecutive two-  
8 month period whenever such a payment is required  
9 by subsection (b) for that period.

10 (2) AMOUNT OF PAYMENT.—The basic margin  
11 protection payment for the dairy operation of a par-  
12 ticipating dairy producer for a consecutive two-  
13 month period shall be determined as follows:

14 (A) The Secretary shall calculate the dif-  
15 ference between the average actual dairy pro-  
16 ducer margin for the consecutive two-month pe-  
17 riod and \$4.00, except that, if the difference is  
18 more than \$4.00, the Secretary shall use \$4.00.

19 (B) The Secretary shall multiply the  
20 amount under subparagraph (A) by of the less-  
21 er of the following:

22 (i) 80 percent of the production his-  
23 tory of the dairy producer, divided by six.

24 (ii) The actual amount of milk mar-  
25 keted by the dairy operation of the dairy

1 producer during the consecutive two-month  
2 period.

3 **SEC. 1415. SUPPLEMENTAL MARGIN PROTECTION.**

4 (a) ELECTION OF SUPPLEMENTAL MARGIN PROTEC-  
5 TION.—At the time of the registration of a dairy producer  
6 in the margin protection program under section 1412, the  
7 dairy producer may purchase supplemental margin protec-  
8 tion to protect a higher level of the income of a partici-  
9 pating dairy producer than the income level guaranteed  
10 by basic margin protection under section 1414.

11 (b) SELECTION OF PAYMENT THRESHOLD.—A par-  
12 ticipating dairy producer purchasing supplemental margin  
13 protection shall elect a coverage level that is higher, in  
14 any increment of \$0.50, than the payment threshold for  
15 basic margin protection specified in section 1414(b), but  
16 not to exceed \$8.00.

17 (c) SELECTION OF COVERAGE PERCENTAGE.—A par-  
18 ticipating dairy producer purchasing supplemental margin  
19 protection shall elect a percentage of coverage, equal to  
20 not more than 90 percent nor less than 25 percent, of—

21 (1) the production history of the dairy oper-  
22 ation of the participating dairy producer; or

23 (2) if the participating dairy producer elects the  
24 growth option under subsection (d)—

1 (A) the production history of the dairy op-  
2 eration of the dairy producer, to be used for the  
3 calendar year during which the dairy producer  
4 registers for participation in the margin protec-  
5 tion program; and

6 (B) for subsequent calendar years in which  
7 the margin protection program is in effect, the  
8 greater of—

9 (i) the production history of the dairy  
10 operation of the dairy producer; or

11 (ii) the highest annual production  
12 quantity of the dairy operation of the dairy  
13 producer during any previous calendar  
14 year in which the margin protection pro-  
15 gram was in effect.

16 (d) AVAILABILITY OF GROWTH OPTION.—When a  
17 dairy producer purchases supplemental margin protection,  
18 the dairy producer may elect a growth option that author-  
19 izes the use of the annual production quantity of the dairy  
20 operation of the dairy producer, in lieu of production his-  
21 tory, as provided in subsection (c)(2) to determine supple-  
22 mental margin protection payments for the dairy producer  
23 under subsection (h).

24 (e) PRODUCER PREMIUMS.—

1           (1) PREMIUMS REQUIRED.—A participating  
 2 dairy producer that purchases supplemental margin  
 3 protection shall pay an annual premium equal to the  
 4 product obtained by multiplying—

5                   (A) the percentage selected by the dairy  
 6 producer under subsection (c);

7                   (B) the production history or annual pro-  
 8 duction quantity applicable to the dairy pro-  
 9 ducer under such subsection; and

10                   (C) the premium per hundredweight of  
 11 milk, as follows:

Coverage Level	Premium per Cwt.
\$4.50	\$0.015
\$5.00	\$0.036
\$5.50	\$0.081
\$6.00	\$0.155
\$6.50	\$0.230
\$7.00	\$0.434
\$7.50	\$0.590
\$8.00	\$0.922.

12           (2) TIME FOR PAYMENT.—

13                   (A) FIRST YEAR.—As soon as practicable  
 14 after a dairy producer registers to participate in  
 15 the margin protection program and purchases  
 16 supplemental margin protection, the dairy pro-  
 17 ducer shall pay the premium determined under  
 18 paragraph (1) for the dairy producer for the  
 19 first calendar year of such supplemental margin  
 20 protection.

1 (B) SUBSEQUENT YEARS.—When the dairy  
2 producer first purchases supplemental margin  
3 protection, the dairy producer shall also elect  
4 the method by which the dairy producer will  
5 pay premiums under this subsection for subse-  
6 quent years in accordance with one of the fol-  
7 lowing schedules:

8 (i) SINGLE ANNUAL PAYMENT.—The  
9 participating dairy producer may elect to  
10 pay 100 percent of the annual premium  
11 determined under paragraph (1) for the  
12 dairy producer for a calendar year not  
13 later than January 15 of the calendar  
14 year.

15 (ii) SEMI-ANNUAL PAYMENT.—The  
16 participating dairy producer may elect to  
17 pay 50 percent of the annual premium de-  
18 termined under paragraph (1) for the  
19 dairy producer for a calendar year not  
20 later than January 15 of the calendar year  
21 and the remaining 50 percent of the pre-  
22 mium not later than June 15 of the cal-  
23 endar year.

24 (f) PRODUCER'S PREMIUM OBLIGATIONS.—

1           (1) PRO-RATION OF FIRST YEAR PREMIUM.—A  
2 participating dairy producer that purchases supple-  
3 mental margin protection after initial registration in  
4 the margin protection program shall pay a pro-rated  
5 premium for the first calendar year based on the  
6 date on which the producer purchases the coverage.

7           (2) SUBSEQUENT PREMIUMS.—Other than as  
8 provided in paragraph (1), the annual premium for  
9 a participating dairy producer shall be determined  
10 under subsection (e) for each year in which the mar-  
11 gin protection program is in effect.

12           (3) LEGAL OBLIGATION.—A participating dairy  
13 producer that purchases supplemental margin pro-  
14 tection shall be legally obligated to pay the applica-  
15 ble premiums for the entire period of the margin  
16 protection program (as provided in the payment  
17 schedule elected under subsection (e)(2)), and may  
18 not opt out of the margin protection program, ex-  
19 cept—

20                   (A) if the dairy producer dies, the estate of  
21 the deceased may cancel the supplemental mar-  
22 gin protection and shall not be responsible for  
23 any further premium payments; or

24                   (B) if the dairy producer retires, the pro-  
25 ducer may request that Secretary cancel the

1 supplemental margin protection if the producer  
2 has terminated the dairy operation entirely and  
3 certifies under oath that the producer will not  
4 be actively engaged in any dairy operation for  
5 at least the next seven years.

6 (g) SUPPLEMENTAL PAYMENT THRESHOLD.—A par-  
7 ticipating dairy producer with supplemental margin pro-  
8 tection shall receive a supplemental margin protection  
9 payment whenever the average actual dairy producer mar-  
10 gin for a consecutive two-month period is less than the  
11 coverage level threshold selected by the dairy producer  
12 under subsection (b).

13 (h) SUPPLEMENTAL MARGIN PROTECTION PAY-  
14 MENTS.—

15 (1) IN GENERAL.—The supplemental margin  
16 protection payment for a participating dairy pro-  
17 ducer is in addition to the basic margin protection  
18 payment.

19 (2) AMOUNT OF PAYMENT.—The supplemental  
20 margin protection payment for the dairy operation  
21 of a participating dairy producer shall be determined  
22 as follows:

23 (A) The Secretary shall calculate the dif-  
24 ference between the coverage level threshold se-

1 lected by the dairy producer under subsection  
2 (b) and the greater of—

3 (i) the average actual dairy producer  
4 margin for the consecutive two-month pe-  
5 riod; or

6 (ii) \$4.00.

7 (B) The amount determined under sub-  
8 paragraph (A) shall be multiplied by the per-  
9 centage selected by the dairy producer under  
10 subsection (c) and by the lesser of the following:

11 (i) The production history or annual  
12 production quantity applicable to the pro-  
13 ducer under subsection (c), divided by six.

14 (ii) The actual amount of milk mar-  
15 keted by the dairy operation of the dairy  
16 producer during the consecutive two-month  
17 period.

18 **SEC. 1416. EFFECT OF FAILURE TO PAY ADMINISTRATIVE**  
19 **FEEES OR PREMIUMS.**

20 (a) LOSS OF BENEFITS.—A participating dairy pro-  
21 ducer that fails to pay the required administrative fee  
22 under section 1412 or is in arrears on premium payments  
23 for supplemental margin protection under section 1415—

24 (1) remains legally obligated to pay the admin-  
25 istrative fee or premiums, as the case may be; and



1 shall inform the Secretary of the method by which  
2 the stabilization program base for the dairy producer  
3 for 2012 will be calculated under paragraph (3).

4 (2) CHANGE IN CALCULATION METHOD.—A  
5 participating dairy producer may change the sta-  
6 bilization program base calculation method to be  
7 used for a calendar year by notifying the Secretary  
8 of the change not later than January 15 of that  
9 year.

10 (3) CALCULATION METHODS.—A participating  
11 dairy producer may elect either of the following  
12 methods for calculation of the stabilization program  
13 base for the producer:

14 (A) The volume of the average monthly  
15 milk marketings of the dairy producer for the  
16 three months immediately preceding the an-  
17 nouncement by the Secretary that the stabiliza-  
18 tion program will become effective.

19 (B) The volume of the monthly milk mar-  
20 ketings of the dairy producer for the same  
21 month in the preceding year as the month for  
22 which the Secretary has announced the sta-  
23 bilization program will become effective.

24 (c) TREATMENT OF MULTI-PRODUCER OPER-  
25 ATIONS.—As provided in section 1412(b)(2), if a dairy op-

1 eration consists of more than one dairy producer, all of  
2 the dairy producers of the operation shall be treated as  
3 a single participating dairy producer for purposes of oper-  
4 ation of the stabilization program with respect to the pro-  
5 ducers.

6 (d) TREATMENT OF PRODUCERS WITH MULTIPLE  
7 DAIRY OPERATIONS.—As provided in section 1412(b)(3),  
8 if a participating dairy producer operates two or more  
9 dairy operations, only those dairy operations of the dairy  
10 producer registered under section 1412 shall be subject  
11 to the stabilization program.

12 **SEC. 1432. THRESHOLD FOR IMPLEMENTATION AND RE-**  
13 **DUCTION IN DAIRY PRODUCER PAYMENTS.**

14 (a) WHEN STABILIZATION PROGRAM REQUIRED.—  
15 The Secretary shall announce that the stabilization pro-  
16 gram is in effect and order reduced payments for any par-  
17 ticipating dairy producer that exceeds the applicable per-  
18 centage of the producer's stabilization program base when-  
19 ever—

20 (1) the actual dairy producer margin has been  
21 \$6.00 or less per hundredweight of milk for the im-  
22 mediately preceding two months; or

23 (2) the actual dairy producer margin has been  
24 \$4.00 or less per hundredweight of milk for the im-  
25 mediately preceding month.

1 (b) EFFECTIVE DATE FOR IMPLEMENTATION OF  
2 PAYMENT REDUCTIONS.—Reductions in dairy producer  
3 payments shall commence beginning on the first day of  
4 the month immediately following the announcement by the  
5 Secretary under subsection (a).

6 **SEC. 1433. PRODUCER MILK MARKETINGS INFORMATION.**

7 (a) COLLECTION OF MILK MARKETING DATA.—For  
8 each month during which the stabilization program is in  
9 effect, each handler shall calculate the following:

10 (1) The volume of milk marketings the handler  
11 has received from each participating dairy producer  
12 during that month.

13 (2) The volume of milk marketings the handler  
14 has received from each participating dairy producer  
15 during the same month of the preceding year.

16 (3) The volume of milk marketings the handler  
17 has received from each participating dairy producer  
18 during each of the three months preceding the  
19 month in which the Secretary makes the announce-  
20 ment that the stabilization program will be in effect.

21 (b) EFFECT OF CHANGING HANDLERS.—If a partici-  
22 pating dairy producer changes handlers, the producer shall  
23 ensure that milk marketings data required to make the  
24 calculations under subsection (a) is provided to the new  
25 handler.

1 **SEC. 1434. CALCULATION AND COLLECTION OF REDUCED**  
2 **DAIRY PRODUCER PAYMENTS.**

3 (a) **REDUCED PRODUCER PAYMENTS REQUIRED.—**

4 During any month in which payment reductions are in ef-  
5 fect under the stabilization program, each handler shall  
6 reduce payments to each participating dairy producer  
7 from whom the handler receives milk.

8 (b) **REDUCTIONS BASED ON ACTUAL DAIRY PRO-**  
9 **DUCER MARGIN.—**

10 (1) **REDUCTION REQUIREMENT 1.—**Unless the  
11 reduction required by paragraph (2) or (3) applies,  
12 when the actual dairy producer margin has been  
13 \$6.00 or less per hundredweight of milk for two con-  
14 secutive months, the handler shall make payments to  
15 a participating dairy producer for a month based on  
16 the greater of the following:

17 (A) 98 percent of the stabilization program  
18 base of the dairy producer.

19 (B) 94 percent of the marketings of milk  
20 for the month by the producer.

21 (2) **REDUCTION REQUIREMENT 2.—**Unless the  
22 reduction required by paragraph (3) applies, when  
23 the actual dairy producer margin has been \$5.00 or  
24 less per hundredweight of milk for two consecutive  
25 months, the handler shall make payments to a par-

1        participating dairy producer for a month based on the  
2        greater of the following:

3                (A) 97 percent of the stabilization program  
4        base of the dairy producer.

5                (B) 93 percent of the marketings of milk  
6        for the month by the producer.

7                (3) REDUCTION REQUIREMENT 3.—When the  
8        actual dairy producer margin has been \$4.00 or less  
9        for any one month, the handler shall make payments  
10       to a participating dairy producer for a month based  
11       on the greater of the following:

12                (A) 96 percent of the stabilization program  
13        base of the dairy producer.

14                (B) 92 percent of the marketings of milk  
15        for the month by the producer.

16        (c) CONTINUATION OF REDUCTIONS.—The largest  
17       level of payment reduction required under paragraph (1),  
18       (2), or (3) of subsection (b) shall be continued for each  
19       month until the Secretary suspends the stabilization pro-  
20       gram and terminates payment reductions in accordance  
21       with section 1436.

22        (d) PAYMENT REDUCTION EXCEPTION.—Notwith-  
23       standing any preceding subsection of this section, a han-  
24       dler shall make no payment reductions for a dairy pro-  
25       ducer for a month if the producer's milk marketings for

1 the month are equal to or less than the percentage of the  
2 stabilization program base applicable to the producer  
3 under paragraph (1), (2), or (3) of subsection (b).

4 **SEC. 1435. REMITTING MONIES TO COMMODITY CREDIT**  
5 **CORPORATION.**

6 (a) REMITTING MONIES.—As soon as practicable  
7 after the end of each month during which payment reduc-  
8 tions are in effect under the stabilization program, each  
9 handler shall remit to the Commodity Credit Corporation  
10 an amount equal to the amount by which payments to par-  
11 ticipating dairy producers are reduced by the handler  
12 under section 1434.

13 (b) AVAILABILITY OF MONIES.—As soon as prac-  
14 ticable after receipt of monies under subsection (a), the  
15 Commodity Credit Corporation shall make the monies  
16 available to the board of directors under section 1438.

17 **SEC. 1436. SUSPENSION OF REDUCED PAYMENT REQUIRE-**  
18 **MENT.**

19 (a) SUSPENSION THRESHOLDS.—The Secretary shall  
20 suspend the stabilization program whenever the Secretary  
21 determines that—

22 (1) the actual dairy producer margin is greater  
23 than \$6.00 per hundredweight of milk for 2 consecu-  
24 tive months;

1           (2)(A) the price for cheddar cheese or non-fat  
2           dry milk in the United States, as determined by the  
3           National Agricultural Statistics Service, is equal to  
4           or higher than the world price of cheddar cheese or  
5           skim milk powder in Oceania, as determined by the  
6           Secretary, for 2 consecutive months; and

7           (B) the dairy producer margin is equal to or  
8           less than \$6 for the same 2 consecutive months;

9           (3)(A) the price for cheddar cheese or non-fat  
10          dry milk in the United States, as determined by the  
11          National Agricultural Statistics Service, is more  
12          than 5 percent higher than the world price of ched-  
13          dar cheese or skim milk powder in Oceania, as de-  
14          termined by the Secretary, for 2 consecutive months;  
15          and

16          (B) the dairy producer margin is equal to or  
17          less than \$5 for the same 2 consecutive months; or

18          (4)(A) the price for cheddar cheese or non-fat  
19          dry milk in the United States, as determined by the  
20          National Agricultural Statistics Service, is more  
21          than 10 percent higher than the world price of ched-  
22          dar cheese or skim milk powder in Oceania, as de-  
23          termined by the Secretary, for 2 consecutive months;  
24          and

1 (B) the dairy producer margin is equal to or  
2 less than \$4 for the same 2 consecutive months.

3 (b) IMPLEMENTATION BY HANDLERS.—Handlers  
4 shall cease reducing payments to participating dairy pro-  
5 ducers under the stabilization program upon receiving no-  
6 tice of the suspension of the stabilization program from  
7 the Secretary.

8 **SEC. 1437. AUDIT REQUIREMENTS.**

9 (a) AUDITS OF PRODUCER AND HANDLER COMPLI-  
10 ANCE.—

11 (1) AUDITS AUTHORIZED.—If determined by  
12 the Secretary to be necessary to ensure compliance  
13 by participating dairy producers and handlers with  
14 the stabilization program, the Secretary may con-  
15 duct periodic audits of participating dairy producers  
16 and handlers.

17 (2) SAMPLE OF DAIRY PRODUCERS.—Any audit  
18 conducted under this subsection shall include, at a  
19 minimum, investigation of a statistically valid and  
20 random sample of participating dairy producers.

21 (b) AUDIT BY INSPECTOR GENERAL.—

22 (1) AUDIT REQUIRED.—At the end of the sec-  
23 ond year of operation of the stabilization program,  
24 the Inspector General of the Department of Agri-  
25 culture shall audit and evaluate the effectiveness of

1 the stabilization program. In conducting the audit  
2 and evaluation, the Inspector General shall include  
3 the use of established dairy economic models to as-  
4 certain the effectiveness, operation, and administra-  
5 tion of the program.

6 (2) SUBMISSION OF RESULTS.—The Inspector  
7 General shall submit the results of the audit and  
8 evaluation conducted under paragraph (1) to the  
9 Secretary, who shall make such recommendations to  
10 Congress as the Secretary considers appropriate re-  
11 garding the stabilization program.

12 **SEC. 1438. BOARD OF DIRECTORS.**

13 (a) ESTABLISHMENT; PURPOSE.—The Secretary  
14 shall establish a board of directors for the stabilization  
15 program for the purpose of—

16 (1) administering the monies made available to  
17 the board of directors under section 1435; and

18 (2) determining the most effective use of such  
19 monies.

20 (b) APPOINTMENT OF DIRECTORS.—

21 (1) NUMBER AND QUALIFICATIONS.—The Sec-  
22 retary shall appoint 15 members to serve on the  
23 board of directors, who shall be representative of the  
24 United States dairy producer community, taking  
25 into account geographical diversity, cooperative

1 membership, and volumes of milk produced in var-  
2 ious States and regions.

3 (2) REIMBURSEMENT OF EXPENSES.—Monies  
4 made available to the board of directors under sec-  
5 tion 1435 may be used to reimburse a member of  
6 the board of directors for reasonable and appro-  
7 priate costs incurred by the member to serve on the  
8 board of directors.

9 (c) DECISIONMAKING.—The board of directors shall  
10 reach decisions by an affirmative vote of  $\frac{2}{3}$  of its mem-  
11 bers.

12 (d) REMOVAL OF DAIRY PRODUCTS AND EXPANSION  
13 OF DEMAND.—

14 (1) SPENDING AUTHORITY.—The board of di-  
15 rectors shall have the authority to use monies made  
16 available to the board of directors under section  
17 1435—

18 (A) to purchase dairy products through  
19 commercial sources for donation to food banks  
20 and other food programs that the Board deter-  
21 mines appropriate, within three months of col-  
22 lecting the funds; and

23 (B) to expand consumption and build de-  
24 mand for dairy products.

1           (2) NO DUPLICATION OF EFFORT.—The board  
2 of directors shall ensure that projects supported  
3 under paragraph (1) are compatible with, and do not  
4 duplicate, programs supported by the dairy research  
5 and promotion activities conducted under the Dairy  
6 Production Stabilization Act of 1983 (7 U.S.C. 4501  
7 et seq.).

8           (3) MANAGEMENT CONTRACT.—The board of  
9 directors may enter into a contract with a managing  
10 entity to carry out this subsection.

11 (e) ACCOUNTING AND REPORTING REQUIREMENT.—

12           (1) ACCOUNTING.—The board of directors shall  
13 keep an accurate account of all monies made avail-  
14 able to the board of directors under section 1435.

15           (2) REPORTING.—Not later than December 31  
16 of each year that the stabilization program is in ef-  
17 fect, the board of directors shall provide to the Com-  
18 mittee on Agriculture of the House of Representa-  
19 tives and the Committee on Agriculture, Nutrition,  
20 and Forestry of the Senate a report that provides an  
21 accurate accounting of the monies received by the  
22 board of directors during that year and all expendi-  
23 tures made by the board of directors during that  
24 year.

1           **Subpart C—Commodity Credit Corporation**

2   **SEC. 1451. USE OF COMMODITY CREDIT CORPORATION.**

3           The Secretary shall use the funds, facilities, and the  
4 authorities of the Commodity Credit Corporation to carry  
5 out this part.

6                           **Subpart D—Duration**

7   **SEC. 1461. DURATION.**

8           The Secretary shall conduct the margin protection  
9 program and the stabilization program during the period  
10 beginning on January 1, 2012, and ending on December  
11 31, 2017.

12   **PART II—FEDERAL MILK MARKETING ORDER**

13                           **REFORM**

14   **SEC. 1471. REQUIRED AMENDMENTS TO FEDERAL MILK**  
15                           **MARKETING ORDERS.**

16           (a) AMENDMENTS REQUIRED.—

17                   (1) IN GENERAL.—The Secretary of Agriculture  
18 shall amend each Federal milk marketing order  
19 issued under section 8c of the Agricultural Adjust-  
20 ment Act (7 U.S.C. 608c), reenacted with amend-  
21 ments by the Agricultural Marketing Agreement Act  
22 of 1937 (in this part referred to as a “milk mar-  
23 keting order”), as required by this section.

24                   (2) RELATION TO OTHER LAWS.—Except as  
25 provided in section 1472, the Secretary shall execute  
26 the amendments required by this section without re-

1       gard to any provision of section 8c of the Agricul-  
2       tural Adjustment Act (7 U.S.C. 608c), reenacted  
3       with amendments by the Agricultural Marketing  
4       Agreement Act of 1937, as in effect on the day be-  
5       fore the date of the enactment of this Act.

6       (b) USE OF END-PRODUCT PRICE FORMULAS.—The  
7       Secretary shall eliminate the use of end-product price for-  
8       mulas for setting prices for Class III milk, and instead  
9       use a competitive price for setting prices for Class III  
10      milk.

11      (c) ADMINISTRATIVE AUTHORITY.—In addition to  
12      and notwithstanding the authority provided under section  
13      8d of the Agricultural Adjustment Act (7 U.S.C. 608d),  
14      reenacted with amendments by the Agricultural Marketing  
15      Agreement Act of 1937, the Secretary may—

16           (1) require handlers to report, maintain, and  
17           make available all information and records as the  
18           Secretary considers necessary for the administration  
19           of any milk marketing order; and

20           (2) adopt only such conforming amendments to  
21           milk marketing orders as the Secretary determines  
22           to be necessary to implement the amendments re-  
23           quired by this section.

1 **SEC. 1472. AMENDMENT PROCESS.**

2 (a) IN GENERAL.—The amendments to milk mar-  
3 keting orders required to be made by section 1471 shall  
4 be subject to the provisions of sections 8c(17) and 8c(19)  
5 of the Agricultural Adjustment Act (7 U.S.C. 608c(17)  
6 and (19)), reenacted with amendments by the Agricultural  
7 Marketing Agreement Act of 1937, except as follows:

8 (1) NOTICE OF FINAL DECISION ON PROPOSED  
9 AMENDMENTS.—Not later than 270 days after the  
10 date of the enactment of this Act, the Secretary of  
11 Agriculture shall publish in the Federal Register no-  
12 tice of a final decision on the proposed amendments  
13 to be made to milk marketing orders in order to  
14 comply with the requirements of section 1471.

15 (2) PRODUCER REFERENDUM.—

16 (A) REFERENDUM REQUIRED.—As soon as  
17 practicable after publication of the final deci-  
18 sion on the proposed amendments under para-  
19 graph (1), the Secretary shall conduct a pro-  
20 ducer referendum regarding the final decision  
21 on the proposed amendments.

22 (B) TERMS OF REFERENDUM; EXCEP-  
23 TIONS.—The producer referendum shall be con-  
24 ducted in the manner provided by section  
25 8c(19) of the Agricultural Adjustment Act (7  
26 U.S.C. 608c(19)), reenacted with amendments

1 by the Agricultural Marketing Agreement Act  
2 of 1937, except that—

3 (i) the referendum shall be a single  
4 referendum upon which approval or failure  
5 of the proposed amendments to all milk  
6 marketing orders shall depend; and

7 (ii) the proposed amendments shall re-  
8 quire approval by  $\frac{1}{2}$  of participating pro-  
9 ducers or by volume of production (rather  
10 than  $\frac{2}{3}$ ) in order for the referendum to  
11 pass and the proposed amendments to take  
12 effect.

13 (C) EFFECT OF FAILURE.—If the ref-  
14 erendum fails, the milk marketing orders shall  
15 remain in force as in effect before the proposed  
16 amendments were published.

17 (b) EFFECT OF COURT ORDER.—In the event that  
18 the Secretary is enjoined or otherwise restrained by a  
19 court order from executing the amendments to milk mar-  
20 keting orders required by section 1471, the length of time  
21 for which that injunction or other restraining order is ef-  
22 fective shall be added to any time limitation in effect under  
23 paragraph (1) or (2) of subsection (a), thereby extending  
24 those time limitations by a period of time equal to the

1 period of time for which the injunction or other restraining  
2 order is in effect.

3 (c) RELATION TO OTHER AMENDMENT AUTHOR-  
4 ITY.—Nothing in this part affects the authority of the Sec-  
5 retary to subsequently amend milk marketing orders, or  
6 the ability of producers or other persons to seek such  
7 amendments, in accordance with the rulemaking process  
8 provided by section 8c(17) of the Agricultural Adjustment  
9 Act (7 U.S.C. 608c(17)), reenacted with amendments by  
10 the Agricultural Marketing Agreement Act of 1937.

11 **SEC. 1473. DEVELOPMENT OF EFFECTIVE BALANCING PRO-**  
12 **GRAMS FOR MILK MARKETS.**

13 (a) ADVANCED NOTICE OF PROPOSED RULE-  
14 MAKING.—Not later than 90 days after the enactment of  
15 this Act, the Secretary of Agriculture shall publish in the  
16 Federal Register an Advanced Notice of Proposed Rule-  
17 making seeking public comment on, and proposals recom-  
18 mending, effective programs that address the issues of the  
19 costs of balancing milk markets, including the use of inter-  
20 and intra-marketing transportation credits. The Secretary  
21 shall solicit comments and proposals that—

- 22 (1) address the market's balancing needs;  
23 (2) target support to those producers and han-  
24 dlers who provide balancing services; and



1           (2) shifts in milk production patterns and prod-  
2           uct use that would derive from the elimination;

3           (3) an examination of changes in the flow of  
4           milk and what would be required for milk to move  
5           from surplus to deficit regions in the absence of the  
6           orders;

7           (4) the potential for any premiums to be paid  
8           for milk in fluid use form and what, if any, regional  
9           differences in those premiums might exist;

10          (5) the potential impact on export markets; and

11          (6) potential changes in market price volatility.

12          (c) REPORT.—Not later than 180 days after the date  
13 of enactment of this Act, the Secretary shall submit to  
14 the Committee on Agriculture of the House of Representa-  
15 tives and the Committee on Agriculture, Nutrition, and  
16 Forestry of the Senate a report on the results of the study  
17 conducted under this section, including any recommenda-  
18 tions.

19   **PART III—REPEAL OF SUPERSEDED PROVISIONS**

20   **SEC. 1481. REPEAL OF DAIRY PRODUCT PRICE SUPPORT**

21                   **AND MILK INCOME LOSS CONTRACT PRO-**  
22                   **GRAMS.**

23          (a) REPEAL OF DAIRY PRODUCT PRICE SUPPORT  
24 PROGRAM.—Section 1501 of the Food, Conservation, and  
25 Energy Act of 2008 (7 U.S.C. 8771) is repealed.

1 (b) REPEAL OF MILK INCOME LOSS CONTRACT PRO-  
2 GRAM.—Section 1506 of the Food, Conservation, and En-  
3 ergy Act of 2008 (7 U.S.C. 8773) is repealed.

4 **SEC. 1482. REPEAL OF PERMANENT PRICE SUPPORT AU-**  
5 **THORITY FOR MILK.**

6 (a) REPEAL.—

7 (1) IN GENERAL.—Section 201 of the Agricul-  
8 tural Act of 1949 (7 U.S.C. 1446) is amended—

9 (A) in subsection (a) (as amended by sec-  
10 tion 1302(c)(3)), by striking “honey, and milk,”  
11 and inserting “and honey”; and

12 (B) by striking subsections (c) and (d).

13 (2) CONFORMING AMENDMENTS.—Section  
14 256(j) of the Balanced Budget and Emergency Def-  
15 icit Control Act of 1985 (2 U.S.C. 906(j)) is amend-  
16 ed—

17 (A) by striking paragraph (5); and

18 (B) redesignating paragraph (6) as para-  
19 graph (5).

20 (b) EXCLUSION FROM PRICE SUPPORT FOR OTHER  
21 NONBASIC AGRICULTURAL COMMODITIES.—Section 301  
22 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amend-  
23 ed by inserting “(other than milk)” after “agricultural  
24 commodity”.

1 **SEC. 1483. REPEAL OF DAIRY EXPORT INCENTIVE PRO-**  
 2 **GRAM.**

3 (a) IN GENERAL.—Section 153 of the Food Security  
 4 Act of 1985 (15 U.S.C. 713a–14) is repealed.

5 (b) CONFORMING AMENDMENTS.—Section 902(2) of  
 6 the Trade Sanctions Reform and Export Enhancement  
 7 Act of 2000 (22 U.S.C. 7201(2)) is amended—

8 (1) by striking subparagraph (D); and

9 (2) by redesignating subparagraphs (E) and  
 10 (F) as subparagraphs ((D) and (E)).

11 **SEC. 1484. EFFECTIVE DATE.**

12 The amendments made by this part shall take effect  
 13 on January 1, 2012.

14 **TITLE II—CONSERVATION**  
 15 **Subtitle A—Conservation Reserve**  
 16 **Program**

17 **SEC. 2001. CONSERVATION RESERVE PROGRAM.**

18 (a) IN GENERAL.—Section 1231(a) of the Food Se-  
 19 curity Act of 1985 (16 U.S.C. 3831(a)) is amended—

20 (1) by striking “(a) IN GENERAL.—Through  
 21 the 2012 fiscal year” and inserting the following:

22 “(a) AUTHORITY.—

23 “(1) IN GENERAL.—Through the 2017 fiscal  
 24 year”; and

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

1           “(2) RELATIONSHIP TO EASEMENT BENEFITS  
2 PROGRAM.—

3           “(A) IN GENERAL.—The Secretary shall  
4 administer the conservation reserve program in  
5 conjunction with the easement benefits program  
6 under subchapter C in a manner that encour-  
7 ages landowners to enroll land in the easement  
8 benefits program to maximize the long-term  
9 benefits of fiscal outlay.

10          “(B) TRANSFER.—The Secretary shall  
11 make available to all owners and operators en-  
12 rolled in the conservation reserve program the  
13 option to transfer the enrolled land into the  
14 easement benefits program under subchapter C.

15          “(3) MINIMIZATION OF COSTS.—

16          “(A) NEW CONTRACTS.—In entering into  
17 contracts under the conservation reserve pro-  
18 gram, the Secretary shall seek to minimize cost  
19 by allowing limited commercial use of land  
20 under contract, as authorized under section  
21 1232(a)(3) and subparagraphs (A) through (D)  
22 of section 1232(a)(8).

23          “(B) EXISTING CONTRACTS.—

24               “(i) IN GENERAL.—Not later than 2  
25 years after the date of enactment of the

1 Rural Economic Farm and Ranch Sustain-  
2 ability and Hunger Act of 2011, the Sec-  
3 retary shall make available a revision of  
4 contracts in existence on the date of enact-  
5 ment of this subsection to allow limited  
6 commercial usage under the contracts of  
7 not less than 5,000,000 acres of land (such  
8 as for prescribed or routing grazing and  
9 managed harvesting), subject to conditions  
10 in section 1232.

11 “(ii) USE OF SAVINGS.—Any amounts  
12 saved through contract revisions described  
13 in clause (i) may, as determined the Sec-  
14 retary, be used—

15 “(I) to expand the provision of  
16 technical assistance; and

17 “(II) to provide incentives for  
18 owners or operators to shift land into  
19 the easement benefits program.”.

20 (b) ELIGIBLE LAND.—

21 (1) IN GENERAL.—Section 1231(b) of the Food  
22 Security Act of 1985 (16 U.S.C. 3831(b)) is amend-  
23 ed—

24 (A) in paragraph (4)—

25 (i) in subparagraph (B)—

1 (I) in clause (i), by striking “or”  
2 at the end;

3 (II) in clause (ii), by adding “or”  
4 at the end; and

5 (III) by adding at the end the  
6 following:

7 “(iii) riparian buffer or filter strip  
8 planted to grass, shrubs, trees or other ap-  
9 propriate vegetation, as determined by the  
10 Secretary;”; and

11 (ii) in subparagraph (E), by striking  
12 “or” at the end;

13 (B) in subparagraph (5)(B)(ii), by striking  
14 the period at the end and inserting a semicolon;  
15 and

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

17 “(6) subject to subsection (j), land—

18 “(A) that is wetland (including a converted  
19 wetland described in section 1222(b)(1)(A))  
20 that had a cropping history during at least 3 of  
21 the immediately preceding 10 crop years;

22 “(B) on which a constructed wetland is to  
23 be developed that will receive flow from a row  
24 crop agriculture drainage system and is de-

1 signed to provide nitrogen removal in addition  
2 to other wetland functions;

3 “(C) that was devoted to commercial pond-  
4 raised aquaculture in any year during the pe-  
5 riod of calendar years 2002 through 2007; or

6 “(D) that, after January 1, 1990, and be-  
7 fore December 31, 2002, was—

8 “(i) cropped during at least 3 of 10  
9 crop years; and

10 “(ii) subject to the natural overflow of  
11 a prairie wetland; or

12 “(7) subject to subsection (j), buffer acreage  
13 that—

14 “(A) with respect to land described in sub-  
15 paragraph (A), (B), or (C) of paragraph (6)—

16 “(i) is contiguous to such land;

17 “(ii) is used to protect such land; and

18 “(iii) is of such width as the Secretary  
19 determines is necessary to protect such  
20 land, taking into consideration and accom-  
21 modating the farming practices (including  
22 the straightening of boundaries to accom-  
23 modate machinery) used with respect to  
24 the cropland that surrounds such land; and

1           “(B) with respect to land described in sub-  
2           paragraph (D) of paragraph (6), enhances a  
3           wildlife benefit.”.

4           (2) LIMITATIONS AND DUTIES RELATING TO  
5           ENROLLED WETLAND AND BUFFER ACREAGE.—Sec-  
6           tion 1231 of the Food Security Act of 1985 (16  
7           U.S.C. 3831) is amended by adding at the end the  
8           following:

9           “(j) LIMITATIONS AND DUTIES RELATING TO EN-  
10          ROLLED WETLAND AND BUFFER ACREAGE.—

11           “(1) ENROLLMENT LIMITATIONS.—

12           “(A) WETLAND AND RELATED LAND.—

13           “(i) WETLANDS AND CONSTRUCTED  
14           WETLANDS.—The maximum size of any  
15           land described in subparagraph (A) or (B)  
16           of subsection (b)(6) that an owner or oper-  
17           ator may enroll in the conservation reserve  
18           shall be 40 contiguous acres.

19           “(ii) FLOODED FARMLAND.—The  
20           maximum size of any land described in  
21           subparagraph (D) of subsection (b)(6) that  
22           an owner or operator may enroll in the  
23           conservation reserve shall be 20 contiguous  
24           acres.

1                   “(iii) COVERAGE.—All acres described  
2                   in clause (i) or (ii), including acres that  
3                   are ineligible for payment, shall be covered  
4                   by the conservation contract.

5                   “(B) BUFFER ACREAGE.—The maximum  
6                   size of any buffer acreage described in sub-  
7                   section (b)(7) that an owner or operator may  
8                   enroll in the conservation reserve shall be deter-  
9                   mined by the Secretary, in consultation with the  
10                  State Technical Committee.

11                  “(C) TRACTS.—Except for land described  
12                  in subsection (b)(6)(C) and buffer acreage re-  
13                  lating to that land, the maximum size of any el-  
14                  igible acreage described in subsection (b)(6) in  
15                  a tract of an owner or operator enrolled in the  
16                  conservation reserve under this section shall be  
17                  40 acres.

18                  “(2) DUTIES OF OWNERS AND OPERATORS.—  
19                  During the term of a contract entered into involving  
20                  land described in paragraph (6) or (7) of subsection  
21                  (b), an owner or operator shall agree to a prohibi-  
22                  tion of commercial use except for activities conducive  
23                  to conservation of the enrolled land, as determined  
24                  by the Secretary.”.

1           (c) MAXIMUM ENROLLMENT.—Section 1231 of the  
2 Food Security Act of 1985 (16 U.S.C. 3831) is amended  
3 by striking subsection (d) and inserting the following:

4           “(d) MAXIMUM ENROLLMENT.—

5                   “(1) IN GENERAL.—The Secretary may main-  
6 tain in the conservation reserve at any 1 time, not  
7 more than—

8                           “(A) during fiscal year 2012, 30,000,000  
9 acres;

10                           “(B) during fiscal year 2013, 26,000,000  
11 acres; and

12                           “(C) during each of fiscal years 2014  
13 through 2017, 24,000,000 acres.

14                   “(2) TRANSFER OF ENROLLMENT.—The Sec-  
15 retary may transfer enrolled acre allowance from the  
16 conservation reserve program to the easement bene-  
17 fits program established under subchapter C.”.

18           (d) CONSERVATION PRIORITY AREAS.—Section  
19 1231(f)(1) of the Food Security Act of 1985 (16 U.S.C.  
20 3831(f)(1)) is amended by striking “areas of the Chesa-  
21 peake Bay Region, the Great Lakes Region, the Long Is-  
22 land Sound Region, and other”.

1 **SEC. 2002. PILOT PROGRAM FOR ENROLLMENT OF WET-**  
2 **LAND AND BUFFER ACREAGE IN CONSERVA-**  
3 **TION RESERVE.**

4 Section 1231B of the Food Security Act of 1985 (16  
5 U.S.C. 3831b) is repealed.

6 **SEC. 2003. DUTIES OF OWNERS AND OPERATORS.**

7 Section 1232(a)(8)(C) of the Food Security Act of  
8 1985 (16 U.S.C. 3832(a)(8)(C)) is amended by striking  
9 “for the control of invasive species”.

10 **SEC. 2004. PAYMENTS.**

11 Section 1234 of the Food Security Act of 1985 (16  
12 U.S.C. 3834) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1), by inserting “not  
15 more than” before “50 percent”;

16 (B) in paragraph (3)(B)(i), by inserting  
17 “not more than” before “50 percent”;

18 (C) by redesignating paragraph (5) as  
19 paragraph (6); and

20 (D) by inserting after paragraph (4) the  
21 following:

22 “(5) **PRESCRIBED BURNING.**—Notwithstanding  
23 any other provision of this section, in making cost-  
24 sharing payments to an owner or operator under a  
25 contract entered into under this subchapter, the Sec-

1       retary shall pay not more than 75 percent of the  
2       cost of prescribed burning.”; and

3               (2) in subsection (c)(5), by adding at the end  
4       the following:

5               “(C) REVIEW REQUIRED.—The Secretary  
6       shall periodically review the competitiveness of  
7       rental rates for land that—

8                       “(i) provides substantial environ-  
9                       mental benefits consistent with the pur-  
10                      poses of this subchapter;

11                     “(ii) provides critical habitat to spe-  
12                     cies of concern; or

13                     “(iii) meets other ecological priorities,  
14                     as determined by the Secretary.”.

15 **SEC. 2005. CONTRACTS.**

16       Section 1235 of the Food Security Act of 1985 (16  
17 U.S.C. 3835) is amended—

18               (1) in subsection (a)(1)—

19                     (A) in subparagraph (C), by striking “or”  
20                     at the end;

21                     (B) in subparagraph (D), by striking the  
22                     period at the end and inserting “; or”; and

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

1           “(E) the new ownership was acquired by  
2           the sibling, parent, child, or grandchild of the  
3           previous owner.”; and

4           (2) in subsection (f)(1)(D), by striking “con-  
5           servation stewardship program or the environmental  
6           quality incentives program” and inserting “working  
7           land program”.

8   **SEC. 2006. CONVERSION OF LAND SUBJECT TO CONTRACT**  
9                           **TO OTHER CONSERVING USES.**

10          Section 1235A of the Food Security Act of 1985 (16  
11   U.S.C. 3835a) is amended—

12           (1) in subsection (a)—

13                   (A) in paragraph (2)(B), by inserting “not  
14                   more than” before “50”;

15                   (B) striking “(1) IN GENERAL.—The Sec-  
16                   retary” and inserting the following:

17                   “(1) NOVEMBER 28, 1990.—

18                           “(A) IN GENERAL.—The Secretary”;

19                           (C) by redesignating subparagraphs (A)  
20                           and (B) of paragraph (2) as clauses (i) and (ii),  
21                           respectively, and indenting appropriately;

22                           (D) by redesignating paragraph (2) as sub-  
23                           paragraph (B) and indenting appropriately; and

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

1           “(2) OCTOBER 1, 2011.—The Secretary shall  
2 permit an owner or operator that has entered into  
3 a contract under this subchapter that is in effect on  
4 October 1, 2011, to convert areas of highly erodible  
5 cropland that are subject to the contract, and that  
6 are devoted to vegetative cover, from that use to for-  
7 est land if—

8           “(A) the areas are prior converted forest  
9 land;

10           “(B) the owner or operator of the areas  
11 enters into an agreement to provide the Sec-  
12 retary with a long-term or permanent easement  
13 under the easement benefits program under  
14 subchapter C covering the areas;

15           “(C) there is a high probability that the  
16 prior converted area can be successfully re-  
17 stored to forest land status; and

18           “(D) the restoration of the areas otherwise  
19 meets the requirements the easement benefits  
20 program.”;

21           (2) in subsection (b), by striking “November  
22 28, 1990” and inserting “October 1, 2011”; and

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

24           “(e) EARLY CONTRACT OPT-OUT.—

25           “(1) IN GENERAL.—The Secretary shall—

1           “(A) make available a no-penalty early  
2 contract opt-out for not less than 8,000,000  
3 acres enrolled under contracts in existence on  
4 the date of enactment of this subsection;

5           “(B) not later than 1 year after the date  
6 of enactment of this subsection, ensure that not  
7 less than  $\frac{1}{2}$  of the required acreage has been  
8 made available to be opted-out of the conserva-  
9 tion reserve program;

10           “(C) not later than 2 years after the date  
11 of enactment of this subsection, ensure that the  
12 entire amount of required acreage has been  
13 made available to opt-out; and

14           “(D) terminate a contract entered into  
15 with an owner or operator offered an early opt-  
16 out under this subchapter if the owner or oper-  
17 ator agrees to the termination.

18           “(2) CONSIDERATIONS.—In determining land to  
19 offer for opt-out under this subsection, the Secretary  
20 shall—

21           “(A) make available for opt-out those acres  
22 offering the least environmental benefit, as de-  
23 termined by the Secretary;

24           “(B) consider the need to protect critical  
25 habitat (including nesting areas for birds); and

1           “(C) maintain in the conservation reserve  
2 land of high environmental value (including  
3 wetland), as determined by the Secretary, and  
4 including—

5                   “(i) riparian buffers;

6                   “(ii) wildlife habitat buffers;

7                   “(iii) wetland buffers;

8                   “(iv) filter strips;

9                   “(v) grass waterways;

10                  “(vi) wetland restoration areas;

11                  “(vii) shelterbelts;

12                  “(viii) living snow fences;

13                  “(ix) contour grass strips;

14                  “(x) land with a high erodibility index;

15                  “(xi) salt-tolerant vegetation; and

16                  “(xii) shallow-water areas for wildlife.

17           “(3) SUBDIVISION.—In carrying out this sub-  
18 section, the Secretary may subdivide leased acres en-  
19 rolled in the conservation reserve under the same  
20 contract.

21           “(4) CONDITIONS.—

22                   “(A) COMMODITY PRODUCTION.—If land  
23 that was subject to a contract under this sub-  
24 chapter is converted to production of an agri-  
25 cultural commodity through the opt-out under

1           this subsection, the land shall be subject to a  
2           conservation plan determined by the Secretary  
3           in coordination with the State technical com-  
4           mittee for the duration of what would have been  
5           the full term of the conservation reserve con-  
6           tract of the land, if not for opt-out.

7           “(B) GRAZING AND MANAGED HAR-  
8           VESTING.—If land that was subject to a con-  
9           tract under this subchapter is converted to  
10          grazing and managed harvesting through the  
11          opt-out under this subsection, the land shall be  
12          subject to environmental management criteria  
13          pursuant section 1232(a)(8) for the duration of  
14          what would have been the full term of the con-  
15          servation reserve contract of the land, if not for  
16          opt-out.

17          “(C) TECHNICAL ASSISTANCE.—The Sec-  
18          retary shall make available conservation tech-  
19          nical assistance to owners and operators that  
20          opt-out of the conservation reserve under this  
21          subsection.

22          “(5) EFFECTIVE DATE.—Contract termination  
23          under the opt-out shall become effective 60 days  
24          after the date on which the owner or operator ac-  
25          cepts the opt-off offer of the Secretary.

1           “(6) PRORATED RENTAL PAYMENT.—If a con-  
 2           tract entered into under this subchapter is termi-  
 3           nated under this subsection before the end of the fis-  
 4           cal year for which a rental payment is due, the Sec-  
 5           retary shall provide a prorated rental payment cov-  
 6           ering the portion of the fiscal year during which the  
 7           contract was in effect.”.

## 8           **Subtitle B—Easement Benefits** 9           **Program**

### 10   **SEC. 2101. EASEMENT BENEFITS PROGRAM.**

11           (a) IN GENERAL.—Title XII of the Food Security  
 12   Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

13           (1) by striking subchapters C and D of chapter  
 14   2 of subtitle D (16 U.S.C. 3838h et seq.); and

15           (2) by striking subchapter C of chapter 1 of  
 16   subtitle D (16 U.S.C. 3837 et seq.) and inserting  
 17   the following:

### 18   **“Subchapter C—Easement Benefits Program**

#### 19   **“SEC. 1237. EASEMENT BENEFITS PROGRAM.**

20           “(a) ESTABLISHMENT.—The Secretary shall estab-  
 21   lish an easement benefits program (referred to in this sub-  
 22   chapter as the ‘program’)—

23           “(1) to protect land (including wildlife re-  
 24   sources of the land) and water; and

1           “(2) to address issues raised by State, regional,  
2           and national conservation initiatives.

3           “(b) PURPOSES.—

4           “(1) IN GENERAL.—The purposes of the pro-  
5           gram are—

6                   “(A) to restore, enhance, conserve, and  
7                   protect land (including wildlife resources of the  
8                   land) and water;

9                   “(B) to protect vulnerable and ecologically  
10                  important land;

11                  “(C) to restore, protect, and enhance wet-  
12                  land and grassland;

13                  “(D) to promote wildlife habitat;

14                  “(E) to protect the agricultural use and re-  
15                  lated conservation values of prime and other  
16                  productive agricultural land by limiting the  
17                  nonagricultural uses of the land;

18                  “(F) to restore and enhance forest eco-  
19                  systems, including the recovery of threatened  
20                  and endangered species and improving biodiver-  
21                  sity;

22                  “(G) to provide assistance to owners to en-  
23                  sure the economic use of enrolled land by own-  
24                  ers consistent with long-term conservation func-

1           tions and values, including wildlife resources of  
2           the land; and

3           “(H) to address issues of restoration, con-  
4           servation, and protection of land (including  
5           wildlife resources of the land) and water raised  
6           by State, regional, and national conservation  
7           priorities.

8           “(2) STATE COORDINATION.—The Secretary  
9           shall give priority consideration to conservation  
10          needs identified by State technical committees estab-  
11          lished under section 1261.

12          “(c) EXISTING EASEMENTS.—

13           “(1) IN GENERAL.—Any easement or interest  
14          in land enrolled as of the date of enactment of the  
15          Rural Economic Farm and Ranch Sustainability and  
16          Hunger Act of 2011 in 1 of the programs described  
17          in paragraph (2) shall be considered enrolled in the  
18          easement benefits program under this subchapter.

19           “(2) AFFECTED PROGRAMS.—The programs de-  
20          scribed in this paragraph are as the programs were  
21          authorized on the day before the date of enactment  
22          of the Rural Economic Farm and Ranch Sustain-  
23          ability and Hunger Act of 2011—

24           “(A) the wetlands reserve program estab-  
25          lished under this subchapter;

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

3           “(C) the farmland protection program es-  
4           tablished under subchapter C of chapter 2; and

5           “(D) the healthy forests reserve program  
6           established under section 501 of the Healthy  
7           Forests Restoration Act of 2003 (16 U.S.C.  
8           6571).

9   **“SEC. 1237A. EASEMENTS AND 30-YEAR CONTRACTS.**

10       “(a) ENROLLMENT.—

11           “(1) IN GENERAL.—Lands may be enrolled  
12           under this subchapter through the submission of ap-  
13           plications under a competitive procedure established  
14           by the Secretary.

15           “(2) METHODS OF ENROLLMENT.—

16           “(A) IN GENERAL.—The Secretary shall  
17           enroll acreage into the program through the use  
18           of—

19                   “(i) permanent easements; and

20                   “(ii) 30-year easements, or in a State  
21                   that imposes a maximum duration for  
22                   easements, easements for the maximum  
23                   duration allowed under State law (referred  
24                   to as ‘nonpermanent easements’).

1           “(B) ACREAGE OWNED BY INDIAN  
2           TRIBES.—In the case of acreage owned by an  
3           Indian tribe, the Secretary may also enroll acre-  
4           age into the program through the use of a 30-  
5           year contract (the value of which shall be equiv-  
6           alent to the value of a 30-year easement).

7           “(3) ENROLLMENT OF CONSERVATION RE-  
8           SERVE LAND.—

9           “(A) TRANSFER FROM THE CONSERVATION  
10           RESERVE PROGRAM.—The Secretary may termi-  
11           nate or modify an existing contract entered into  
12           the conservation reserve program under section  
13           1231 if eligible land that is subject to the con-  
14           tract is transferred into the program estab-  
15           lished by this subchapter.

16           “(B) PRIORITY.—On expiration of a con-  
17           tract under the conservation reserve program  
18           under subchapter B, the Secretary shall give  
19           priority for enrollment in the program to land  
20           previously enrolled in the conservation reserve  
21           program if—

22                   “(i) the land is eligible land under  
23                   subsection (b); and

24                   “(ii) the Secretary determines that  
25                   the land is of high ecological value.

1 “(C) SPECIAL FUNDING POOL.—

2 “(i) IN GENERAL.—Of the funds  
3 made available for the program for each of  
4 the 2013 through 2017 fiscal years, the  
5 Secretary shall reserve 10 percent of the  
6 funds to ensure an adequate source of  
7 funds and acres to give priority for enroll-  
8 ment of land identified under subpara-  
9 graph (B).

10 “(ii) REOBLIGATION.—Funds not ob-  
11 ligated under clause (i) by April 1 of each  
12 year may be available for use for other  
13 purposes of the program.

14 “(b) ELIGIBLE LAND.—

15 “(1) ENROLLMENT.—

16 “(A) IN GENERAL.—Eligible land shall be  
17 enrolled into the program subject to appropriate  
18 program requirements depending on the re-  
19 source objectives sought to be achieved through  
20 the easement or 30-year contract, as deter-  
21 mined by the Secretary.

22 “(B) ELIGIBILITY.—Private or tribal land  
23 shall be eligible to be enrolled into the program  
24 if the Secretary determines that the land—

1           “(i) maximizes the purpose of this  
2 subchapter;

3           “(ii) is enrolled in the conservation re-  
4 serve program; or

5           “(iii) in the case of land enrolled for  
6 restoration purposes, the likelihood of the  
7 successful restoration of the land and the  
8 resultant values merit the inclusion of the  
9 land in the program taking into consider-  
10 ation the cost of the restoration.

11           “(2) WETLAND.—

12           “(A) IN GENERAL.—Land shall be eligible  
13 to be enrolled into the program if the Secretary  
14 determines that the land is—

15           “(i) farmed wetland or converted wet-  
16 land, together with the adjacent land that  
17 is functionally dependent on the wetland,  
18 except that converted wetland with respect  
19 to which the conversion was not com-  
20 menced prior to December 23, 1985, shall  
21 not be eligible to be enrolled in the pro-  
22 gram;

23           “(ii) cropland or grassland that was  
24 used for agricultural production prior to  
25 flooding from the natural overflow of a

1 closed basin lake or pothole, as determined  
2 by the Secretary, together (if practicable)  
3 with the adjacent land that is functionally  
4 dependent on the cropland or grassland;

5 “(iii) farmed wetland and adjoining  
6 land, enrolled in the conservation reserve,  
7 with the highest wetland functions and val-  
8 ues, and that is likely to return to produc-  
9 tion after the land is not enrolled in the  
10 conservation reserve;

11 “(iv) other wetland (such as filter  
12 strips and vernal pools) of an owner that  
13 would not otherwise be eligible if the Sec-  
14 retary determines that the inclusion of the  
15 wetland in the easement would signifi-  
16 cantly add to the functional value of the  
17 easement; or

18 “(v) a riparian area.

19 “(B) RESTORATION AGREEMENT.—Land  
20 described in subparagraph (A) that is enrolled  
21 in the program shall be subject to a restoration  
22 agreement that provides the opportunity for the  
23 restoration and enhancement of the enrolled  
24 land.

25 “(3) GRASSLAND.—

1           “(A) IN GENERAL.—Land shall be eligible  
2 to be enrolled into the program if the Secretary  
3 determines that the land is at risk of conversion  
4 to nongrazing uses and is—

5           “(i) grassland, land that contains  
6 forbs, or shrubland (including improved  
7 rangeland and pastureland), including land  
8 for which grazing is the predominant use;  
9 or

10          “(ii) located in an area that has been  
11 historically dominated by grassland, forbs,  
12 or shrubland, and the land—

13           “(I) could provide habitat for  
14 animal or plant populations of signifi-  
15 cant ecological value if the land—

16           “(aa) is retained in the cur-  
17 rent use of the land; or

18           “(bb) is restored to a nat-  
19 ural condition; or

20           “(II) contains historical or ar-  
21 chaeological resources.

22          “(B) RESTORATION AGREEMENT.—Land  
23 described in subparagraph (A) that is enrolled  
24 in the program shall be subject to a restoration  
25 agreement that provides the opportunity for the

1 restoration and enhancement of the enrolled  
2 land.

3 “(4) FOREST LAND.—

4 “(A) IN GENERAL.—Land shall be eligible  
5 to be enrolled into the program if the Secretary  
6 determines that the land is land, the enrollment  
7 of which—

8 “(i) will restore and conserve forest  
9 land, improve biodiversity, or conserve land  
10 from the conservation reserve program  
11 that is being restored to forest land;

12 “(ii) will restore, enhance, or other-  
13 wise measurably increase the likelihood of  
14 recovery of a species listed as endangered  
15 or threatened under section 4 of the En-  
16 dangered Species Act of 1973 (16 U.S.C.  
17 1533); or

18 “(iii) will restore, enhance, or other-  
19 wise measurably improve the well-being of  
20 a species that—

21 “(I) is not listed as endangered  
22 or threatened under section 4 of the  
23 Endangered Species Act of 1973 (16  
24 U.S.C. 1533); but

1                   “(II) is candidates for such list-  
2                   ing, State-listed species, or special  
3                   concern species.

4                   “(B) RESTORATION AGREEMENT.—Land  
5                   described in subparagraph (A) that is enrolled  
6                   in the program shall be subject to a restoration  
7                   agreement that provides the opportunity for the  
8                   restoration and enhancement of the enrolled  
9                   land.

10                  “(5) PRIME AND PRODUCTIVE AGRICULTURAL  
11                  LAND.—Land shall be eligible to be enrolled into the  
12                  program if the Secretary determines that the land is  
13                  at risk of conversion to nonagricultural uses and—

14                         “(A) has prime, unique, or other produc-  
15                         tive soil;

16                         “(B) contains historical or archaeological  
17                         resources; or

18                         “(C) the protection of the land will further  
19                         a State or local policy consistent with the pur-  
20                         poses of the program.

21                  “(c) OTHER ELIGIBLE LAND.—

22                         “(1) IN GENERAL.—The Secretary may enroll  
23                         other land of the owner that would not otherwise be  
24                         eligible if the land is determined by the Secretary to

1 be necessary for the efficient administration of the  
2 30-year contract or easement under the program.

3 “(2) TYPE OF LAND.—Land enrolled under this  
4 subsection may include small areas of land as de-  
5 fined by the Secretary, such as riparian zones, filter  
6 strips, buffers, fence lines, and other incidental land.

7 “(d) LEVERAGING NON-FEDERAL INVESTMENT.—  
8 The Secretary may enter into 1 or more agreements with  
9 a State (including a political subdivision or agency of a  
10 State), nongovernmental organization, or Indian tribe to  
11 carry out a special enhancement program that the Sec-  
12 retary determines would advance the purposes of the pro-  
13 gram.

14 **“SEC. 1237B. DUTIES OF OWNERS.**

15 “(a) EASEMENTS.—To be eligible to enroll eligible  
16 land in the program under an easement, the owner of the  
17 land shall agree—

18 “(1) to grant an easement to the Secretary;

19 “(2) to create and record an appropriate deed  
20 restriction in accordance with applicable State law to  
21 reflect the easement;

22 “(3) to provide a written statement of consent  
23 to the easement signed by persons holding a security  
24 interest or any vested interest in the land;

1           “(4) to comply with the terms of the easement  
2 and related agreements;

3           “(5) to comply with the easement implement  
4 plan, as approved by the Secretary, which may be  
5 modified upon mutual agreement of the parties if  
6 the Secretary authorizes compatible uses; and

7           “(6) to the permanent retirement of any exist-  
8 ing cropland base and allotment history for the land  
9 under any program administered by the Secretary,  
10 unless the purpose of the particular easement is lim-  
11 ited to the prevention of the conversion of prime and  
12 productive agricultural land to nonagricultural uses.

13           “(b) RESTORATION AGREEMENTS.—

14           “(1) IN GENERAL.—To be eligible for financial  
15 assistance to restore eligible land subject to a 30-  
16 year contract or an easement under the program,  
17 the owner of the land shall agree to comply with the  
18 terms of a restoration agreement.

19           “(2) TYPE OF AGREEMENT.—A restoration  
20 agreement may be—

21           “(A) a cost-share agreement with the  
22 owner;

23           “(B) a cooperative agreement with an  
24 agency or organization with restoration exper-  
25 tise; or

1           “(C) a contract with a vendor.

2           “(3) TERMS AND CONDITIONS.—The Secretary  
3 shall prescribe the terms and conditions of a restora-  
4 tion agreement by which eligible land that is subject  
5 to a 30-year contract or easement under the pro-  
6 gram shall be restored.

7           “(4) DUTIES.—The restoration agreement shall  
8 describe the respective duties of the parties to the  
9 agreement, including the Federal share of restora-  
10 tion payments and technical assistance.

11          “(c) TERMS AND CONDITIONS APPLICABLE TO EASE-  
12 MENTS AND 30-YEAR CONTRACTS.—

13           “(1) RESERVED RIGHTS.—

14           “(A) IN GENERAL.—An easement or 30-  
15 year contract entered into under the program  
16 shall provide to the Secretary control of the  
17 surface rights of the land while identifying  
18 rights reserved to the owner for specified usages  
19 consistent with the purposes of the particular  
20 enrollment so as—

21                   “(i) to maximize conservation benefits  
22                   (including wildlife habitat) per dollar spent  
23                   across the program; and

1                   “(ii) to allow the owner uses of the  
2                   land that are consistent with the purposes  
3                   for which the land is enrolled.

4                   “(B) LIMITATIONS ON ACTIVITIES.—  
5                   Rights reserved to the owner shall be consistent  
6                   with the wetland, grassland, forest land, or pro-  
7                   ductive land purposes for which the land is en-  
8                   rolled.

9                   “(2) EASEMENT CONSERVATION PLAN.—

10                   “(A) IN GENERAL.—The Secretary shall  
11                   develop an easement conservation plan for each  
12                   easement or 30-year contract enrolled in the  
13                   program that will identify how land enrolled in  
14                   the program will be restored, if applicable, and  
15                   managed.

16                   “(B) MODIFICATION.—An easement con-  
17                   servation plan shall be modified in response to  
18                   changing resource conditions to ensure that the  
19                   purposes of the program are achieved.

20                   “(C) LOCAL AND STATE INVOLVEMENT.—  
21                   An easement conservation plan, including any  
22                   compatible use that may be authorized for the  
23                   owner under the program, shall be made  
24                   through the local Natural Resources Conserva-

1           tion Service representative, in coordination with  
2           the State technical committee.

3           “(D) PERMISSIBLE ACTIVITIES.—Con-  
4           sistent with paragraph (3), an easement con-  
5           servation plan shall identify the following activi-  
6           ties as permissible:

7                   “(i) GRASSLAND.—In the case of  
8                   grassland, an easement conservation plan  
9                   shall permit—

10                           “(I) common grazing practices,  
11                           including maintenance and necessary  
12                           cultural practices, on the land that is  
13                           consistent with maintaining the viabil-  
14                           ity of grassland, forb, and shrub spe-  
15                           cies appropriate to that locality;

16                           “(II) haying, mowing, or har-  
17                           vesting for seed production or bio-  
18                           mass, subject to appropriate restric-  
19                           tions during the nesting season for  
20                           birds in the local area, consistent with  
21                           Federal or State law and in coordina-  
22                           tion with the State technical com-  
23                           mittee, as determined by the Sec-  
24                           retary;

1                   “(III) fire presuppression, reha-  
2                   bilitation, and construction of fire  
3                   breaks; and

4                   “(IV) grazing-related activities,  
5                   such as fencing and livestock water-  
6                   ing.

7                   “(ii) WETLAND.—In the case of wet-  
8                   land, an easement conservation plan shall  
9                   permit repairs, improvements, and inspec-  
10                  tions of the land that are necessary to  
11                  maintain existing public drainage systems  
12                  if the land is subsequently restored to the  
13                  condition required by the terms of the  
14                  easement.

15                  “(iii) ALL ENROLLED LAND.—

16                  “(I) IN GENERAL.—In the case  
17                  of all enrolled land, the easement con-  
18                  servation plan shall permit the  
19                  owner—

20                         “(aa) to conduct any activi-  
21                         ties that are inherent and nec-  
22                         essary to rights that are reserved  
23                         to the owner under the terms of  
24                         the easement or 30-year contract  
25                         and have been identified as com-

1           patible use in the easement con-  
2           servation program;

3                   “(bb) to control public ac-  
4           cess; and

5                   “(cc) in accordance with  
6           subclause (II), the right to unde-  
7           veloped recreational uses, includ-  
8           ing undeveloped hunting and  
9           fishing and leasing of those  
10          rights for economic gain, pursu-  
11          ant to applicable State and Fed-  
12          eral laws (including regulations).

13                   “(II)     UNDEVELOPED     REC-  
14          REATIONAL USES.—Undeveloped rec-  
15          reational uses under subclause  
16          (I)(cc)—

17                   “(aa) shall be consistent  
18          with the long-term protection and  
19          enhancement of the conservation  
20          purposes and other natural val-  
21          ues of the easement area; and

22                   “(bb) may include hunting  
23          equipment, such as tree stands  
24          and hunting blinds that are rus-

1                   tic and customary for the locale,  
2                   as determined by the Secretary.

3                   “(E) PROHIBITED ACTIVITIES.—An ease-  
4                   ment conservation plan shall identify the fol-  
5                   lowing activities as prohibited:

6                   “(i) GRASSLAND.—In the case of  
7                   grassland, an easement conservation plan  
8                   shall prohibit the production of crops  
9                   (other than hay or grass grown for bio-  
10                  mass harvest), fruit trees, vineyards, or  
11                  any other agricultural commodity that is  
12                  inconsistent with maintaining grazing land.

13                  “(ii) WETLAND.—In the case of wet-  
14                  land, an easement conservation plan shall  
15                  prohibit—

16                  “(I) the alteration of wildlife  
17                  habitat and other natural features of  
18                  the land, unless specifically permitted  
19                  by the easement conservation plan;  
20                  and

21                  “(II) the spraying of the land  
22                  with chemicals or the mowing of the  
23                  land, unless spraying or mowing is—

24                          “(aa) permitted by the ease-  
25                          ment conservation plan to meet

1 the habitat needs of specific wild-  
2 life species; or

3 “(bb) necessary to comply  
4 with Federal or State noxious  
5 weed control laws and emergency  
6 pest treatment program.

7 “(iii) ALL ENROLLED LAND.—In the  
8 case of all enrolled land, the easement con-  
9 servation plan shall prohibit—

10 “(I) any activities to be carried  
11 out on the land of the owner that is  
12 immediately adjacent to, and function-  
13 ally related to, the land that is subject  
14 to the easement if the activities will  
15 alter, degrade, or otherwise diminish  
16 the functional value of the eligible  
17 land; and

18 “(II) the adoption of any other  
19 practice that would tend to defeat the  
20 purposes of this subchapter, as deter-  
21 mined by the Secretary.

22 “(3) COMPATIBLE USES BY THE OWNER.—

23 “(A) IN GENERAL.—Land enrolled in the  
24 program may be used for compatible uses if the  
25 use is specifically permitted by an easement

1 conservation plan and consistent with the long-  
2 term protection and enhancement of the re-  
3 sources for which the easement was established.

4 “(B) AUTHORIZED USES.—The Secretary  
5 may authorize the use of the easement area for  
6 compatible uses under the terms of the ease-  
7 ment deed or contract, even if the uses were not  
8 identified as compatible at the time of easement  
9 enrollment.

10 “(C) LIMITATIONS.—

11 “(i) IN GENERAL.—Compatible use  
12 authorizations shall only be made if the  
13 Secretary determines, in coordination with  
14 the State technical committee, that the  
15 amount, timing, intensity, and duration of  
16 the compatible use ensures that the pur-  
17 poses of the program will be achieved.

18 “(ii) INCLUSIONS.—Compatible uses  
19 under clause (i) may include managed  
20 haying and grazing for grassland (includ-  
21 ing the managed harvesting of biomass) or  
22 timber harvesting or managed harvesting  
23 of biomass of forest land.

24 “(4) ADDITIONAL TERMS AND CONDITIONS.—A  
25 30-year contract or easement under the program

1 shall include such additional provisions as the Sec-  
2 retary determines are appropriate to carry out or fa-  
3 cilitate the purposes and administration of the pro-  
4 gram.

5 “(d) COMPLIANCE.—On a violation of the terms or  
6 conditions of a 30-year contract or easement under this  
7 subchapter—

8 “(1) the contract or easement shall remain in  
9 force; and

10 “(2) the Secretary may require the owner to re-  
11 fund all or part of any payments received under the  
12 program, with interest on the payments as deter-  
13 mined appropriate by the Secretary.

14 **“SEC. 1237C. DUTIES OF THE SECRETARY.**

15 “(a) IN GENERAL.—In return for the granting of an  
16 easement by an owner under this subchapter, the Sec-  
17 retary shall—

18 “(1) share the cost of carrying out the estab-  
19 lishment of conservation measures and practices, in-  
20 cluding necessary maintenance activities, as de-  
21 scribed in the easement conservation plan associated  
22 with the easement to the extent that the Secretary  
23 determines that cost sharing is appropriate and in  
24 the public interest; and

1           “(2) provide necessary technical assistance to  
2 assist owners in complying with the terms and con-  
3 ditions of the easement and the easement conserva-  
4 tion plan.

5           “(b) RANKING OF OFFERS.—When evaluating offers  
6 from owners, the Secretary may consider—

7           “(1) the cost-effectiveness of each easement or  
8 other interest in the eligible land, so as to maximize  
9 the environmental benefits per dollar expended;

10           “(2) whether the owner or another individual or  
11 legal entity is offering to contribute financially to  
12 the cost of the easement or other interest in the land  
13 to leverage Federal funds;

14           “(3) the conservation and wildlife habitat bene-  
15 fits of obtaining an easement or other interest in the  
16 land;

17           “(4) the relative threat of conversion of the  
18 land to development or row cropping, as applicable;

19           “(5) the extent to which the purposes of the  
20 easement program would be achieved on the land of-  
21 fered for enrollment; and

22           “(6) other factors the Secretary determines are  
23 appropriate to select among offers with similar re-  
24 source concerns and objectives.

1       “(c) EASEMENT PRIORITY.—In carrying out this sub-  
2 chapter, to the extent practicable taking into consideration  
3 costs and future agricultural and food needs, the Secretary  
4 shall give priority—

5           “(1) to obtaining permanent conservation ease-  
6 ments before shorter-term conservation easements;  
7 and

8           “(2) in consultation with the Secretary of the  
9 Interior, to acquiring easements based on the value  
10 of the easements for protecting vulnerable land and  
11 protecting and enhancing habitat for migratory birds  
12 and other wildlife.

13       “(d) TECHNICAL ASSISTANCE.—The Secretary shall  
14 provide owners with technical assistance to assist the own-  
15 ers in complying with the terms of the easement, 30-year  
16 contract, and associated easement conservation plans  
17 under the program.

18       “(e) PAYMENTS TO OTHERS.—If an owner who is en-  
19 titled to a payment under the program dies, becomes in-  
20 competent, is otherwise unable to receive the payment, or  
21 is succeeded by another person who renders or completes  
22 the required performance, the Secretary shall make the  
23 payment, in accordance with regulations promulgated by  
24 the Secretary and without regard to any other provision

1 of law, in such manner as the Secretary determines is fair  
2 and reasonable in light of all the circumstances.

3 **“SEC. 1237D. PAYMENTS.**

4 “(a) IN GENERAL.—Effective on the date of enact-  
5 ment of the Rural Economic Farm and Ranch Sustain-  
6 ability and Hunger Act of 2011, the Secretary shall pay  
7 as compensation for a permanent conservation easement  
8 acquired under this subchapter the lowest of—

9 “(1) the fair market value of the land, as deter-  
10 mined by the Secretary, using the Uniform Stand-  
11 ards of Professional Appraisal Practices or an area-  
12 wide market analysis or survey;

13 “(2) the amount corresponding to a geo-  
14 graphical cap, as determined by the Secretary in  
15 regulations; or

16 “(3) the offer made by the owner.

17 “(b) FORM OF PAYMENT.—Compensation for an  
18 easement shall be provided by the Secretary in the form  
19 of a cash payment, in an amount determined under sub-  
20 section (a) and specified in the easement agreement.

21 “(c) PAYMENT SCHEDULE FOR EASEMENTS.—

22 “(1) EASEMENTS VALUED AT \$500,000 OR  
23 LESS.—For easements valued at \$500,000 or less,  
24 the Secretary may provide easement payments in not  
25 more than 30 annual payments.

1           “(2) EASEMENTS IN EXCESS OF \$500,000.—

2                   “(A) IN GENERAL.—Except as provided in  
3           subparagraph (B), for easements valued at  
4           more than \$500,000, the Secretary may provide  
5           easement payments in at least 5, but not more  
6           than 30, annual payments.

7                   “(B) EXCEPTION.—If the Secretary deter-  
8           mines it would further the purposes of the pro-  
9           gram, the Secretary may make a lump sum  
10          payment for an easement described in subpara-  
11          graph (A).

12          “(d) RESTORATION PAYMENTS.—

13                   “(1) PAYMENT RATES.—In making restoration  
14          payments, the Secretary shall seek to minimize Fed-  
15          eral costs and may offer—

16                           “(A) in the case of a permanent easement,  
17          to pay an amount that is not more than 90 per-  
18          cent of the eligible costs; and

19                           “(B) in the case of a nonpermanent ease-  
20          ment described in section 1237A(a)(2)(A)(ii) or  
21          a 30-year contract, to pay an amount that is  
22          not more than 70 percent of the eligible costs.

23                   “(2) RESTORATION OFFSET.—The Secretary  
24          shall deduct as a closing cost from the easement  
25          compensation to be paid, the estimated share of the

1 owner of the restoration costs, and that payment  
2 shall be—

3 “(A) determined complete and final for  
4 purposes of meeting the cost-share responsi-  
5 bility of the owner; and

6 “(B) administered using the restoration  
7 funds of the Secretary.

8 “(e) EXEMPTION FROM AUTOMATIC SEQUESTER.—  
9 Notwithstanding any other provision of law, no order  
10 issued under section 252 of the Balanced Budget and  
11 Emergency Deficit Control Act of 1985 (2 U.S.C. 902)  
12 shall affect any payment under this subchapter.

13 **“SEC. 1237E. DELEGATION OF DUTY.**

14 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-  
15 tion, the term ‘eligible entity’ means—

16 “(1) an agency of State or local government or  
17 an Indian tribe; or

18 “(2) an organization that—

19 “(A) is organized for, and at all times  
20 since the formation of the organization has  
21 been operated principally for, 1 or more of the  
22 conservation purposes specified in clause (i),  
23 (ii), (iii), or (iv) of section 170(h)(4)(A) of the  
24 Internal Revenue Code of 1986;

1           “(B) is an organization described in sec-  
2           tion 501(e)(3) of that Code that is exempt from  
3           taxation under section 501(a) of that Code; and

4           “(C) is described in—

5                   “(i) paragraph (1) or (2) of section  
6                   509(a) of that Code; or

7                   “(ii) in section 509(a)(3) of that  
8                   Code, and is controlled by an organization  
9                   described in section 509(a)(2) of that  
10                  Code.

11          “(b) AUTHORITY TO DELEGATE.—

12                  “(1) IN GENERAL.—The Secretary may dele-  
13                  gate a duty under the program—

14                          “(A) by transferring title of ownership to  
15                          an easement originally acquired by the Sec-  
16                          retary to an eligible entity to hold and enforce;  
17                          or

18                          “(B) by entering into a cooperative agree-  
19                          ment with an eligible entity for the eligible enti-  
20                          ty to own, write, and enforce an easement that  
21                          the Secretary determines will further the pur-  
22                          poses of the program.

23                  “(2) DELEGATION OF EASEMENT ADMINISTRA-  
24                  TION OF EASEMENTS ACQUIRED BY THE SEC-  
25                  RETARY.—

1           “(A) IN GENERAL.—The Secretary may  
2           delegate any of the easement management,  
3           monitoring, and enforcement responsibilities of  
4           the Secretary under the program to Federal or  
5           State agencies or other eligible entities that the  
6           Secretary determines have the appropriate au-  
7           thority, expertise, and resources necessary to  
8           carry out the delegated responsibilities.

9           “(B) SECRETARIAL DISCRETION.—The  
10          Secretary may determine that the delegation to  
11          a particular agency or eligible entity is appro-  
12          priate for 1 type of easement and not appro-  
13          priate for another type of easement, depending  
14          on the resource purposes for which an easement  
15          is acquired.

16          “(3) TRANSFER OF TITLE OF OWNERSHIP.—

17                 “(A) TRANSFER.—The Secretary may  
18                 transfer title of ownership to an easement to an  
19                 eligible entity to hold and enforce, in lieu of the  
20                 Secretary, subject to the right of the Secretary  
21                 to conduct periodic inspections and enforce the  
22                 easement, if—

23                         “(i) the Secretary determines that the  
24                         transfer will promote long-term protection  
25                         of the easement;

1           “(ii) the owner authorizes the eligible  
2           entity to hold or enforce the easement; and

3           “(iii) the eligible entity agrees to as-  
4           sume the costs incurred in administering  
5           and enforcing the easement, including the  
6           costs of restoration or rehabilitation of the  
7           land as determined by the Secretary.

8           “(B) APPLICATION.—An eligible entity  
9           that seeks to hold and enforce an easement that  
10          has been acquired by the Secretary shall apply  
11          to the Secretary for approval.

12          “(C) APPROVAL BY SECRETARY.—The Sec-  
13          retary may approve an application described in  
14          subparagraph (B) if the eligible entity—

15               “(i) has the relevant experience nec-  
16               essary for the particular resources to be  
17               protected, as appropriate for the applica-  
18               tion, to administer an easement previously  
19               acquired by the Secretary;

20               “(ii) has a charter that describes a  
21               commitment to furthering the particular  
22               conservation purposes for which an ease-  
23               ment was originally acquired by the Sec-  
24               retary; and

1                   “(iii) has the resources necessary to  
2                   effectuate the purposes of this subchapter.

3                   “(c) COOPERATIVE AGREEMENTS.—

4                   “(1) AUTHORIZED; TERMS AND CONDITIONS.—

5                   The Secretary shall establish the terms and condi-  
6                   tions of a cooperative agreement under which an eli-  
7                   gible entity shall use funds provided by the Sec-  
8                   retary to own, write, and enforce an easement, in  
9                   lieu of the Secretary.

10                  “(2) MINIMUM REQUIREMENTS.—At a min-  
11                  imum, the cooperative agreement shall—

12                   “(A) specify the qualification of the eligible  
13                   entity to carry out the responsibilities of the eli-  
14                   gible entity under the program, including acqui-  
15                   sition, monitoring, enforcement, and implemen-  
16                   tation of management policies and procedures  
17                   that ensure the long-term integrity of the ease-  
18                   ment protections;

19                   “(B) require the eligible entity to assume  
20                   the costs incurred in administering and enforce-  
21                   ing the easement, including the costs of restora-  
22                   tion or rehabilitation of the land as specified by  
23                   the Secretary;

1           “(C) specify the right of the Secretary to  
2           conduct periodic inspections to verify the en-  
3           forcement by the eligible entity of the easement;

4           “(D) subject to subparagraph (E), identify  
5           a specific project or a range of projects to be  
6           funded under the agreement;

7           “(E) allow, upon mutual agreement of the  
8           parties, substitution of qualified projects that  
9           are identified at the time of substitution;

10          “(F) specify the manner in which the eligi-  
11          ble entity will evaluate and report the use of  
12          funds to the Secretary;

13          “(G) allow the eligible entity flexibility to  
14          develop and use terms and conditions for ease-  
15          ments, if the Secretary finds the terms and con-  
16          ditions consistent with the purposes of the pro-  
17          gram and adequate to enable effective enforce-  
18          ment of the easements; and

19          “(H) provide for a schedule of payments to  
20          an eligible entity, as agreed to by the Secretary  
21          and the eligible entity.

22          “(3) COST SHARING.—

23                 “(A) IN GENERAL.—As part of a coopera-  
24                 tive agreement with an eligible entity under this  
25                 subsection, the Secretary may provide a share

1 of the purchase price of an easement under the  
2 program.

3 “(B) MINIMUM SHARE BY ELIGIBLE ENTI-  
4 TY.—

5 “(i) IN GENERAL.—The eligible entity  
6 shall be required to provide a share of the  
7 purchase price at least equivalent to that  
8 provided by the Secretary.

9 “(ii) AMOUNT OF SHARE.—The Sec-  
10 retary shall base the share on the amount  
11 that the Secretary would have paid for an  
12 easement acquired directly by the Sec-  
13 retary under this subchapter.

14 “(C) PRIORITY.—The Secretary may ac-  
15 cord a higher priority to proposals from eligible  
16 entities that leverage a greater share of the  
17 purchase price of the easement.

18 “(D) MINIMIZATION OF FEDERAL EX-  
19 PENSE.—In determining cost-share levels, the  
20 Secretary—

21 “(i) shall seek to minimize Federal  
22 costs; and

23 “(ii) may provide an amount less than  
24 the maximum cost-share authorized under  
25 this section.

1 “(d) CERTIFICATION OF ELIGIBLE ENTITIES.—

2 “(1) CERTIFICATION PROCESS.—The Secretary  
3 shall establish a process under which the Secretary  
4 may—

5 “(A) directly certify eligible entities that  
6 meet established criteria;

7 “(B) enter into long-term agreements with  
8 certified entities; and

9 “(C) accept proposals for cost-share assist-  
10 ance to certified entities for the purchase of  
11 conservation easements throughout the duration  
12 of the agreements.

13 “(2) CERTIFICATION CRITERIA.—In order to be  
14 certified, an eligible entity shall demonstrate to the  
15 Secretary that the entity will maintain, at a min-  
16 imum, for the duration of the agreement—

17 “(A) a plan for administering easements  
18 that is consistent with the purpose of this sub-  
19 chapter;

20 “(B) the capacity and resources to monitor  
21 and enforce easements; and

22 “(C) policies and procedures to ensure—

23 “(i) the long-term integrity of ease-  
24 ments;

1           “(ii) timely completion of acquisitions  
2           of easements; and

3           “(iii) timely and complete evaluation  
4           and reporting to the Secretary on the use  
5           of funds provided by the Secretary under  
6           the program.

7           “(3) REVIEW AND REVISION.—

8           “(A) REVIEW.—The Secretary shall con-  
9           duct a review of eligible entities certified under  
10          paragraph (1) at least every 3 years to ensure  
11          that the entities are meeting the criteria estab-  
12          lished under paragraph (2).

13          “(B) REVOCATION.—If the Secretary finds  
14          that the certified entity no longer meets the cri-  
15          teria established under paragraph (2), the Sec-  
16          retary may—

17                 “(i) allow the certified entity a speci-  
18                 fied period of time of not less than 180  
19                 days in which to take such actions as may  
20                 be necessary to meet the criteria; and

21                 “(ii) revoke the certification of the en-  
22                 tity, if after the specified period of time,  
23                 the certified entity does not meet the cri-  
24                 teria established in paragraph (2).

25          “(e) PROTECTION OF FEDERAL INVESTMENT.—

1           “(1) IN GENERAL.—If delegating a duty under  
2 this section, the Secretary shall ensure that the  
3 terms of an easement include a right of enforcement  
4 for the Department.

5           “(2) VIOLATION.—If an agency or other eligible  
6 entity violates the terms or conditions of a delegated  
7 responsibility or associated cooperative agreement  
8 entered into under this section—

9                   “(A) the delegation, and any associated co-  
10 operative agreement, may be revoked or termi-  
11 nated; and

12                   “(B) the Secretary may required the agen-  
13 cy or other eligible entity to refund all or part  
14 of any payments received by the agency or eligi-  
15 ble entity under the program, with interest on  
16 the payments as determined appropriate by the  
17 Secretary.

18 **“SEC. 1237F. CHANGES IN OWNERSHIP AND AGREEMENT**  
19 **MODIFICATION.**

20           “(a) LIMITATIONS.—No easement shall be created  
21 under this subchapter on land that has changed ownership  
22 during the preceding 2-year period unless the Secretary  
23 determines that—

1           “(1) the new ownership was acquired by will or  
2           succession as a result of the death of the previous  
3           owner;

4           “(2)(A) the ownership change occurred because  
5           of foreclosure on the land; and

6           “(B) immediately before the foreclosure, the  
7           owner of the land exercises a right of redemption  
8           from the mortgage holder in accordance with State  
9           law;

10          “(3) the land was acquired under circumstances  
11          that give adequate assurances that the land was not  
12          acquired for the purposes of placing the land in the  
13          program; or

14          “(4) the new ownership was acquired by the  
15          sibling, parent, child, or grandchild of the previous  
16          owner.

17          “(b) MODIFICATION, EXCHANGE, AND TERMI-  
18          NATION.—

19                 “(1) IN GENERAL.—The Secretary may subor-  
20                 dinate, exchange, terminate, or modify any easement  
21                 or other interest in land administered by the Nat-  
22                 ural Resources Conservation Service, either directly  
23                 or on behalf of the Commodity Credit Corporation,  
24                 when the Secretary determines that—

1           “(A) it is in the interest of the Federal  
2           Government to subordinate, exchange, modify,  
3           or terminate the easement or other interest in  
4           the land;

5           “(B) the action will address a compelling  
6           public need or will further the practical admin-  
7           istration of the program;

8           “(C) the action will result in comparable  
9           conservation value and equal or greater eco-  
10          nomic value to the United States; and

11          “(D) the current owner agrees to the modi-  
12          fication.

13          “(2) NOTICE.—At least 90 days before taking  
14          any action to terminate an easement or other inter-  
15          est in land, the Secretary shall provide written no-  
16          tice of the action to the Committee on Agriculture  
17          of the House of Representatives and the Committee  
18          on Agriculture, Nutrition, and Forestry of the Sen-  
19          ate.

20          “(c) ENFORCEABILITY.—An easement, contract, or  
21          other agreement entered into under the program shall con-  
22          tinue to be legally enforceable on the land for the duration  
23          of the easement, contract, or other agreement, regardless  
24          of whether the ownership of the land changes.

1 **“SEC. 1237G. PROTECTIONS.**

2       “(a) PROTECTIONS.—In the case of an owner that  
3 enrolls land in the program under an agreement that in-  
4 cludes protection of vulnerable species and whose con-  
5 servation activities result in a net conservation benefit for  
6 listed, candidate, or other species, the Secretary shall  
7 make available to the owner safe harbor or similar assur-  
8 ances and protection under—

9               “(1) section 7(b)(4) of the Endangered Species  
10 Act of 1973 (16 U.S.C. 1536(b)(4)); or

11               “(2) section 10(a)(1) of that Act (16 U.S.C.  
12 1539(a)(1)).

13       “(b) MEASURES.—If protection under subsection (a)  
14 requires the taking of measures that are in addition to  
15 the measures covered by the applicable restoration plan  
16 agreed to under the program, the cost of the additional  
17 measures, as well as the cost of any permit, shall be con-  
18 sidered part of the restoration plan for purposes of finan-  
19 cial assistance under the program.

20 **“SEC. 1237H. FUNDING.**

21       “(a) IN GENERAL.—Of the funds of the Commodity  
22 Credit Corporation, the Secretary shall use to carry out  
23 this subchapter \$1,000,000,000 for each fiscal year.

24       “(b) ADDITIONAL FUNDING.—In addition to the  
25 funds made available under subsection (a), there is au-

1 thORIZED to be appropriated to carry out this subchapter  
2 \$500,000,000 for each fiscal year.

3 “(c) USE OF FUNDS.—Of amounts made available to  
4 carry out this section for a fiscal year, the Secretary shall  
5 use—

6 “(1) not less than 5 percent of the funds to en-  
7 roll forest land in the program eligible under section  
8 1237A(b)(4);

9 “(2) not more than 5 percent to enroll prime  
10 and productive agricultural land eligible under sec-  
11 tion 1237A(b)(5);

12 “(3) not more than 5 percent to enroll land eli-  
13 gible under section 1237E(c); and

14 “(4) not less than 8 percent of the funds to  
15 provide technical assistance.

16 “(d) ACCEPTANCE OF CONTRIBUTIONS.—Notwith-  
17 standing any other provision of law, the Secretary may  
18 accept and use contributions of non-Federal funds to  
19 make payments under this section.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Chapter 1 of subtitle D of the Food Secu-  
22 rity Act of 1985 (16 U.S.C. 3830 et seq.) is amend-  
23 ed in the chapter heading by inserting “, **CON-**  
24 **SERVATION RESERVE, AND EASEMENT**  
25 **BENEFITS PROGRAM**”.

1           (2) Section 1238A of the Food Security Act of  
2 1985 (16 U.S.C. 3838a) is amended—

3           (A) in subsection (b)(3)—

4                 (i) by striking subparagraphs (B) and  
5 (C) and inserting the following:

6                 “(B) EASEMENT BENEFITS PROGRAM.—

7 Land enrolled in the easement benefits program  
8 established under subchapter C of chapter 1  
9 shall not be eligible for enrollment in the con-  
10 servation security program.”; and

11                 (ii) by redesignating subparagraph

12 (D) as subparagraph (C); and

13 (B) in subsection (e)(2)(B)(ii)(I)(cc), by  
14 striking “wetlands reserve program” and insert-  
15 ing “easement benefits program”.

16           (3) Section 1252(c) of the Food Security Act of  
17 1985 (16 U.S.C. 3851(c)) is amended—

18           (A) by striking “(c) FUNDING SOURCE.—

19 ” and all that follows through “the Secretary”  
20 in paragraph (1) and inserting the following:

21 “(c) FUNDING SOURCE.—The Secretary”; and

22 (B) by striking paragraph (2).

1 **Subtitle C—Working Land Program**

2 **SEC. 2201. WORKING LAND PROGRAM.**

3 (a) IN GENERAL.—Title XII of the Food Security  
4 Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

5 (1) by striking subchapter B of chapter 2 of  
6 subtitle D (16 U.S.C. 3838d et seq.);

7 (2) by striking section 1240N (16 U.S.C.  
8 3839bb-1); and

9 (3) by striking chapter 4 of subtitle D (16  
10 U.S.C. 3839aa) and inserting the following:

11 **“CHAPTER 4—WORKING LAND PROGRAM**

12 **“SEC. 1240. WORKING LAND PROGRAM.**

13 “(a) PURPOSES.—The Secretary shall establish a  
14 working land program to promote agricultural production,  
15 forest management, and environmental quality as compat-  
16 ible goals, and to optimize environmental benefits, by—

17 “(1) assisting producers in complying with  
18 local, State, and national regulatory requirements  
19 concerning—

20 “(A) soil, water, and air quality;

21 “(B) wildlife habitat; and

22 “(C) surface and ground water conserva-  
23 tion;

24 “(2) avoiding, to the maximum extent prac-  
25 ticable, the need for resource and regulatory pro-

1 grams by assisting producers in protecting soil,  
2 water, air, and related natural resources and meet-  
3 ing environmental quality criteria established by  
4 Federal, State, tribal, and local agencies;

5 “(3) providing flexible assistance to producers  
6 to install and maintain conservation practices that  
7 sustain food and fiber production while—

8 “(A) enhancing soil, water, and related  
9 natural resources, including grazing land,  
10 forestland, wetland, and wildlife; and

11 “(B) improving energy efficiency and in-  
12 creasing use of renewable energy;

13 “(4) assisting producers to make beneficial,  
14 cost-effective changes to production systems (includ-  
15 ing conservation practices relating to organic pro-  
16 duction), grazing management, fuels management,  
17 forest management, nutrient management associated  
18 with livestock, pest or irrigation management, or  
19 other practices on agricultural and forested land;  
20 and

21 “(5) consolidating and streamlining conserva-  
22 tion planning and regulatory compliance processes to  
23 reduce administrative burdens on producers and the  
24 cost of achieving environmental goals.

25 “(b) DEFINITIONS.—In this chapter:

1 “(1) CONSERVATION ACTIVITIES.—

2 “(A) IN GENERAL.—The term ‘conserva-  
3 tion activities’ means conservation systems,  
4 practices, or management measures that are de-  
5 signed to address a resource concern.

6 “(B) INCLUSIONS.—The term ‘conserva-  
7 tion activities’ includes—

8 “(i) structural measures, vegetative  
9 measures, and land management measures,  
10 including agriculture drainage manage-  
11 ment systems, as determined by the Sec-  
12 retary; and

13 “(ii) planning needed to address a re-  
14 source concern.

15 “(2) ELIGIBLE LAND.—

16 “(A) IN GENERAL.—The term ‘eligible  
17 land’ means land on which agricultural com-  
18 modities, livestock, or forest-related products  
19 are produced.

20 “(B) INCLUSIONS.—The term ‘eligible  
21 land’ includes—

22 “(i) cropland;

23 “(ii) grassland;

24 “(iii) rangeland;

25 “(iv) pasture land;

1 “(v) nonindustrial private forest land;

2 and

3 “(vi) other agricultural land (includ-  
4 ing cropped woodland, marshes, areas de-  
5 voted to aquaculture and associated  
6 waters, and agricultural land used or capa-  
7 ble of being used for the production of live-  
8 stock) on which resource concerns relating  
9 to agricultural production could be ad-  
10 dressed through a contract under the pro-  
11 gram, as determined by the Secretary.

12 “(C) EXCLUSIONS.—The term ‘eligible  
13 land’ does not include any land enrolled in—

14 “(i) the conservation reserve program  
15 under subchapter B of chapter 1; or

16 “(ii) the easement benefits program  
17 under subchapter C of chapter 1.

18 “(3) ORGANIC SYSTEM PLAN.—The term ‘or-  
19 ganic system plan’ means an organic plan approved  
20 under the national organic program established  
21 under the Organic Foods Production Act of 1990 (7  
22 U.S.C. 6501 et seq.).

23 “(4) PARTNER.—The term ‘partner’ means any  
24 entity that enters into a partnership agreement with

1 the Secretary to carry out a program on a regional  
2 basis, including—

3 “(A) an agricultural or silvicultural pro-  
4 ducer association or other group of such pro-  
5 ducers;

6 “(B) a State or unit of local government;  
7 or

8 “(C) an Indian tribe.

9 “(5) PARTNERSHIP AGREEMENT.—The term  
10 ‘partnership agreement’ means an agreement be-  
11 tween the Secretary and a partner to carry out a  
12 practice under the program.

13 “(6) PAYMENT.—The term ‘payment’ means fi-  
14 nancial assistance provided for performing practices  
15 under this chapter, including compensation for—

16 “(A) incurred costs associated with plan-  
17 ning, design, materials, equipment, installation,  
18 labor, management, maintenance, or training;  
19 and

20 “(B) income forgone by the producer.

21 “(7) PRACTICE.—The term ‘practice’ means 1  
22 or more improvements and conservation activities  
23 that are consistent with the purposes of the pro-  
24 gram, as determined by the Secretary, including—

1           “(A) improvements to eligible land of the  
2 producer, including—

3           “(i) structural practices;

4           “(ii) land management practices;

5           “(iii) vegetative practices;

6           “(iv) forest management; and

7           “(v) other practices that the Secretary  
8 determines would further the purposes of  
9 the program; and

10          “(B) conservation activities involving the  
11 development of plans appropriate for the eligi-  
12 ble land of the producer, including—

13          “(i) comprehensive nutrient manage-  
14 ment planning; and

15          “(ii) other plans that the Secretary  
16 determines would further the purposes of  
17 the program under this part.

18          “(8) PRIORITY RESOURCE CONCERN.—The  
19 term ‘priority resource concern’ means a resource  
20 concern that is identified at the State level, in con-  
21 sultation with the State technical committee, as a  
22 priority for a particular watershed or area of the  
23 State.

24          “(9) PRODUCER.—The term ‘producer’ has the  
25 meaning given the term in section 1238.

1           “(10) PROGRAM.—The term ‘program’ means  
2 the working land program established under this  
3 chapter.

4           “(11) RESOURCE CONCERN.—The term ‘re-  
5 source concern’ means a specific natural resource  
6 impairment or problem, as determined by the Sec-  
7 retary, that—

8                   “(A) represents a significant concern in a  
9 State or region; and

10                   “(B) is likely to be addressed successfully  
11 through the implementation of conservation ac-  
12 tivities by producers on land eligible for enroll-  
13 ment in the program.

14 **“SEC. 1240A. ESTABLISHMENT AND ADMINISTRATION.**

15           “(a) IN GENERAL.—During each of the 2013  
16 through 2017 fiscal years, the Secretary shall provide pay-  
17 ments to producers and partners that enter into contracts  
18 or partnership agreements with the Secretary under the  
19 program.

20           “(b) EVALUATION OF APPLICATIONS.—

21                   “(1) EVALUATION CRITERIA.—The Secretary  
22 shall develop criteria for evaluating applications that  
23 will ensure that national, State, and local conserva-  
24 tion priorities are effectively addressed.

1           “(2) PRIORITIZATION OF APPLICATIONS.—In  
2 evaluating applications under the program, the Sec-  
3 retary shall prioritize applications—

4           “(A) based on the overall level of cost-ef-  
5 fectiveness of the project proposed in an appli-  
6 cation to ensure that the conservation practices  
7 and approaches proposed are the most cost-ef-  
8 fective means of achieving the anticipated envi-  
9 ronmental benefits of the project;

10           “(B) based on how effectively and com-  
11 prehensively the proposed project addresses the  
12 designated resource concern or resource con-  
13 cerns;

14           “(C) that best fulfill the purpose of the  
15 program specified in section 1240(a);

16           “(D) that improve conservation practices  
17 or systems in place on the operation at the time  
18 the contract offer is accepted or that will com-  
19 plete a conservation system; and

20           “(E) that will bring significant environ-  
21 mental benefits in improving specific high-pri-  
22 ority environmental concerns, as designated by  
23 the Secretary.

24           “(3) GROUPING OF APPLICATIONS.—To the  
25 maximum extent practicable, the Secretary shall

1 group applications of similar crop or livestock oper-  
2 ations for evaluation purposes or otherwise evaluate  
3 applications relative to other applications for similar  
4 farming operations.

5 “(4) BIDDING DOWN.—If the Secretary deter-  
6 mines that the environmental values of 2 or more  
7 applications for payments are comparable, the Sec-  
8 retary shall not assign a higher priority to an appli-  
9 cation only because the application would present  
10 the least cost to the program.

11 “(c) PRACTICES AND TERM.—

12 “(1) PRACTICES.—A contract under the pro-  
13 gram may apply to the performance of 1 or more  
14 practices.

15 “(2) TERM.—A contract or partnership agree-  
16 ment under the program shall have a term that—

17 “(A)(i) except as provided in clause (ii), at  
18 a minimum, is equal to the period beginning on  
19 the date on which the contract is entered into  
20 and ending on the date that is 1 year after the  
21 date on which all practices under the contract  
22 have been implemented; and

23 “(ii) may, for contracts or partnership  
24 agreements for development of conservation ac-  
25 tivity plans or for other contracts or partner-

1 ship agreements designated by the Secretary, be  
2 less than 1 year; but

3 “(B) does not exceed 10 years.

4 “(d) PAYMENTS.—

5 “(1) IN GENERAL.—Payments shall be provided  
6 to a producer or partner to implement 1 or more  
7 practices under the program.

8 “(2) LIMITATION ON PAYMENT AMOUNTS.—

9 “(A) IN GENERAL.—Except as provided in  
10 paragraph (4), a payment to a producer or  
11 partner for performing a practice may not ex-  
12 ceed, as determined by the Secretary—

13 “(i) 75 percent of the costs associated  
14 with planning, design, materials, equip-  
15 ment, installation, labor, management,  
16 maintenance, or training;

17 “(ii) 100 percent of income foregone  
18 by the producer or partner, as determined  
19 in accordance with paragraph (3); or

20 “(iii) in the case of a practice con-  
21 sisting of elements covered under clauses  
22 (i) and (ii)—

23 “(I) 75 percent of the costs in-  
24 curred for those elements covered  
25 under clause (i); and

1                   “(II) 100 percent of income fore-  
 2                   gone for those elements covered under  
 3                   clause (ii).

4                   “(B) MINIMIZATION OF FEDERAL COST.—  
 5                   The Secretary—

6                   “(i) shall seek to minimize Federal  
 7                   costs in determining cost-share levels; and

8                   “(ii) is not required to provide the  
 9                   maximum cost-share amount described in  
 10                  subparagraph (A).

11                  “(3) SPECIAL RULE INVOLVING PAYMENTS FOR  
 12                  FOREGONE INCOME.—In determining the amount  
 13                  and rate of payments under paragraph (2)(A)(ii),  
 14                  the Secretary may accord great significance to a  
 15                  practice that, as determined by the Secretary, pro-  
 16                  motes—

17                  “(A) residue management;

18                  “(B) nutrient management;

19                  “(C) air quality management;

20                  “(D) invasive species management;

21                  “(E) pollinator habitat;

22                  “(F) animal carcass management tech-  
 23                  nology;

24                  “(G) pest management; or

25                  “(H) water conservation.

1           “(4) INCREASED PAYMENTS FOR CERTAIN PRO-  
2           DUCERS.—

3           “(A) IN GENERAL.—Notwithstanding para-  
4           graph (2), in the case of a producer that is a  
5           limited resource, socially disadvantaged farmer  
6           or rancher, or a beginning farmer or rancher,  
7           the Secretary shall increase the amount that  
8           would otherwise be provided to a producer  
9           under this subsection—

10           “(i) to not more than 90 percent of  
11           the costs associated with planning, design,  
12           materials, equipment, installation, labor,  
13           management, maintenance, or training;  
14           and

15           “(ii) to not less than 25 percent above  
16           the otherwise applicable rate.

17           “(B) ADVANCE PAYMENTS.—Not more  
18           than 30 percent of the amount determined  
19           under subparagraph (A) may be provided in ad-  
20           vance for the purpose of purchasing materials  
21           or contracting.

22           “(C) MINIMIZATION OF FEDERAL COST.—  
23           The Secretary—

24           “(i) shall seek to minimize Federal  
25           costs in determining cost-share levels; and

1                   “(ii) is not required to provide the  
2                   maximum cost-share amount described in  
3                   subparagraph (A).

4                   “(5) FINANCIAL ASSISTANCE FROM OTHER  
5                   SOURCES.—Except as provided in paragraph (6),  
6                   any payments received by a producer or partner  
7                   from a State or private organization, individual, or  
8                   legal entity for the implementation of 1 or more  
9                   practices on eligible land of the producer shall be in  
10                  addition to the payments provided to the producer or  
11                  partner under this subsection.

12                  “(6) OTHER PAYMENTS.—A producer or part-  
13                  ner shall not be eligible for payments for practices  
14                  on eligible land under the program if the producer  
15                  or partner receives payments or other benefits for  
16                  the same practice on the same land under another  
17                  program under this title.

18                  “(e) MODIFICATION OR TERMINATION OF CON-  
19                  TRACTS OR PARTNERSHIP AGREEMENTS.—

20                  “(1) VOLUNTARY MODIFICATION OR TERMI-  
21                  NATION.—The Secretary may modify or terminate a  
22                  contract or partnership agreement entered into with  
23                  a producer or partner under the program if—

24                          “(A) the producer or partner agrees to the  
25                          modification or termination; and

1           “(B) the Secretary determines that the  
2           modification or termination is in the public in-  
3           terest.

4           “(2) INVOLUNTARY TERMINATION.—The Sec-  
5           retary may terminate a contract or partnership  
6           agreement under the program if the Secretary deter-  
7           mines that the producer or partner violated the con-  
8           tract or partnership agreement.

9           “(f) FUNDING FOR INDIAN TRIBES AND ALASKA NA-  
10          TIVE CORPORATIONS.—The Secretary may enter into al-  
11          ternative funding arrangements with Indian tribes and  
12          Alaska Native Corporations (including affiliated member-  
13          ship organizations) if the Secretary determines that—

14               “(1) the goals and objectives of the program  
15               will be met by the arrangements; and

16               “(2) statutory limitations regarding contracts  
17               with individual producers will not be exceeded by  
18               any tribal or Native Corporation member.

19          **“SEC. 1240B. DUTIES OF PRODUCERS AND PARTNERS.**

20               “(a) IN GENERAL.—To receive payments under the  
21          program, a producer or partner shall agree—

22               “(1) to implement a program plan (including a  
23               comprehensive nutrient management plan, if applica-  
24               ble) that describes conservation and environmental

1 purposes to be achieved through 1 or more practices  
2 that are approved by the Secretary;

3 “(2) not to conduct any practices on the eligible  
4 land that would tend to defeat the purposes of the  
5 program;

6 “(3) on the violation of a term or condition of  
7 the contract or partnership agreement at any time  
8 during which the producer or partner is required to  
9 have control of the eligible land—

10 “(A) if the Secretary determines that the  
11 violation warrants termination of the contract  
12 or partnership agreement—

13 “(i) to forfeit all rights to receive pay-  
14 ments under the contract or partnership  
15 agreement; and

16 “(ii) to refund to the Secretary all or  
17 a portion of the payments received by the  
18 producer or partner under the contract or  
19 partnership agreement, including any in-  
20 terest on the payments, as determined by  
21 the Secretary; or

22 “(B) if the Secretary determines that the  
23 violation does not warrant termination of the  
24 contract or partnership agreement, to refund to  
25 the Secretary, or accept adjustments to, the

1           payments provided to the producer or partner,  
2           as the Secretary determines to be appropriate;

3           “(4) on the transfer of the right and interest of  
4           the producer or partner in eligible land subject to  
5           the contract or partnership agreement, unless the  
6           transferee of the right and interest agrees with the  
7           Secretary to assume all obligations of the contract or  
8           partnership agreement, to refund all payments re-  
9           ceived under the program, as determined by the Sec-  
10          retary;

11          “(5) to supply information as required by the  
12          Secretary to determine compliance with the program  
13          plan and requirements of the program; and

14          “(6) to comply with such additional provisions  
15          as the Secretary determines are necessary to carry  
16          out the program plan.

17          “(b) PROGRAM PLAN.—

18                 “(1) IN GENERAL.—To be eligible to receive  
19                 payments under the program, a producer or partner  
20                 shall submit to the Secretary for approval a plan of  
21                 operations that—

22                         “(A) specifies practices covered under the  
23                         program;

24                         “(B) includes such terms and conditions as  
25                         the Secretary considers necessary to carry out

1 the program, including a description of the pur-  
2 poses to be met by the implementation of the  
3 plan;

4 “(C) in the case of a confined livestock  
5 feeding operation, provides for development and  
6 implementation of a comprehensive nutrient  
7 management plan, if applicable; and

8 “(D) in the case of forest land, is con-  
9 sistent with the provisions of a forest manage-  
10 ment plan that is approved by the Secretary,  
11 which may include—

12 “(i) a forest stewardship plan de-  
13 scribed in section 5 of the Cooperative  
14 Forestry Assistance Act of 1978 (16  
15 U.S.C. 2103a);

16 “(ii) another practice plan approved  
17 by the State forester; or

18 “(iii) another plan determined appro-  
19 priate by the Secretary.

20 “(2) AVOIDANCE OF DUPLICATION.—The Sec-  
21 retary shall—

22 “(A) consider a plan developed in order to  
23 acquire a permit under a water or air quality  
24 regulatory program as the equivalent of a plan  
25 of operations under paragraph (1), if the plan

1 contains elements equivalent to those elements  
2 required by a plan of operations; and

3 “(B) to the maximum extent practicable,  
4 eliminate duplication of planning activities  
5 under the program and comparable conserva-  
6 tion programs.

7 **“SEC. 1240C. DUTIES OF THE SECRETARY.**

8 “(a) IN GENERAL.—To the extent appropriate, the  
9 Secretary shall assist a producer or partner in achieving  
10 the conservation and environmental goals of a program  
11 plan by—

12 “(1) providing payments for developing and im-  
13 plementing 1 or more practices, as appropriate; and

14 “(2) providing the producer or partner with in-  
15 formation and training to aid in the implementation  
16 of the plan.

17 “(b) TARGETED PRACTICES.—

18 “(1) AGRICULTURAL WATER ENHANCEMENT  
19 INITIATIVE.—Of the funds made available to carry  
20 out this chapter, the Secretary shall use not less  
21 than \$60,000,000 to provide payments for agricul-  
22 tural water enhancement activity to promote ground  
23 and surface water conservation and improve water  
24 quality on agricultural land, including—

1           “(A) water quality or water conservation  
2 plan development, including resource condition  
3 assessment and modeling;

4           “(B) water conservation restoration or en-  
5 hancement projects, including conversion to the  
6 production of less water-intensive agricultural  
7 commodities or dryland farming;

8           “(C) water quality or quantity restoration  
9 or enhancement projects;

10           “(D) irrigation system improvement and  
11 irrigation efficiency enhancement;

12           “(E) activities designed to mitigate the ef-  
13 fects of drought; and

14           “(F) related activities that the Secretary  
15 determines will help achieve water quality or  
16 water conservation benefits on agricultural  
17 land.

18           “(2) AGRICULTURAL AIR QUALITY CON-  
19 CERNS.—

20           “(A) IMPLEMENTATION ASSISTANCE.—Of  
21 the funds made available to carry out this chap-  
22 ter, the Secretary shall use not less than  
23 \$37,500,000 to provide payments under this  
24 paragraph to producers or partners to imple-  
25 ment practices—

1 “(i) to address air quality concerns  
2 from agricultural operations; and

3 “(ii) meet Federal, State, and local  
4 regulatory requirements.

5 “(B) AVAILABILITY AND USE.—The funds  
6 shall be—

7 “(i) made available on the basis of air  
8 quality concerns in a State; and

9 “(ii) used to provide payments to pro-  
10 ducers that are cost-effective and reflect  
11 innovative technologies.

12 “(3) CONSERVATION STEWARDSHIP INITIA-  
13 TIVE.—

14 “(A) IN GENERAL.—The Secretary may  
15 use funds made available to carry out this chap-  
16 ter for conservation stewardship initiatives to  
17 address resource concerns in a comprehensive  
18 manner by—

19 “(i) undertaking additional conserva-  
20 tion activities; and

21 “(ii) improving, maintaining, and  
22 managing existing conservation activities.

23 “(B) SUBMISSION OF CONTRACT OR PART-  
24 NERSHIP AGREEMENT OFFERS.—To be eligible  
25 to participate in the conservation stewardship

1 initiative and receive an initiative payment, a  
2 producer or partner shall submit to the Sec-  
3 retary for approval a contract or partnership  
4 agreement offer that—

5 “(i) demonstrates to the satisfaction  
6 of the Secretary that the producer or part-  
7 ner, at the time of the contract or partner-  
8 ship agreement offer, is meeting the stew-  
9 ardship threshold for at least 1 resource  
10 concern; and

11 “(ii) would, at a minimum, meet or  
12 exceed the stewardship threshold for at  
13 least 2 priority resource concerns by the  
14 end of the contract or partnership agree-  
15 ment by—

16 “(I) installing and adopting addi-  
17 tional conservation activities; and

18 “(II) improving, maintaining,  
19 and managing conservation activities  
20 in place at the operation of the pro-  
21 ducer at the time the contract or part-  
22 nership agreement offer is accepted by  
23 the Secretary.

24 “(C) PAYMENT AMOUNT.—An initiative  
25 payment to a producer shall be based on the

1 conservation performance to be achieved on eli-  
2 gible land in an amount determined by the Sec-  
3 retary.

4 “(4) COMPETITIVE GRANTS FOR INNOVATIVE  
5 CONSERVATION APPROACHES.—

6 “(A) IN GENERAL.—The Secretary may  
7 use funds made available to carry out this chap-  
8 ter to pay the cost of competitive grants that  
9 are intended to stimulate innovative approaches  
10 to leveraging the Federal investment in environ-  
11 mental enhancement and protection, in conjunc-  
12 tion with agricultural production or forest re-  
13 source management, through the program.

14 “(B) USE.—The Secretary may provide  
15 grants under this paragraph to governmental  
16 and nongovernmental organizations, individuals,  
17 and legal entities, on a competitive basis, to  
18 carry out projects that—

19 “(i) involve producers or partners who  
20 are eligible for payments or technical as-  
21 sistance under the program;

22 “(ii) leverage Federal funds made  
23 available to carry out the program with  
24 matching funds provided by State and  
25 local governments and private organiza-

1           tions to promote environmental enhance-  
2           ment and protection in conjunction with  
3           agricultural production;

4           “(iii) ensure efficient and effective  
5           transfer of innovative technologies and ap-  
6           proaches demonstrated through projects  
7           that receive funding under this paragraph,  
8           such as market systems for pollution re-  
9           duction and practices for the storage of  
10          carbon in soil; and

11          “(iv) provide environmental and re-  
12          source conservation benefits through in-  
13          creased participation by producers of spe-  
14          cialty crops.

15          “(5) ORGANIC PRODUCTION CONSERVATION INI-  
16          TIATIVES.—

17          “(A) IN GENERAL.—The Secretary may  
18          provide payments under this paragraph for con-  
19          servation practices, on some or all of the oper-  
20          ations of a producer or partner, relating to—

21                  “(i) organic production; and

22                  “(ii) the transition to organic produc-  
23          tion.

1           “(B) ELIGIBILITY REQUIREMENTS.—As a  
2 condition for receiving payments under this  
3 paragraph, a producer or partner shall agree—

4           “(i) to develop and carry out an or-  
5 ganic system plan in furtherance of  
6 transitioning to organic production; or

7           “(ii) to develop and implement con-  
8 servation practices for certified organic  
9 production that are consistent with an or-  
10 ganic system plan and the purposes of the  
11 program.

12           “(C) PAYMENT LIMITATIONS.—

13           “(i) IN GENERAL.—Subject to clause  
14 (ii), payments under this paragraph to a  
15 person or legal entity, directly or indi-  
16 rectly, may not exceed, in the aggregate,  
17 \$20,000 per year or \$80,000 in payments  
18 made pursuant to contracts or partnership  
19 agreements entered into during the period  
20 of fiscal years 2013 through 2017.

21           “(ii) TECHNICAL ASSISTANCE EX-  
22 CLUDED.—In applying clause (i), the Sec-  
23 retary shall not take into account pay-  
24 ments received for technical assistance.

1           “(D) EXCLUSION OF CERTAIN ORGANIC  
2           CERTIFICATION COSTS.—Payments may not be  
3           made under this paragraph to cover the costs  
4           associated with organic certification that are el-  
5           igible for cost-share payments under section  
6           10606 of the Farm Security and Rural Invest-  
7           ment Act of 2002 (7 U.S.C. 6523).

8           “(E) TERMINATION OF CONTRACTS OR  
9           PARTNERSHIP AGREEMENTS.—The Secretary  
10          may cancel or otherwise nullify a contract or  
11          partnership agreement to provide payments  
12          under this paragraph if the Secretary deter-  
13          mines that the producer—

14                 “(i) is not pursuing organic certifi-  
15                 cation; or

16                 “(ii) is not in compliance with the Or-  
17                 ganic Foods Production Act of 1990 (7  
18                 U.S.C. 6501 et seq.).

19          “(6) WATER CONSERVATION OR IRRIGATION  
20          EFFICIENCY INITIATIVE.—

21                 “(A) IN GENERAL.—The Secretary may  
22                 provide payments under this paragraph to a  
23                 producer or partner for a water conservation or  
24                 irrigation practice.

1           “(B) PRIORITY.—In providing payments to  
2 a producer or partner for a water conservation  
3 or irrigation practice, the Secretary shall give  
4 priority to applications in which—

5           “(i) consistent with the law of the  
6 State in which the eligible land of the pro-  
7 ducer or partner is located, there is a re-  
8 duction in water use in the operation of  
9 the producer or partner; or

10          “(ii) the producer or partner agrees  
11 not to use any associated water savings to  
12 bring new land, other than incidental land  
13 needed for efficient operations, under irri-  
14 gated production, unless the producer or  
15 partner is participating in a watershed-  
16 wide project that will effectively conserve  
17 water, as determined by the Secretary.

18          “(7) WILDLIFE HABITAT INITIATIVE.—

19          “(A) IN GENERAL.—Of the funds made  
20 available to carry out this chapter, the Sec-  
21 retary, in consultation with the State technical  
22 committees established under section 1261,  
23 shall make available to producers and owners of  
24 eligible land not less than \$85,000,000 to pro-

1           vide payments for the development of wildlife  
2           habitat, including—

3                   “(i) upland wildlife habitat;

4                   “(ii) wetland wildlife habitat;

5                   “(iii) habitat for threatened or endan-  
6           gered species;

7                   “(iv) fish habitat;

8                   “(v) aquatic wildlife habitat associated  
9           with riparian or submerged land, even if  
10          the land is subject to title being held by  
11          the State when submerged if consistent  
12          with State law; and

13                  “(vi) other types of wildlife habitat  
14          approved by the Secretary, including habi-  
15          tat developed on pivot corners and irreg-  
16          ular areas.

17                  “(B) PRIORITY FOR CERTAIN CONSERVA-  
18          TION INITIATIVES.—In carrying out this para-  
19          graph, the Secretary may give priority to  
20          projects that would address issues raised by  
21          State, regional, and national conservation initia-  
22          tives.

1 **“SEC. 1240D. FUNDING.**

2       “(a) IN GENERAL.—Of the funds of the Commodity  
3 Credit Corporation, the Secretary shall use to carry out  
4 this chapter \$2,250,000,000 for each fiscal year.

5       “(b) PAYMENT LIMITATIONS.—

6           “(1) IN GENERAL.—Subject to paragraph (2), a  
7 person or legal entity may not receive, directly or in-  
8 directly, practice payments or incentive payments  
9 under this chapter that, in the aggregate, exceed  
10 \$300,000 for all contracts or partnership agree-  
11 ments entered into under this chapter by the person  
12 or legal entity during the period of fiscal years 2013  
13 through 2017 (excluding funding arrangements with  
14 federally recognized Native American Indian tribes  
15 or Alaska Native Corporations under section  
16 1240A(f)), regardless of the number of contracts or  
17 partnership agreements entered into under this  
18 chapter by the person or entity.

19           “(2) WAIVER AUTHORITY.—In the case of con-  
20 tracts or partnership agreements under this chapter  
21 for projects of special environmental significance (in-  
22 cluding projects involving methane digesters), as de-  
23 termined by the Secretary, the Secretary may—

24                   “(A) waive the limitation otherwise appli-  
25 cable under paragraph (1); and

1           “(B) raise the limitation to not more than  
2           \$450,000 for all contracts or partnership agree-  
3           ments entered into during the period of fiscal  
4           years 2013 through 2017.”.

5           (b) CONFORMING AMENDMENTS.—

6           (1) Section 344(f)(8) of the Agricultural Ad-  
7           justment Act of 1938 (7 U.S.C. 1344(f)(8)) is  
8           amended by striking “environmental quality incen-  
9           tives program” and inserting “working land pro-  
10          gram”.

11          (2) Section 377 of the Agricultural Adjustment  
12          Act of 1938 (7 U.S.C. 1377) is amended by striking  
13          “environmental quality incentives program” and in-  
14          serting “working land program”.

15          (3) Section 101(1) of the Department of Agri-  
16          culture and Farm Credit Administration Appropria-  
17          tion Act, 1959 (7 U.S.C. 1831a(1)) is amended by  
18          striking “environmental quality incentives program”  
19          and inserting “working land program”.

20          (4) Section 1271(c)(3)(C) of the Forest Stew-  
21          ardship Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is  
22          amended by striking “environmental quality incen-  
23          tives program” and inserting “working land pro-  
24          gram”.

1 (5) Section 202(c) of the Colorado River Basin  
2 Salinity Control Act (43 U.S.C. 1592(c)) is amended  
3 by striking “environmental quality incentives pro-  
4 gram” and inserting “working land program”.

5 (6) Section 1211(a)(3)(A) of the Food Security  
6 Act of 1985 (16 U.S.C. 3811(a)(3)(A)) is amended  
7 by striking “environmental quality incentives pro-  
8 gram” and inserting “working land program”.

9 (7) Section 1221(b)(3)(A) of the Food Security  
10 Act of 1985 (16 U.S.C. 3821(b)(3)(A)) is amended  
11 by striking “environmental quality incentives pro-  
12 gram” and inserting “working land program”.

## 13 **Subtitle D—Other Conservation** 14 **Programs**

### 15 **SEC. 2301. OTHER CONSERVATION PROGRAMS OF THE** 16 **FOOD SECURITY ACT OF 1985.**

17 (a) CONSERVATION OF PRIVATE GRAZING LAND.—  
18 Section 1240M(e) of the Food Security Act of 1985 (16  
19 U.S.C. 3839bb(e)) is amended by striking “2012” and in-  
20 serting “2017”.

21 (b) GRASSROOTS SOURCE WATER PROTECTION PRO-  
22 GRAM.—Section 1240O(b) of the Food Security Act of  
23 1985 (16 U.S.C. 3839bb–2(b)) is amended by striking  
24 “2012” and inserting “2017”.

1 (c) GREAT LAKES BASIN PROGRAM FOR SOIL ERO-  
2 SION AND SEDIMENT CONTROL.—Section 1240P(d) of the  
3 Food Security Act of 1985 (16 U.S.C. 3839bb–3(d)) is  
4 amended by striking “2012” and inserting “2017”.

5 (d) CHESAPEAKE BAY WATERSHED PROGRAM.—Sec-  
6 tion 1240Q of the Food Security Act of 1985 (16 U.S.C.  
7 3839bb–4) is amended by striking subsection (h) and in-  
8 serting the following:

9 “(h) FUNDING.—There is authorized to be appro-  
10 priated to carry out this section \$50,000,000 for each of  
11 fiscal years 2012 through 2017.”

12 (e) VOLUNTARY PUBLIC ACCESS AND HABITAT IN-  
13 CENTIVE PROGRAM.—Section 1240R(f) of the Food Secu-  
14 rity Act of 1985 (16 U.S.C. 3839bb–5(f)) is amended by  
15 striking “2012” and inserting “2017”.

16 **SEC. 2302. FUNDING OF CONSERVATION PROGRAMS UNDER**  
17 **FOOD SECURITY ACT OF 1985.**

18 (a) IN GENERAL.—Section 1241(a) of the Food Se-  
19 curity Act of 1985 (16 U.S.C. 3841(a)) is amended in the  
20 matter preceding paragraph (1) by striking “2012” and  
21 inserting “2017”.

22 (b) CONSERVATION RESERVE PROGRAM.—Section  
23 1241(a)(1) of the Food Security Act of 1985 (16 U.S.C.  
24 3841(a)(1)) is amended by striking “2012” each place it  
25 appears and inserting “2017”.

1 (c) REPEALS.—Section 1241 of the Food Security  
2 Act of 1985 (16 U.S.C. 3841) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (3)—

5 (i) by striking “(A)”; and

6 (ii) by striking subparagraph (B);

7 (B) by striking paragraphs (2), (4), (5),  
8 (6), and (7); and

9 (C) by redesignating paragraph (3) as  
10 paragraph (2);

11 (2) in subsection (b), in the matter preceding  
12 paragraph (1), by striking “paragraphs (1) through  
13 (7) of”; and

14 (3) in subsection (h)—

15 (A) in paragraph (1), by striking “wet-  
16 lands reserve program” and inserting “ease-  
17 ment benefits program”;

18 (B) in paragraph (4), by striking “environ-  
19 mental quality incentives program for land de-  
20 termined to have special environmental signifi-  
21 cance pursuant to section 1240G(b)” and in-  
22 serting “working land program for land deter-  
23 mined to have special environmental signifi-  
24 cance”;

1 (C) by striking paragraphs (2), (3), and  
2 (5); and

3 (D) by redesignating paragraphs (4) and  
4 (6) as paragraphs (2) and (3), respectively.

5 (d) REGIONAL EQUITY.—Section 1241 of the Food  
6 Security Act of 1985 (16 U.S.C. 3841) is amended—

7 (1) by striking subsection (d); and

8 (2) by redesignating subsections (e) through (h)  
9 as subsections (d) through (g), respectively.

10 (e) ASSISTANCE TO CERTAIN FARMERS OR RANCH-  
11 ERS FOR CONSERVATION ACCESS.—Subsection (f) of sec-  
12 tion 1241 of the Food Security Act of 1985 (16 U.S.C.  
13 3841) (as redesignated by subsection (d)(2)) is amend-  
14 ed—

15 (1) in paragraph (1), in the matter preceding  
16 subparagraph (A), by striking “made available for”  
17 and all that follows through “shall use” and insert-  
18 ing “and acres made available for each of fiscal  
19 years 2012 through 2017 to carry out the working  
20 land program, the Secretary shall use”; and

21 (2) in paragraph (3), by striking “conservation  
22 stewardship program” and inserting “working land  
23 program”.

1 **SEC. 2303. COOPERATIVE CONSERVATION PARTNERSHIP**  
2 **INITIATIVE.**

3 (a) INITIATIVE PROGRAMS.—Section 1243(e) of the  
4 Food Security Act of 1985 (16 U.S.C. 3843(e)) is amend-  
5 ed by striking paragraph (2) and inserting the following:

6 “(2) LIMITATION AND COORDINATION WITH  
7 THE CONSERVATION RESERVE PROGRAM.—

8 “(A) IN GENERAL.—The Initiative shall  
9 not include the conservation reserve program.

10 “(B) COORDINATION.—The Secretary shall  
11 coordinate implementation of the cooperative  
12 conservation partnership initiative and those  
13 portions of the conservation reserve program el-  
14 igible for continuous enrollment.”.

15 (b) APPLICATIONS.—Section 1243(f)(2) of the Food  
16 Security Act of 1985 (16 U.S.C. 3843(f)(2)) is amended—

17 (1) in subparagraph (A), by inserting “, and  
18 may consider applications that have identified pro-  
19 ducers for participation in the project” before the  
20 semicolon at the end;

21 (2) in subparagraph (D), by striking “or” at  
22 the end;

23 (3) by redesignating subparagraph (E) as sub-  
24 paragraph (F); and

25 (4) by inserting after subparagraph (D) the fol-  
26 lowing:

1           “(E) will benefit economic development of  
2           rural communities, including as integrated into  
3           local economic development plans; or”.

4           (c) RELATIONSHIP TO COVERED PROGRAMS.—Sec-  
5           tion 1243(g) of the Food Security Act of 1985 (16 U.S.C.  
6           3843(g)) is amended by adding at the end the following:

7           “(3) ADJUSTMENT OF PROGRAMS BY ELIGIBLE  
8           PARTNERS.—The Secretary shall allow eligible part-  
9           ners to adjust conservation programs during the im-  
10          plementation phase if the adjustments—

11           “(A) achieve purposes consistent with the  
12           purposes of this section; and

13           “(B) are approved by the Secretary prior  
14           to the adjustments being implemented.”.

15          (d) FUNDING.—Section 1243(i) of the Food Security  
16          Act of 1985 (16 U.S.C. 3843(i)) is amended—

17           (1) by striking paragraph (1) and inserting the  
18           following:

19           “(1) RESERVATION.—Of the funds and acres  
20           made available for each fiscal year to implement the  
21           programs described in subsection (c)(1), to ensure  
22           an adequate source of funds and acres for the Initia-  
23           tive, the Secretary shall reserve—

24           “(A) for fiscal year 2013, 10 percent of  
25           the funds and acres;

1           “(B) for fiscal year 2014, 12.5 percent of  
2 the funds and acres; and

3           “(C) for fiscal year 2015 and each fiscal  
4 year thereafter, 15 percent of the funds and  
5 acres.”; and

6           (2) in paragraph (4)—

7           (A) by striking “Overhead” and inserting  
8 the following:

9           “(A) IN GENERAL.—Overhead”; and

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

11           “(B) TECHNICAL ASSISTANCE.—The use  
12 of funds for technical assistance to achieve con-  
13 servation goals—

14           “(i) is not subject to subparagraph  
15 (A); and

16           “(ii) is subject to review by the Sec-  
17 retary.”.

18 **SEC. 2304. ADMINISTRATIVE REQUIREMENTS FOR CON-**  
19 **SERVATION PROGRAMS.**

20           Section 1244 of the Food Security Act of 1985 (16  
21 U.S.C. 3844) is amended—

22           (1) in subsection (c)—

23           (A) in paragraph (1)(C), by striking “wet-  
24 lands reserve program” and inserting “ease-  
25 ment benefits program”; and

1 (B) in paragraph (2), by striking “environ-  
2 mental quality incentives program” and insert-  
3 ing “working land program”; and

4 (2) by striking subsection (i) and inserting the  
5 following:

6 “(i) CONSERVATION APPLICATION PROCESS.—

7 “(1) INITIAL APPLICATION.—

8 “(A) IN GENERAL.—Not later than 1 year  
9 after the date of enactment of this subsection,  
10 the Secretary shall establish a single, simplified  
11 application for eligible entities to use in initially  
12 requesting assistance under any conservation  
13 program administered by the Secretary (re-  
14 ferred to in this subsection as the ‘initial appli-  
15 cation’).

16 “(B) REQUIREMENTS.—To the maximum  
17 extent practicable, the Secretary shall ensure  
18 that—

19 “(i) a conservation program applicant  
20 is not required to provide information that  
21 is duplicative of information or resources  
22 already available to the Secretary for that  
23 applicant and the specific operation of the  
24 applicant; and

1           “(ii) the initial application process is  
2           streamlined to minimize complexity and re-  
3           dundancy.

4           “(2) REVIEW OF APPLICATION PROCESS.—

5           “(A) IN GENERAL.—Not later than 1 year  
6           after the date of enactment of this subsection,  
7           the Secretary shall review the application pro-  
8           cess for each conservation program administered  
9           by the Secretary, including the forms and proc-  
10          esses used to receive assistance requests from  
11          eligible program participants.

12          “(B) REQUIREMENTS.—In carrying out  
13          the review, the Secretary shall determine what  
14          information the participant is required to sub-  
15          mit during the application process, including—

16               “(i) identification information for the  
17               applicant;

18               “(ii) identification and location infor-  
19               mation for the land parcel or tract of con-  
20               cern;

21               “(iii) a general statement of the need  
22               or resource concern of the applicant for the  
23               land parcel or tract; and

24               “(iv) the minimum amount of other  
25               information the Secretary considers to be

1           essential for the applicant to provide per-  
2           sonally.

3           “(3) REVISION AND STREAMLINE.—

4           “(A) IN GENERAL.—Not later than 1 year  
5           after the date of enactment of this subsection,  
6           the Secretary shall carry out a revision of the  
7           application forms and processes for each con-  
8           servation program administered by the Sec-  
9           retary to enable use of information technology  
10          to incorporate appropriate data and information  
11          concerning the conservation needs and solutions  
12          appropriate for the land area identified by the  
13          applicant.

14          “(B) GOAL.—The goal of the revision shall  
15          be to streamline the application process to mini-  
16          mize the burden placed on applicants.

17          “(4) CONSERVATION PROGRAM APPLICATION.—

18          “(A) IN GENERAL.—Once the needs of an  
19          applicant have been adequately assessed by the  
20          Secretary, or a third party provider under sec-  
21          tion 1242, based on the initial application, in  
22          order to determine the 1 or more programs  
23          under this title that best match the needs of the  
24          applicant, with the approval of the applicant,  
25          the Secretary may convert the initial application

1 into the specific application for assistance for  
2 the relevant conservation program.

3 “(B) SECRETARIAL BURDEN.—To the  
4 maximum extent practicable, the Secretary  
5 shall—

6 “(i) complete the specific application  
7 for conservation program assistance for  
8 each applicant; and

9 “(ii) request only that specific further  
10 information from the applicant that is not  
11 already available to the Secretary.

12 “(5) IMPLEMENTATION AND NOTIFICATION.—  
13 Not later than 1 year after the date of enactment  
14 of this subsection, the Secretary shall submit to the  
15 Committee on Agriculture of the House of Rep-  
16 resentatives and the Committee on Agriculture, Nu-  
17 trition, and Forestry of the Senate written notifica-  
18 tion that the Secretary has fulfilled the requirements  
19 of this subsection.”.

20 **SEC. 2305. REPEAL OF HEALTHY FORESTS RESERVE PRO-**  
21 **GRAM.**

22 Title V of the Healthy Forests Restoration Act of  
23 2003 (16 U.S.C. 6571 et seq.) is repealed.

1                   **TITLE III—NUTRITION**  
2                   **Subtitle A—Supplemental**  
3                   **Nutrition Assistance Program**

4   **SEC. 3001. CATEGORICAL ELIGIBILITY LIMITATIONS.**

5           Section 5 of the Food and Nutrition Act of 2008 (7  
6 U.S.C. 2014) is amended—

7                   (1) by striking the section heading and all that  
8           follows through “(a) Participation” and inserting the  
9           following:

10 **“SEC. 5. ELIGIBLE HOUSEHOLDS.**

11           “(a) REQUIREMENTS.—

12                   “(1) IN GENERAL.—Participation”;

13                   (2) in subsection (a)—

14                           (A) by striking the second sentence and in-  
15           serting the following:

16                   “(2) RECIPIENTS OF OTHER FEDERAL BENE-  
17           FITS.—Except as provided in section 3(n)(4) and  
18           subsections (b), (d)(2), and (g) of section 6, a house-  
19           hold shall be eligible to participate in the supple-  
20           mental nutrition assistance program if each member  
21           of the household receives—

22                           “(A) cash assistance in the form of ongo-  
23           ing basic needs benefit payments for financially  
24           needy families under the program of block  
25           grants to States for temporary assistance for

1           needy families established under part A of title  
2           IV of the Social Security Act (42 U.S.C. 601 et  
3           seq.);

4           “(B) cash assistance under the supple-  
5           mental security income program established  
6           under title XVI of that Act (42 U.S.C. 1381 et  
7           seq.); or

8           “(C) aid to the aged, blind, or disabled  
9           under title I, X, XIV, or XVI of that Act (42  
10          U.S.C. 301 et seq.).”;

11          (B) in the third sentence, by striking “Ex-  
12          cept for sections 6, 16(e)(1), and section  
13          3(n)(4), households” and inserting the fol-  
14          lowing:

15          “(3) GENERAL ASSISTANCE.—Except as pro-  
16          vided in sections 3(n)(4), 6, and 16(e)(1), a house-  
17          hold”; and

18          (C) in the fourth sentence, by striking  
19          “Assistance” and inserting the following:

20          “(4) APPLICATIONS.—Assistance”; and  
21          (3) in subsection (j)—

22          (A) by inserting “cash assistance in the  
23          form of” before “supplemental security income  
24          benefits”; and

1 (B) by striking “or who receives benefits”  
2 and inserting “or who receives cash assistance”.

3 **SEC. 3002. REPEAL OF FUNDING FOR EMPLOYMENT AND**  
4 **TRAINING PROGRAMS.**

5 (a) IN GENERAL.—Section 6(d)(4) of the Food and  
6 Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amend-  
7 ed—

8 (1) by striking “(A) IN GENERAL.—”; and all  
9 that follows through “the following components” in  
10 the matter preceding clause (i) in subparagraph (B)  
11 and inserting the following:

12 “(A) DEFINITION OF EMPLOYMENT AND  
13 TRAINING PROGRAM.—In this Act, the term  
14 ‘employment and training program’ means a  
15 Federal, State, or private program not adminis-  
16 tered by the Secretary or funded through the  
17 Food and Nutrition Service that contains 1 or  
18 more of the following components”;

19 (2) by striking clause (viii) in subparagraph (A)  
20 (as designated in paragraph (1)) and inserting the  
21 following:

22 “(viii) As approved by the State, other  
23 employment, educational and training pro-  
24 grams, projects, and experiments, such as  
25 a supported work program, aimed at ac-

1                   completing the purpose of the employment  
2                   and training program.”;

3                   (3) in subparagraph (E), by striking “subpara-  
4                   graph (D)” and inserting “subparagraph (C)”;

5                   (4) by striking subparagraphs (H) through (K);  
6                   and

7                   (5) by redesignating subparagraphs (C) through  
8                   (G) and (L) and (M) as subparagraphs (B) through  
9                   (F) and (G) and (H), respectively.

10                  (b) REPEAL OF FUNDING.—Section 16 of the Food  
11 and Nutrition Act of 2008 (7 U.S.C. 2025) is amended  
12 by striking subsection (h).

13                  (c) CONFORMING AMENDMENTS.—

14                   (1) Section 5(d) of the Food and Nutrition Act  
15 of 2008 (7 U.S.C. 2014(d)) is amended—

16                   (A) by striking paragraph (14); and

17                   (B) by redesignating paragraphs (15)  
18 through (19) as paragraphs (14) through (18),  
19 respectively.

20                   (2) Section 17(b)(1)(B)(iv)(III) of the Food  
21 and Nutrition Act of 2008 (7 U.S.C.  
22 2026(b)(1)(B)(iv)(III)) is amended—

23                   (A) in item (dd), by striking “, (4)(F)(i) or  
24                   (4)(K)” and inserting “or (4)(E)”; and

1 (B) in item (hh), by striking “(g), (h)(2),  
2 or (h)(3) of section 16” and inserting “or (g)  
3 of section 16”.

4 **SEC. 3003. REPEAL OF INCENTIVE PAYMENTS TO STATES**  
5 **WITH LOW SNAP BENEFIT ALLOCATION**  
6 **ERROR RATES.**

7 (a) IN GENERAL.—Section 16 of the Food and Nutri-  
8 tion Act of 2008 (7 U.S.C. 2025) is amended by striking  
9 subsection (d).

10 (b) CONFORMING AMENDMENTS.—Section 16 of the  
11 Food and Nutrition Act of 2008 (7 U.S.C. 2025) is  
12 amended—

13 (1) in subsection (c), by striking “, or perform-  
14 ance under the performance measures under sub-  
15 section (d)” each place it appears in paragraphs (4)  
16 and (5); and

17 (2) in subsection (i)(1), by striking “as defined  
18 in subsection (d)(1))” and inserting “as defined in  
19 guidance issued by the Secretary”.

20 **SEC. 3004. QUALITY CONTROL.**

21 (a) IN GENERAL.—Section 16(c) of the Food and  
22 Nutrition Act of 2008 (7 U.S.C. 2025(c)) is amended—

23 (1) in paragraph (1)—

1 (A) in subparagraph (D)(i)(II), by insert-  
2 ing “except as provided in clause (iii),” before  
3 “require”; and

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

5 “(H) STATES IN LIABILITY STATUS FOR A  
6 THIRD CONSECUTIVE FISCAL YEAR.—

7 “(i) IN GENERAL.—If a liability  
8 amount has been established for a State  
9 agency under subparagraph (C) for 3 or  
10 more consecutive fiscal years, the Sec-  
11 retary shall require the State to pay the  
12 entire liability amount for those fiscal  
13 years.

14 “(ii) ALTERNATIVES TO FULL PAY-  
15 MENT NOT AVAILABLE.—Subparagraph  
16 (D) shall not apply to a State agency de-  
17 scribed in clause (i).”; and

18 (2) by redesignating paragraph (9) as para-  
19 graph (10); and

20 (3) by inserting after paragraph (8) the fol-  
21 lowing:

22 “(9) PENALTY FOR NEGATIVE ERROR RATE.—

23 “(A) DEFINITIONS.—In this paragraph:

24 “(i) AFFECTED STATE AGENCY.—The  
25 term ‘affected State agency’ means a State

1 agency that maintains, for 2 or more con-  
2 secutive fiscal years, a negative error rate  
3 that is more than 50 percent higher than  
4 the national average negative error rate, as  
5 determined by the Secretary.

6 “(ii) AVERAGE NEGATIVE ERROR  
7 RATE.—The term ‘average negative error  
8 rate’ means the product obtained by multi-  
9 plying—

10 “(I) the negative error rate of a  
11 State agency; and

12 “(II) the proportion of the total  
13 negative caseload of that State agency  
14 for the fiscal year, as calculated under  
15 the quality control sample at the time  
16 of the notifications issued under sub-  
17 paragraph (C), as determined by the  
18 Secretary.

19 “(iii) NEGATIVE ERROR RATE.—

20 “(I) IN GENERAL.—The term  
21 ‘negative error rate’ means, for a  
22 State agency, the proportion that—

23 “(aa) the total number of  
24 actions erroneously taken by the  
25 State agency to deny applications

1 or suspend or terminate benefits  
2 of a household participating in  
3 the supplemental nutrition assist-  
4 ance program established under  
5 this Act, as determined by the  
6 Secretary, in that fiscal year;  
7 bears to

8 “(bb) the total number of  
9 actions taken by the State agency  
10 to deny applications or suspend  
11 or terminate benefits of house-  
12 holds participating in the supple-  
13 mental nutrition assistance pro-  
14 gram established under this Act  
15 in that fiscal year.

16 “(II) EXCLUSIONS.—The term  
17 ‘negative error rate’ does not in-  
18 clude—

19 “(aa) an error resulting  
20 from the application of regula-  
21 tions promulgated under this Act  
22 during the period—

23 “(AA) beginning on the  
24 date of enactment of this  
25 clause; and

1 “(BB) ending on date  
2 that is 121 days after the  
3 date on which the regulation  
4 is implemented; and

5 “(bb) an error resulting  
6 from—

7 “(AA) the use by a  
8 State agency of correctly  
9 processed information con-  
10 cerning households or indi-  
11 viduals received under a  
12 Federal program; or

13 “(BB) an action that is  
14 based on policy information  
15 that is approved or dissemi-  
16 nated, in writing, by the  
17 Secretary or a designee of  
18 the Secretary.

19 “(B) PENALTY AMOUNT.—For fiscal year  
20 2012 and each subsequent fiscal year, the  
21 amount of the penalty for an affected State  
22 agency shall be equal to 5 percent of the  
23 amount otherwise payable under subsection (a).

24 “(C) INFORMATION REPORTING BY  
25 STATES.—

1           “(i) IN GENERAL.—For each fiscal  
2 year, each State agency shall expeditiously  
3 submit to the Secretary data concerning  
4 the operations of the State agency suffi-  
5 cient for the Secretary to establish the  
6 negative error rate and penalty amount of  
7 the State agency.

8           “(ii) RELEVANT INFORMATION.—The  
9 Secretary may require a State agency to  
10 report any factors necessary to determine  
11 the negative error rate of the State agency.

12           “(iii) INFORMATION NOT RE-  
13 PORTED.—If a State agency fails to report  
14 information required by the Secretary, the  
15 Secretary may use any information, as the  
16 Secretary considers appropriate, to estab-  
17 lish the negative error rate of the State  
18 agency for the applicable year.

19           “(iv) NATIONAL AVERAGE ERROR  
20 RATE.—If a State agency fails to report in-  
21 formation required by the Secretary, the  
22 Secretary may use the national average  
23 negative error rate to establish the nega-  
24 tive error rate for the State agency.

1                   “(D) ANNOUNCEMENT OF ERROR  
2 RATES.—

3                   “(i) CASE REVIEW.—Not later than  
4 May 31 of each fiscal year, the case review  
5 and all arbitration of State-Federal dif-  
6 ferences on negative error rates for the  
7 previous fiscal year shall be completed.

8                   “(ii) DETERMINATION AND AN-  
9 NOUNCEMENT.—Not later than June 30 of  
10 each fiscal year, the Secretary shall, for  
11 the previous fiscal year—

12                   “(I) determine—

13                   “(aa) final negative error  
14 rates;

15                   “(bb) the national average  
16 negative error rate; and

17                   “(cc) penalty amounts;

18                   “(II) notify affected State agen-  
19 cies of the penalty amounts;

20                   “(III) provide a copy of the noti-  
21 fication under subclause (II) to the  
22 chief executive officer and the legisla-  
23 ture of the affected State; and

24                   “(IV) establish a claim against  
25 the State agency for the monetary

1 penalty amount assessed against the  
2 State agency.

3 “(E) REVIEW.—

4 “(i) IN GENERAL.—For any fiscal  
5 year, if the Secretary imposes a penalty  
6 amount against a State agency under sub-  
7 paragraph (D)(ii), the following determina-  
8 tions of the Secretary shall be subject to  
9 administrative and judicial review:

10 “(I) The final negative error rate  
11 of the State agency.

12 “(II) A determination of the Sec-  
13 retary that the negative error rate of  
14 the State agency exceeds 50 percent  
15 of the national average negative error  
16 rate.

17 “(III) The monetary penalty  
18 amount assessed against the State  
19 agency.

20 “(ii) DETERMINATION NOT REVIEW-  
21 ABLE.—The national average negative  
22 error rate under this paragraph shall not  
23 be subject to administrative or judicial re-  
24 view.

25 “(F) PAYMENT OF PENALTY AMOUNT.—

1           “(i) IN GENERAL.—On completion of  
2 administrative and judicial review under  
3 subparagraph (E), an affected State agen-  
4 cy shall pay to the Secretary the penalty  
5 amount designated under subparagraph  
6 (D)(ii), subject to the findings of the ad-  
7 ministrative or judicial review, not later  
8 than September 30 of the fiscal year for  
9 which the claim has been issued to the  
10 State agency.

11           “(ii) ALTERNATIVE METHOD OF COL-  
12 LECTION.—

13           “(I) IN GENERAL.—If a State  
14 agency fails to make a payment under  
15 clause (i) by September 30 of the fis-  
16 cal year for which the claim has been  
17 issued to the State agency, the Sec-  
18 retary may reduce any amount due to  
19 the State agency under any other pro-  
20 vision of this Act by the amount of  
21 the monetary penalty established  
22 under subparagraph (D)(ii).

23           “(II) ACCRUAL OF INTEREST.—  
24 Interest on the amount owed shall not

1                   accrue until after September 30 of the  
2                   applicable fiscal year.”.

### 3                   **Subtitle B—Extensions**

#### 4   **SEC. 3101. SUPPLEMENTAL NUTRITION ASSISTANCE PRO-** 5                   **GRAM.**

6           (a) **FOOD DISTRIBUTION PROGRAM ON INDIAN RES-**  
7 **ERVATIONS.**—Section 4(b)(6)(F) of the Food and Nutri-  
8 tion Act of 2008 (7 U.S.C. 2013(b)(6)(F)) is amended by  
9 striking “2012” and inserting “2017”.

10          (b) **PROJECTS TO EVALUATE HEALTH AND NUTRI-**  
11 **TION PROMOTION IN THE SUPPLEMENTAL NUTRITION**  
12 **ASSISTANCE PROGRAM.**—Section 17(k)(5)(A) of the Food  
13 and Nutrition Act of 2008 (7 U.S.C. 2026(k)(5)(A)) is  
14 amended by striking “2012” and inserting “2017”.

15          (c) **AUTHORIZATION OF APPROPRIATIONS.**—Section  
16 18(a)(1) of the Food and Nutrition Act of 2008 (7 U.S.C.  
17 2027(a)(1)) is amended in the first sentence by striking  
18 “2012” and inserting “2017”.

19          (d) **HEALTHY URBAN FOOD ENTERPRISE DEVELOP-**  
20 **MENT CENTER.**—Section 25(h)(9) of the Food and Nutri-  
21 tion Act of 2008 (7 U.S.C. 2034(h)(9)) is amended—

22                   (1) in subparagraph (A), by striking “2011”  
23                   and inserting “2017”; and

1           (2) in subparagraph (B), by striking “fiscal  
2           year 2012” and inserting “each of fiscal years 2012  
3           through 2017”.

4           (e) EMERGENCY FOOD ASSISTANCE.—

5           (1) PURCHASE OF COMMODITIES.—Section  
6           27(a) of the Food and Nutrition Act of 2008 (7  
7           U.S.C. 2036(a)) is amended in paragraphs (1) and  
8           (2)(C) by striking “2012” each place it appears and  
9           inserting “2017”.

10          (2) EMERGENCY FOOD PROGRAM INFRASTRUC-  
11          TURE GRANTS.—Section 209(d) of the Emergency  
12          Food Assistance Act of 1983 (7 U.S.C. 7511a(d)) is  
13          amended by striking “2012” and inserting “2017”.

14          (f) TECHNICAL AND CONFORMING AMENDMENTS.—

15          (1) Section 3 of the Food and Nutrition Act of  
16          2008 (7 U.S.C. 2012) is amended—

17                 (A) in subsection (g), by striking “cou-  
18                 pon,” and inserting “coupon”;

19                 (B) in subsection (k)(7), by striking “or  
20                 are” and inserting “and”;

21                 (C) by striking subsection (l);

22                 (D) by redesignating subsections (m)  
23                 through (t) as subsections (l) through (s), re-  
24                 spectively; and

1 (E) by inserting after subsection (s) (as so  
2 redesignated) the following:

3 “(t) ‘Supplemental nutritional assistance program’  
4 means the program operated pursuant to this Act.”.

5 (2) Section 4(a) of the Food and Nutrition Act  
6 of 2008 (7 U.S.C. 2013(a)) is amended in the last  
7 sentence by striking “benefits” and inserting “Bene-  
8 fits”.

9 (3) Section 5 of the Food and Nutrition Act of  
10 2008 (7 U.S.C. 2014) is amended—

11 (A) in the last sentence of subsection  
12 (i)(2)(D), by striking “section 13(b)(2)” and in-  
13 serting “section 13(b)”; and

14 (B) in subsection (k)(4)(A), by striking  
15 “paragraph (2)(H)” and inserting “paragraph  
16 (2)(G)”.

17 (4) Section 7(h) of the Food and Nutrition Act  
18 of 2008 (7 U.S.C. 2016(h)) is amended by redesignig-  
19 nating the second paragraph (12) (relating to inter-  
20 change fees) as paragraph (13).

21 (5) Section 9(a) of the Food and Nutrition Act  
22 of 2008 (7 U.S.C. 2018(a)) is amended by indenting  
23 paragraph (3) appropriately.

24 (6) Section 12 of the Food and Nutrition Act  
25 of 2008 (7 U.S.C. 2021) is amended—

1 (A) in subsection (b)(3)(C), by striking  
2 “civil money penalties” and inserting “civil pen-  
3 alties”; and

4 (B) in subsection (g)(1), by striking “(7  
5 U.S.C. 1786)” and inserting “(42 U.S.C.  
6 1786)”.

7 (7) Section 15(b)(1) of the Food and Nutrition  
8 Act of 2008 (7 U.S.C. 2024(b)(1)) is amended in  
9 the first sentence by striking “an benefit” and in-  
10 sserting “a benefit”.

11 (8) Section 16(a) of the Food and Nutrition  
12 Act of 2008 (7 U.S.C. 2025(a)) is amended in the  
13 proviso following paragraph (8) by striking “as  
14 amended.”.

15 (9) Section 18(e) of the Food and Nutrition Act  
16 of 2008 (7 U.S.C. 2027(e)) is amended in the first  
17 sentence by striking “sections 7(f)” and inserting  
18 “section 7(f)”.

19 (10) Section 22(b)(10)(B)(i) of the Food and  
20 Nutrition Act of 2008 (7 U.S.C. 2031(b)(10)(B)(i))  
21 is amended in the last sentence by striking “Food  
22 benefits” and inserting “Benefits”.

23 (11) Section 26(f)(3)(C) of the Food and Nutri-  
24 tion Act of 2008 (7 U.S.C. 2035(f)(3)(C)) is amend-

1 ed by striking “subsection” and inserting “sub-  
2 sections”.

3 (12) Section 27(a)(1) of the Food and Nutri-  
4 tion Act of 2008 (7 U.S.C. 2036(a)(1)) is amended  
5 by striking “(Public Law 98–8; 7 U.S.C. 612c  
6 note)” and inserting “(7 U.S.C. 7515)”.

7 (13) Section 509 of the Older Americans Act of  
8 1965 (42 U.S.C. 3056g) is amended in the section  
9 heading by striking “**FOOD STAMP PROGRAMS**”  
10 and inserting “**SUPPLEMENTAL NUTRITION AS-**  
11 **SISTANCE PROGRAMS**”.

12 (14) Section 4115(c)(2)(H) of the Food, Con-  
13 servation, and Energy Act of 2008 (Public Law  
14 110–246; 122 Stat. 1871) is amended by striking  
15 “531” and inserting “454”.

16 **SEC. 3102. COMMODITY DISTRIBUTION PROGRAMS.**

17 (a) COMMODITY DISTRIBUTION PROGRAM.—Section  
18 4(a) of the Agriculture and Consumer Protection Act of  
19 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended  
20 in the first sentence by striking “2012” and inserting  
21 “2017”.

22 (b) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—  
23 Section 5 of the Agriculture and Consumer Protection Act  
24 of 1973 (7 U.S.C. 612c note; Public Law 93–86) is  
25 amended—

1           (1) in paragraphs (1) and (2)(B) of subsection  
2           (a), by striking “2012” each place it appears and in-  
3           serting “2017”; and

4           (2) in the first sentence of subsection (d)(2), by  
5           striking “2012” and inserting “2017”.

6           (c) DISTRIBUTION OF SURPLUS COMMODITIES TO  
7 SPECIAL NUTRITION PROJECTS.—Section 1114(a)(2)(A)  
8 of the Agriculture and Food Act of 1981 (7 U.S.C.  
9 1431e(2)(A)) is amended in the first sentence by striking  
10 “2012” and inserting “2017”.

11          (d) TECHNICAL AND CONFORMING AMENDMENTS.—

12           (1) Section 3 of the Commodity Distribution  
13 Reform Act and WIC Amendments of 1987 (7  
14 U.S.C. 612c note; Public Law 100–237) is amend-  
15 ed—

16                   (A) in subsection (a)—

17                           (i) in paragraph (2), by striking sub-  
18                           paragraph (B) and inserting the following:

19                                   “(B) the supplemental nutrition assistance  
20                           program established under the Food and Nutri-  
21                           tion Act of 2008 (7 U.S.C. 2011 et seq.);” and

22                           (ii) in paragraph (3)(D), by striking  
23                           “the Committee on Education and Labor”  
24                           and inserting “the Committee on Edu-  
25                           cation and the Workforce”;

1 (B) in subsection (b)(1)(A)(ii), by striking  
2 “section 32 of the Agricultural Adjustment Act  
3 (7 U.S.C. 601 et seq.)” and inserting “section  
4 32 of the Act of August 24, 1935 (7 U.S.C.  
5 612c)”;

6 (C) in subsection (e)(1)(D)(iii), by striking  
7 subclause (II) and inserting the following:

8 “(II) the supplemental nutrition  
9 assistance program established under  
10 the Food and Nutrition Act of 2008  
11 (7 U.S.C. 2011 et seq.);” and

12 (D) in subsection (k), by striking “the  
13 Committee on Education and Labor” and in-  
14 serting “the Committee on Education and the  
15 Workforce”.

16 **SEC. 3103. MISCELLANEOUS.**

17 (a) **PURCHASE OF FRESH FRUITS AND VEGETABLES**  
18 **FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITU-**  
19 **TIONS.**—Section 10603(b) of the Farm Security and  
20 Rural Investment Act of 2002 (7 U.S.C. 612c–4(b)) is  
21 amended by striking “2012” and inserting “2017”.

22 (b) **SENIORS FARMERS’ MARKET NUTRITION PRO-**  
23 **GRAM.**—Section 4402(a) of the Farm Security and Rural  
24 Investment Act of 2002 (7 U.S.C. 3007(a)) is amended  
25 by striking by striking “2012” and inserting “2017”.

1 (c) NUTRITION INFORMATION AND AWARENESS PRO-  
 2 GRAM.—Section 4403(f) of the Farm Security and Rural  
 3 Investment Act of 2002 (7 U.S.C. 3171 note; Public Law  
 4 107–171) is amended by striking “2012” and inserting  
 5 “2017”.

6 (d) HUNGER-FREE COMMUNITIES.—Section 4405(e)  
 7 of the Food, Conservation, and Energy Act of 2008 (7  
 8 U.S.C. 7517(e)) is amended by striking “2012” and in-  
 9 serting “2017”.

## 10 **TITLE IV—ENERGY FROM RURAL** 11 **AMERICA**

### 12 **SEC. 4001. DEFINITIONS.**

13 Section 9001 of the Farm Security and Rural Invest-  
 14 ment Act of 2002 (7 U.S.C. 8101) is amended—

15 (1) in paragraph (3)—

16 (A) in subparagraph (B)(iii), by inserting  
 17 “post-recycled municipal solid waste, sewage  
 18 waste,” before “and yard waste”; and

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

20 “(C) EXCLUSION.—The term ‘advanced  
 21 biofuel’ does not include any fuel for which—

22 “(i) more than 4 percent of the fuel  
 23 (determined by weight) is any combination  
 24 of water and sediment; or

1           “(ii) the ash content of the fuel is  
2           more than 1 percent (determined by  
3           weight).”;

4           (2) in paragraph (6)—

5           (A) in subparagraph (D), by striking the  
6           period at the end and inserting “; and”;

7           (B) by redesignating subparagraphs (A)  
8           through (D) as clauses (i) through (iv), respec-  
9           tively, and indenting appropriately;

10          (C) by striking “a facility that converts”  
11          and inserting the following: “a facility that—

12           “(A) converts”; and

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

14           “(B) in the case of a facility in existence  
15           as of the date of enactment of the Rural Eco-  
16           nomic Farm and Ranch Sustainability and  
17           Hunger Act of 2011 that uses less than 90 per-  
18           cent biomass for conversion, agrees to increase  
19           the use by the facility of biomass for conversion  
20           purposes by a percentage increase, as deter-  
21           mined by the Secretary but not less than a sub-  
22           stantial increase above the 5-year baseline for  
23           the facility.”.

1           (3) by redesignating paragraphs (9) through  
2           (13) and (14) as paragraphs (10) through (14) and  
3           (17), respectively;

4           (4) by inserting after paragraph (8) the fol-  
5           lowing:

6           “(9) ELIGIBLE RURAL COMMUNITY.—The term  
7           ‘eligible rural community’ means a community lo-  
8           cated in a rural area.”;

9           (5) in subparagraph (B)(ii) of paragraph (13)  
10          (as redesignated by paragraph (2)) —

11           (A) in subclause (III), by striking “and” at  
12          the end;

13           (B) in subclause (IV), by striking the pe-  
14          riod at the end and inserting a semicolon; and

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

16                   “(V) post-recycled municipal  
17                   solid waste; and

18                   “(VI) sewage.”; and

19           (6) by inserting after paragraph (14) (as so re-  
20          designated) the following:

21           “(15) RURAL AREA.—The term ‘rural area’ has  
22          the meaning given the term in section 343(a)(13)(A)  
23          of the Consolidated Farm and Rural Development  
24          Act (7 U.S.C. 1991(a)(13)(A)).

1           “(16) RURAL SCHOOL DISTRICT.—The term  
2           ‘rural school district’ means a school district that  
3           serves 1 or more schools located in a rural area.”.

4 **SEC. 4002. BIOBASED MARKETS PROGRAM.**

5           (a) IN GENERAL.—Section 9002 of the Farm Secu-  
6 rity and Rural Investment Act of 2002 (7 U.S.C. 8102)  
7 is amended—

8           (1) in subsection (a)(4)—

9           (A) in subparagraph (B)—

10                   (i) in the matter preceding clause (i),  
11                   by inserting “and to improve fiscal trans-  
12                   parency in Federal procurement” after  
13                   “subparagraph (A)”; and

14                   (ii) in clause (i)—

15                           (I) in the matter preceding sub-  
16                           clause (I), by striking “, to the max-  
17                           imum extent practicable,”; and

18                           (II) in subclause (V), by striking  
19                           “and” at the end;

20                           (iii) in clause (ii), by striking the pe-  
21                           riod at the end and inserting “; and”; and

22                           (iv) by adding at the end the fol-  
23                           lowing:

24                                   “(iii) information required to be sub-  
25                                   mitted under clauses (i) and (ii) shall be

1           made publicly available on a website by the  
2           Office of Federal Procurement Policy not  
3           later than 30 days after submission of the  
4           information to the Office of Federal Pro-  
5           curement Policy.”;

6           (2) in subsection (b)—

7                 (A) in paragraph (1), by striking “, in con-  
8                 sultation with the Administrator,”;

9                 (B) in paragraph (2)—

10                     (i) by striking “(2) ELIGIBILITY CRI-  
11                     TERIA.—” and all that follows through  
12                     “(B) REQUIREMENTS.—Criteria issued  
13                     under subparagraph (A)” and inserting the  
14                     following:

15                     “(2) REQUIREMENTS.—Labels issued under  
16                     paragraph (1)”;

17                     (ii) by redesignating clauses (i)  
18                     through (iii) as subparagraphs (A) through  
19                     (C), respectively, and indenting appro-  
20                     priately; and

21                     (C) in paragraph (3), by striking “criteria  
22                     issued pursuant to” and inserting “require-  
23                     ments described in”;

24           (3) by striking subsection (c) and inserting the  
25           following:

1 “(c) PROMOTION.—

2 “(1) IN GENERAL.—The Secretary shall make  
3 competitive grants to eligible entities to provide in-  
4 formation to organizations that have large procure-  
5 ment needs or vehicle fleets, or that produce prod-  
6 ucts with which biobased products or biofuels can be  
7 integrated (as determined by the Secretary), about  
8 the benefits of biobased products or biofuels.

9 “(2) ELIGIBLE ENTITIES.—To be eligible to re-  
10 ceive a grant under paragraph (1), an entity shall—

11 “(A) be a nonprofit organization or institu-  
12 tion of higher education;

13 “(B) have demonstrated a knowledge of  
14 biobased product or biofuel production, use, or  
15 distribution; and

16 “(C) have demonstrated the ability to con-  
17 duct educational and technical support pro-  
18 grams.

19 “(3) LIMITATION.—Grants made under this  
20 subsection may not be used for the marketing or  
21 promotion of brand name products.”;

22 (4) in subsection (d), by striking “this section”  
23 and inserting “subsection (a)”;

24 (5) by striking subsections (e) through (g);

1           (6) by redesignating subsection (h) as sub-  
2           section (e); and

3           (7) in subsection (e) (as so redesignated)—

4                   (A) in paragraph (1), by striking “this sec-  
5                   tion—” and all that follows through the end of  
6                   subparagraph (B) and inserting “this section  
7                   \$5,000,000 for each of fiscal years 2013  
8                   through 2017, of which not more than  
9                   \$2,000,000 may be used to make grants under  
10                  subsection (c).”; and

11                   (B) in paragraph (2), by striking “this sec-  
12                   tion” and all that follows through “2012” and  
13                   inserting “\$3,000,000 for each of fiscal years  
14                   2013 through 2017.”

15           (b)           CONFORMING           AMENDMENT.—Section  
16           944(c)(2)(A) of the Energy Policy Act of 2005 (42 U.S.C.  
17           16253(c)(2)(A)) is amended by striking “section  
18           9002(h)(1) of the Farm Security and Rural Investment  
19           Act of 2002 (7 U.S.C. 8102(h)(1))” and inserting “section  
20           9002(b) of the Farm Security and Rural Investment Act  
21           of 2002 (7 U.S.C. 8102(b))”.

22           **SEC. 4003. BIOREFINERY ASSISTANCE.**

23           Section 9003 of the Farm Security and Rural Invest-  
24           ment Act of 2002 (7 U.S.C. 8103) is amended—

25                   (1) by striking subsections (a), (d), and (g);

1           (2) by redesignating subsections (b), (c), (e),  
2           (f), and (h) as subsections (a) through (e), respec-  
3           tively;

4           (3) in subsection (b) (as so redesignated), by  
5           striking “eligible entities—” and all that follows  
6           through “(2) guarantees” and inserting “eligible en-  
7           tities guarantees”;

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

9           (A) in paragraph (1)(C) —

10           (i) in the matter preceding clause (i),  
11           by striking “subsection (c)(2)” and insert-  
12           ing “subsection (b)”;

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

15           (iii) in clause (x), by striking the pe-  
16           riod at the end and inserting “; and”; and

17           (iv) by adding at the end the fol-  
18           lowing:

19           “(xi) whether the project can lead to  
20           reductions in production costs.”; and

21           (B) in paragraph (2)—

22           (i) by striking “subsection (c)(2)”  
23           each place it appears and inserting “sub-  
24           section (b)”;

1 (ii) in subparagraph (C), by striking  
2 “subsection (h)” and inserting “subsection  
3 (e)”; and

4 (5) in subsection (e) (as so redesignated)—

5 (A) in paragraph (1), by striking subpara-  
6 graphs (A) and (B) and inserting the following:

7 “(A) \$100,000,000 for fiscal year 2013;  
8 and

9 “(B) \$80,000,000 for each of fiscal years  
10 2014 and 2015.”; and

11 (B) in paragraph (2), by striking “2012”  
12 and inserting “2017”.

13 **SEC. 4004. RURAL ENERGY FOR AMERICA PROGRAM.**

14 Section 9007 of the Farm Security and Rural Invest-  
15 ment Act of 2002 (7 U.S.C. 8107) is amended—

16 (1) in subsection (b)—

17 (A) in paragraph (1), in the matter pre-  
18 ceding subparagraph (A), by inserting “, rural  
19 school districts, eligible rural communities,” be-  
20 fore “and rural small businesses”; and

21 (B) in paragraph (4), in the matter pre-  
22 ceding subparagraph (A), by inserting “, rural  
23 school districts, eligible rural communities,” be-  
24 fore “and rural small businesses”;

25 (2) in subsection (c)—

1 (A) in paragraph (1), in the matter pre-  
2 ceding subparagraph (A), by inserting “, rural  
3 school districts, eligible rural communities,” be-  
4 fore “and rural small businesses”;

5 (B) by redesignating paragraphs (2)  
6 through (4) as paragraphs (3) through (5), re-  
7 spectively;

8 (C) by inserting after paragraph (1) the  
9 following:

10 “(2) AWARD PRIORITIZATION.—In determining  
11 the amount of a loan guarantee or grant provided  
12 under this section, the Secretary may give priority—

13 “(A) to loan guarantees rather than grants  
14 or combined grant and loan guarantees, so as  
15 to maximize leverage of private financing; and

16 “(B) in the case of energy efficiency  
17 projects, to loans under section 9014 or similar  
18 financing mechanisms if locally available (as de-  
19 termined by the Secretary).”;

20 (D) in paragraph (3) (as redesignated by  
21 subparagraph (A))—

22 (i) by striking subparagraph (A) and  
23 inserting the following:

1           “(A) the ability of a project to demonstrate  
2 the economic viability for similar potential en-  
3 ergy investment projects in the locality;”;

4           (ii) in subparagraph (F), by striking  
5 “and” at the end;

6           (iii) by redesignating subparagraph  
7 (G) as subparagraph (H); and

8           (iv) by inserting after subparagraph  
9 (F) the following:

10           “(G) the type of renewable energy system  
11 to be purchased; and”; and

12           (E) in paragraph (5) (as so redesign-  
13 nated)—

14           (i) in subparagraph (A)—

15           (I) by striking “(A) GRANTS.—

16 The amount” and inserting the fol-  
17 lowing:

18           “(A) GRANTS.—

19           “(i) IN GENERAL.—The amount”; and

20           (II) by adding at the end the fol-  
21 lowing:

22           “(ii) LIMITATION.—

23           “(I) IN GENERAL.—Subject to  
24 subclause (II), not more than 15 per-  
25 cent of the total amount of funds

1 made available under subsection (f)  
2 that is allocated by the Secretary for  
3 grants under this subsection may be  
4 used for grants in excess of \$250,000.

5 “(II) LIMITATION.—No grant  
6 under this subsection may exceed  
7 \$500,000.”; and

8 (ii) by adding at the end the fol-  
9 lowing:

10 “(D) MAXIMUM AMOUNT OF LOAN GUAR-  
11 ANTEE RELATIVE TO COST OF ACTIVITY FUND-  
12 ED.—The amount of a loan guaranteed under  
13 this subsection shall not exceed 90 percent of  
14 the cost of the activity funded under this sub-  
15 section.”;

16 (3) in subsection (e)—

17 (A) in paragraph (1), by striking “sub-  
18 section (g)” and inserting “subsection (f) and  
19 allocated by the Secretary for grants”; and

20 (B) in paragraph (2), by striking “sub-  
21 section (g)” and inserting “subsection (f)”;

22 (4) by striking subsection (f);

23 (5) by redesignating subsection (g) as sub-  
24 section (f); and

25 (6) in subsection (f) (as so redesignated)—

1 (A) in paragraph (1), by striking “, to re-  
2 main available until expended—” and all that  
3 follows through the end of subparagraph (D)  
4 and inserting “\$70,000,000 for each of fiscal  
5 years 2013 through 2017, to remain available  
6 until expended.”;

7 (B) by redesignating paragraph (3) as  
8 paragraph (4);

9 (C) by inserting after paragraph (2) the  
10 following:

11 “(3) LIMITATION.—Of the funds made available  
12 for a fiscal year under paragraph (1), not more than  
13 10 percent may be made available for grants or loan  
14 guarantees to rural school districts or eligible rural  
15 communities.”; and

16 (D) in paragraph (4) (as redesignated by  
17 subparagraph (B)), by striking “there is author-  
18 ized” and all that follows through the end and  
19 inserting “there is authorized to be appro-  
20 priated to carry out this section \$80,000,000  
21 for each of fiscal years 2013 through 2017.”.

22 **SEC. 4005. REPEAL OF FEEDSTOCK FLEXIBILITY PROGRAM**  
23 **FOR BIOENERGY PRODUCERS.**

24 Section 9010 of the Farm Security and Rural Invest-  
25 ment Act of 2002 (7 U.S.C. 8110) is repealed.

1 **SEC. 4006. BIOMASS CROP ASSISTANCE PROGRAM.**

2 Section 9011 of the Farm Security and Rural Invest-  
3 ment Act of 2002 (7 U.S.C. 8111) is amended—

4 (1) in subsection (a)—

5 (A) by redesignating paragraphs (4)  
6 through (8) as paragraphs (5) through (9), re-  
7 spectively;

8 (B) by inserting after paragraph (3) the  
9 following:

10 “(4) DELIVERY.—The term ‘delivery’ means  
11 the point of delivery of an eligible material or an eli-  
12 gible crop, as determined by the Secretary.”;

13 (C) in subparagraph (B) of paragraph (5)  
14 (as so redesignated)—

15 (i) in clause (i), by striking “that is  
16 eligible” and inserting “that, as of the day  
17 before the date of enactment of the Rural  
18 Economic Farm and Ranch Sustainability  
19 and Hunger Act of 2011, was eligible”;  
20 and

21 (ii) in clause (ii), by striking “or has  
22 the potential to become invasive or nox-  
23 ious”;

24 (D) in subparagraph (B) of paragraph (6)  
25 (as so redesignated)—

1 (i) in clause (i), by adding “or” after  
2 the semicolon at the end;

3 (ii) in clause (ii), by striking the semi-  
4 colon at the end and inserting a period;  
5 and

6 (iii) by striking clauses (iii) through  
7 (v); and

8 (E) in paragraph (7) (as so redesign-  
9 nated)—

10 (i) by redesignating subparagraph (B)  
11 as subparagraph (C);

12 (ii) by inserting after subparagraph  
13 (A) the following:

14 “(B) ADDITIONAL REQUIREMENT FOR ELI-  
15 GIBLE MATERIAL FROM NON-FEDERAL FOREST  
16 LAND.—In the case of non-Federal forest land  
17 and forest land belonging to an Indian or In-  
18 dian tribe that is in trust by the United States  
19 or subject to a restriction against alienation im-  
20 posed by the United States, the Secretary shall  
21 ensure that the definition of the term ‘eligible  
22 material’—

23 “(i) ensures that the renewable bio-  
24 mass defined as ‘eligible material’—

1 “(I) is not diverted from use in  
2 markets as of the date of enactment  
3 of the Rural Economic Farm and  
4 Ranch Sustainability and Hunger Act  
5 of 2011;

6 “(II) has been determined to be  
7 otherwise uneconomically retrievable;  
8 and

9 “(III) is harvested in accordance  
10 with an approved conservation, forest  
11 stewardship, or equivalent plan; and

12 “(ii) includes a requirement that the  
13 renewable biomass is harvested directly  
14 from the land for delivery to a biomass  
15 conversion facility.”; and

16 (iii) in subparagraph (C) (as redesignig-  
17 nated by clause (i))—

18 (I) in clause (i)—

19 (aa) by striking “that is eli-  
20 gible” and inserting “that, as of  
21 the day before the date of enact-  
22 ment of the Rural Economic  
23 Farm and Ranch Sustainability  
24 and Hunger Act of 2011, was eli-  
25 gible”; and

- 1 (bb) by inserting before the  
2 semicolon at the end “, except  
3 that residues from such crops are  
4 eligible if harvested from the land  
5 in accordance with an approved  
6 conservation or equivalent plan”;  
7 and  
8 (II) in clause (iii), by striking  
9 “and yard waste” and inserting “,  
10 yard waste, municipal solid waste, and  
11 sewage”;
- 12 (2) in subsection (b)(2), by inserting “collected  
13 directly from the land” after “eligible material”;
- 14 (3) in subsection (c)(5)—
- 15 (A) in subparagraph (B)—
- 16 (i) by redesignating clauses (i)  
17 through (iii) as items (aa) through (cc), re-  
18 spectively, and indenting appropriately;
- 19 (ii) by striking “shall be up to 75”  
20 and inserting “shall be—  
21 “(i) up to 50”;
- 22 (iii) in item (cc) (as designated by  
23 clause (i)), by striking the period at the  
24 end and inserting “; and”; and

1 (iv) by adding at the end the fol-  
2 lowing:

3 “(ii) if the Secretary determines that  
4 a greater amount of support is necessary  
5 to demonstrate more capital intensive crop-  
6 ping opportunities or in the case of socially  
7 disadvantaged farmers or ranchers (as de-  
8 fined in section 355(e) of the Consolidated  
9 Farm and Rural Development Act (7  
10 U.S.C. 2003(e))), up to 65 percent of the  
11 costs of establishing an eligible perennial  
12 crop covered by the contract (as deter-  
13 mined under clause (i)); and

14 “(iii) determined by the Secretary in a  
15 manner that seeks to minimize Federal  
16 costs, recognizing that the Secretary is not  
17 obligated to provide maximum cost-share  
18 allowances under this section.”;

19 (B) in subparagraph (C)(ii), in the clause  
20 heading, by inserting “IN ANNUAL PAYMENTS  
21 UNDER CONTRACT” after “REDUCTION”; and

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

23 “(D) REQUIREMENTS.—Subject to sub-  
24 paragraphs (B) and (C), the Secretary shall  
25 award payments under this subsection on a

1 competitive basis, taking into consideration the  
2 needs—

3 “(i) to demonstrate the economic via-  
4 bility of diverse bioenergy crops; and

5 “(ii) to encourage cost competition in  
6 establishment of eligible crops.”;

7 (4) in subsection (d)—

8 (A) in paragraph (1), in the matter pre-  
9 ceeding subparagraph (A), by inserting “col-  
10 lected directly from the land” after “eligible  
11 material”; and

12 (B) in paragraph (2), by striking subpara-  
13 graph (B) and inserting the following:

14 “(B) AMOUNT.—

15 “(i) IN GENERAL.—The amount of a  
16 matching payment under this subsection  
17 shall be determined by the Secretary.

18 “(ii) REQUIREMENTS.—Subject to  
19 subparagraph (C), the Secretary shall  
20 award payments on a competitive basis,  
21 taking into consideration the need—

22 “(I) to demonstrate the economic  
23 viability of diverse eligible crops and  
24 eligible materials that otherwise would  
25 be uneconomically retrievable for high

1 priority uses (such as advanced  
2 biofuels and biobased products); and

3 “(II) to encourage cost competi-  
4 tion in the collection, harvest, storage,  
5 and transportation of eligible crops to  
6 a biomass conversion facility.

7 “(C) MAXIMUM PAYMENT.—Subject to  
8 paragraph (3), the Secretary may provide  
9 matching payments at a maximum rate of  
10 \$0.50 for each \$1 per dry ton provided by the  
11 biomass conversion facility, in an amount equal  
12 to not more than \$35 per ton for a period of  
13 2 years.

14 “(D) MINIMIZATION OF COSTS.—In deter-  
15 mining payment levels under this section, the  
16 Secretary shall—

17 “(i) seek to minimize costs; and

18 “(ii) not be required to provide the  
19 maximum rate of payment allowed under  
20 this section.

21 “(E) PROHIBITION.—Payments may not  
22 be made under this section for eligible materials  
23 collected or harvested that, after delivery to a  
24 biomass conversion facility, the campus of the  
25 facility, or affiliated facilities, as determined by

1 the Secretary, are required to be separated  
2 from eligible materials used for a higher-value  
3 product in order to be used for heat, power,  
4 biobased products, or advanced biofuels.”; and  
5 (5) by striking subsections (e) and (f) and in-  
6 serting the following:

7 “(e) FUNDING.—

8 “(1) MANDATORY FUNDING.—

9 “(A) IN GENERAL.—Of the funds of the  
10 Commodity Credit Corporation, the Secretary  
11 shall use to carry out this section \$55,000,000  
12 for each of the fiscal years 2013 through 2017,  
13 to remain available until expended.

14 “(B) BCAP PROJECT AREA.—Of the funds  
15 made available for each fiscal year under sub-  
16 paragraph (A), not less than 50 percent shall  
17 be made available to carry out subsection (c).

18 “(2) DISCRETIONARY FUNDING.—In addition to  
19 any other funds made available to carry out this sec-  
20 tion, there is authorized to be appropriated to carry  
21 out this section \$150,000,000 for each of fiscal  
22 years 2013 through 2017.

23 “(3) TECHNICAL ASSISTANCE.—Notwith-  
24 standing paragraph (1)(B), the Secretary may use

1 funds made available for each fiscal year under this  
2 subsection to provide technical assistance.”.

3 **SEC. 4007. RURAL ENERGY SAVINGS PROGRAM.**

4 Title IX of the Farm Security and Rural Investment  
5 Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding  
6 at the end the following:

7 **“SEC. 9014. RURAL ENERGY SAVINGS PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
10 tity’ means—

11 “(A) any public power district, public util-  
12 ity district, or similar entity, or any electric co-  
13 operative described in section 501(c)(12) or  
14 1381(a)(2) of the Internal Revenue Code of  
15 1986, that borrowed and repaid, prepaid, or is  
16 paying an electric loan made or guaranteed by  
17 the Rural Utilities Service (or any predecessor  
18 agency);

19 “(B) any entity primarily owned or con-  
20 trolled by 1 or more entities described in sub-  
21 paragraph (A); or

22 “(C) any other entity that is an eligible  
23 borrower of the Rural Utility Service (as deter-  
24 mined under section 1710.101 of title 7, Code

1 of Federal Regulations (or a successor regula-  
2 tion)).

3 “(2) ENERGY EFFICIENCY MEASURES.—The  
4 term ‘energy efficiency measures’ means, for or at  
5 property served by an eligible entity, structural im-  
6 provements and investments in cost-effective, com-  
7 mercial technologies to increase energy efficiency.

8 “(3) QUALIFIED CONSUMER.—The term ‘quali-  
9 fied consumer’ means a consumer served by an eligi-  
10 ble entity that has the ability to repay a loan made  
11 under subsection (c), as determined by the eligible  
12 entity.

13 “(4) SECRETARY.—The term ‘Secretary’ means  
14 the Secretary of Agriculture, acting through the Ad-  
15 ministrator of the Rural Utilities Service.

16 “(b) LOANS TO ELIGIBLE ENTITIES.—

17 “(1) IN GENERAL.—Subject to paragraph (2),  
18 the Secretary shall make loans to eligible entities  
19 that agree to use the loan funds to make loans to  
20 qualified consumers for the purpose of implementing  
21 energy efficiency measures.

22 “(2) REQUIREMENTS.—

23 “(A) IN GENERAL.—As a condition of re-  
24 ceiving a loan under this subsection, an eligible  
25 entity shall—

1           “(i) establish a list of energy effi-  
2           ciency measures that is expected to de-  
3           crease energy use or costs of qualified con-  
4           sumers;

5           “(ii) prepare an implementation plan  
6           for use of the loan funds, including for in-  
7           terest rate utilization under subsection  
8           (c)(1)(A);

9           “(iii) provide for appropriate measure-  
10          ment and verification to ensure—

11           “(I) the effectiveness of the en-  
12          ergy efficiency loans made by the eli-  
13          gible entity; and

14           “(II) that there is no conflict of  
15          interest in carrying out this section;  
16          and

17           “(iv) demonstrate expertise in effec-  
18          tive use of energy efficiency measures at  
19          scale.

20          “(B) REVISION OF LIST OF ENERGY EFFI-  
21          CIENCY MEASURES.—Subject to the approval of  
22          the Secretary, an eligible entity may update the  
23          list required under subparagraph (A)(i) to ac-  
24          count for newly available efficiency technologies.

1           “(C) EXISTING ENERGY EFFICIENCY PRO-  
2 GRAMS.—An eligible entity that, at any time be-  
3 fore the date that is 60 days after the date of  
4 enactment of this section, has established an  
5 energy efficiency program for qualified con-  
6 sumers may use an existing list of energy effi-  
7 ciency measures, implementation plan, or meas-  
8 urement and verification system of that pro-  
9 gram to satisfy the requirements of subpara-  
10 graph (A) if the Secretary determines the list,  
11 plan, or systems are consistent with the pur-  
12 poses of this section.

13           “(3) NO INTEREST.—A loan under this sub-  
14 section shall bear no interest.

15           “(4) REPAYMENT.—With respect to a loan  
16 under paragraph (1)—

17           “(A) the term shall not exceed 20 years  
18 from the date on which the loan is closed; and

19           “(B) except as provided in paragraph (6),  
20 the repayment of each advance shall be amor-  
21 tized for a period not to exceed 10 years.

22           “(5) AMOUNT OF ADVANCES.—Any advance of  
23 loan funds to an eligible entity in any single year  
24 shall not exceed 50 percent of the approved loan  
25 amount.

1           “(6) SPECIAL ADVANCE FOR START-UP ACTIVI-  
2 TIES.—

3           “(A) IN GENERAL.—In order to assist an  
4 eligible entity in defraying the appropriate  
5 start-up costs (as determined by the Secretary)  
6 of establishing new programs or modifying ex-  
7 isting programs to carry out subsection (c), the  
8 Secretary shall allow an eligible entity to re-  
9 quest a special advance.

10           “(B) AMOUNT.—No eligible entity may re-  
11 ceive a special advance under this paragraph  
12 for an amount that is greater than 4 percent of  
13 the loan amount received by the eligible entity  
14 under paragraph (1).

15           “(C) REPAYMENT.—Repayment of the spe-  
16 cial advance—

17           “(i) shall be required during the 10-  
18 year period beginning on the date on which  
19 the special advance is made; and

20           “(ii) at the election of the eligible en-  
21 tity, may be deferred to the end of the 10-  
22 year period.

23           “(7) LIMITATION.—All special advances shall be  
24 made under a loan described in paragraph (1) dur-  
25 ing the first 10 years of the term of the loan.

1 “(c) LOANS TO QUALIFIED CONSUMERS.—

2 “(1) TERMS OF LOANS.—Loans made by an eli-  
3 gible entity to qualified consumers using loan funds  
4 provided by the Secretary under subsection (b)—

5 “(A) may bear interest, not to exceed 3  
6 percent, to be used for purposes that include—

7 “(i) to establish a loan loss reserve;

8 and

9 “(ii) to offset additional personnel and  
10 program costs of eligible entities to provide  
11 the loans;

12 “(B) shall finance energy efficiency meas-  
13 ures for the purpose of decreasing energy usage  
14 or costs of the qualified consumer by an  
15 amount that ensures, to the maximum extent  
16 practicable, that a loan term of not more than  
17 10 years will not pose an undue financial bur-  
18 den on the qualified consumer, as determined  
19 by the eligible entity;

20 “(C) shall not be used to fund purchases  
21 of, or modifications to, personal property, un-  
22 less the personal property is or becomes at-  
23 tached to real property (including a manufac-  
24 tured home) as a fixture;

1           “(D) shall be repaid through charges  
2 added to the electric bill for the property for, or  
3 at which, energy efficiency measures are or will  
4 be implemented, on the condition that this re-  
5 quirement does not prohibit—

6                   “(i) the voluntary prepayment of a  
7 loan by the owner of the property; or

8                   “(ii) the use of any additional repay-  
9 ment mechanisms that are—

10                   “(I) demonstrated to have appro-  
11 priate risk mitigation features, as de-  
12 termined by the eligible entity; or

13                   “(II) required if the qualified  
14 consumer is no longer a customer of  
15 the eligible entity; and

16           “(E) shall require an energy audit by an  
17 eligible entity to determine the impact of pro-  
18 posed energy efficiency measures on the energy  
19 costs and consumption of the qualified con-  
20 sumer.

21           “(2) CONTRACTORS.—In addition to any other  
22 qualified general contractor, eligible entities may  
23 serve as general contractors.

1       “(d) CONTRACT FOR MEASUREMENT AND  
2 VERIFICATION, TRAINING, AND TECHNICAL ASSIST-  
3 ANCE.—

4           “(1) IN GENERAL.—Not later than 90 days  
5 after the date of enactment of this section, the Sec-  
6 retary—

7           “(A) shall establish a plan for measure-  
8 ment and verification, training, and technical  
9 assistance of the program; and

10           “(B) may enter into 1 or more contracts  
11 with a qualified entity for the purposes of—

12           “(i) providing measurement and  
13 verification activities; and

14           “(ii) developing a program to provide  
15 technical assistance and training to the  
16 employees of eligible entities to carry out  
17 this section.

18           “(2) USE OF SUBCONTRACTORS AUTHOR-  
19 IZED.—A qualified entity that enters into a contract  
20 under paragraph (1) may use subcontractors to as-  
21 sist the qualified entity in carrying out the contract.

22       “(e) FAST START DEMONSTRATION PROJECTS.—

23           “(1) IN GENERAL.—The Secretary shall offer to  
24 enter into agreements with eligible entities (or  
25 groups of eligible entities) that have energy effi-

1 efficiency programs described in subsection (b)(2)(C) to  
2 establish an energy efficiency loan demonstration  
3 projects consistent with the purposes of this section.

4 “(2) EVALUATION CRITERIA.—In determining  
5 which eligible entities to award loans under this sec-  
6 tion, the Secretary shall take into consideration eligi-  
7 ble entities that—

8 “(A) implement approaches to energy au-  
9 dits and investments in energy efficiency meas-  
10 ures that yield measurable and predictable sav-  
11 ings;

12 “(B) use measurement and verification  
13 processes to determine the effectiveness of en-  
14 ergy efficiency loans made by eligible entities;

15 “(C) include training for employees of eli-  
16 gible entities, including any contractors of such  
17 entities, to implement or oversee the activities  
18 described in subparagraphs (A) and (B);

19 “(D) provide for the participation of a ma-  
20 jority of eligible entities in a State;

21 “(E) reduce the need for generating capac-  
22 ity;

23 “(F) provide efficiency loans to—

24 “(i) in the case of a single eligible en-  
25 tity, not fewer than 20,000 consumers; or

1                   “(ii) in the case of a group of eligible  
2                   entities, not fewer than 80,000 consumers;  
3                   and

4                   “(G) serve areas in which, as determined  
5                   by the Secretary, a large percentage of con-  
6                   sumers reside—

7                   “(i) in manufactured homes; or

8                   “(ii) in housing units that are more  
9                   than 50 years old.

10                  “(3) DEADLINE FOR IMPLEMENTATION.—To  
11                  the maximum extent practicable, the Secretary shall  
12                  enter into agreements described in paragraph (1) by  
13                  not later than 90 days after the date of enactment  
14                  of this section.

15                  “(4) EFFECT ON AVAILABILITY OF LOANS NA-  
16                  TIONALLY.—Nothing in this subsection shall delay  
17                  the availability of loans to eligible entities on a na-  
18                  tional basis beginning not later than 180 days after  
19                  the date of enactment of this section.

20                  “(5) ADDITIONAL DEMONSTRATION PROJECT  
21                  AUTHORITY.—

22                  “(A) IN GENERAL.—The Secretary may  
23                  conduct demonstration projects in addition to  
24                  the project required by paragraph (1).

1           “(B) INAPPLICABILITY OF CERTAIN CRI-  
2           TERIA.—The additional demonstration projects  
3           may be carried out without regard to subpara-  
4           graphs (D), (F), or (G) of paragraph (2).

5           “(f) ADDITIONAL AUTHORITY.—The authority pro-  
6           vided in this section is in addition to any other authority  
7           of the Secretary to offer loans under any other law.

8           “(g) FUNDING.—

9           “(1) MANDATORY FUNDING.—Of the funds of  
10          the Commodity Credit Corporation, the Secretary  
11          shall use to carry out this section \$70,000,000 for  
12          each of fiscal years 2013 through 2017.

13          “(2) DISCRETIONARY FUNDING.—In addition to  
14          any other funds made available to carry out this sec-  
15          tion, there is authorized to be appropriated to the  
16          Secretary to carry out this section \$80,000,000 for  
17          each of fiscal years 2013 through 2017, to remain  
18          available until expended.

19          “(h) EFFECTIVE PERIOD.—Subject to the availability  
20          of funds under subsection (g) and except as otherwise pro-  
21          vided in this section, the loans and other expenditures re-  
22          quired to be made under this section shall be available  
23          until expended, with the Secretary authorized to make new  
24          loans as loans are repaid.

25          “(i) REGULATIONS.—

1           “(1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, not later than 180 days  
3           after the date of enactment of this section, the Sec-  
4           retary shall promulgate such regulations as are nec-  
5           essary to implement this section.

6           “(2) PROCEDURE.—The promulgation of the  
7           regulations and administration of this section shall  
8           be made without regard to—

9                   “(A) the Statement of Policy of the Sec-  
10                  retary of Agriculture effective July 24, 1971  
11                  (36 Fed. Reg. 13804), relating to notices of  
12                  proposed rulemaking and public participation in  
13                  rulemaking; and

14                  “(B) chapter 35 of title 44, United States  
15                  Code (commonly known as the ‘Paperwork Re-  
16                  duction Act’).

17           “(3) CONGRESSIONAL REVIEW OF AGENCY  
18           RULEMAKING.—In carrying out this section, the Sec-  
19           retary shall use the authority provided under section  
20           808 of title 5, United States Code.

21           “(4) INTERIM REGULATIONS.—Notwithstanding  
22           paragraphs (1) and (2), to the extent regulations are  
23           necessary to carry out any provision of this section,  
24           the Secretary shall implement such regulations  
25           through the promulgation of an interim rule.”.

1                   **TITLE V—TECHNICAL**  
2                   **IMPROVEMENTS TO RESEARCH**  
3   **SEC. 5001. MATCHING FUND REQUIREMENT UNDER**  
4                   **MCINTIRE-STENNIS COOPERATIVE FORESTRY**  
5                   **ACT.**

6           (a) 1890 WAIVERS.—Section 4 of Public Law 87–  
7 788 (commonly known as the “McIntire-Stennis Coopera-  
8 tive Forestry Act”) (16 U.S.C. 582a–3) is amended—

9                   (1) by designating the first sentence and the  
10                   second through fifth sentences as subsection (a) and  
11                   subsections (c) through (f), respectively; and

12                   (2) by inserting after subsection (a) (as so des-  
13                   ignated) the following:

14           “(b) 1890 INSTITUTIONS.—The matching funds re-  
15           quirement of this section shall not be applicable to 1890  
16           Institutions (as defined in section 2 of the Agricultural  
17           Research, Extension, and Education Reform Act of 1998  
18           (7 U.S.C. 7601)) if the allocation is below \$200,000 for  
19           a fiscal year.”.

20           (b) PARTICIPATION.—Section 8 of Public Law 87–  
21 788 (commonly known as the “McIntire-Stennis Coopera-  
22           tive Forestry Act”) (16 U.S.C. 582a–7) is amended by  
23           inserting “the Federated States of Micronesia, American  
24           Samoa, the Commonwealth of the Northern Mariana Is-  
25           lands,” after “the Virgin Islands,”.

1 **SEC. 5002. MATCHING FUND REQUIREMENT UNDER HATCH**  
2 **ACT OF 1887.**

3 Section 3(d) of the Hatch Act of 1887 (7 U.S.C.  
4 361c(d)) is amended—

5 (1) in paragraph (1), by inserting before the pe-  
6 riod at the following: “, except that a State may ob-  
7 tain \$2 from private sources for each \$1 the State  
8 is required to match under this Act”; and

9 (2) in paragraph (4)(A), by inserting before the  
10 period at the following: “, except that an insular  
11 area or the District of Columbia may obtain \$2 from  
12 private sources for each \$1 the insular area or the  
13 District of Columbia, respectively, is required to  
14 match under this Act”.

15 **SEC. 5003. MATCHING FUND REQUIREMENT UNDER SMITH-**  
16 **LEVER ACT.**

17 Section 3(e) of the Smith-Lever Act (7 U.S.C.  
18 343(e)) is amended—

19 (1) in paragraph (1), by inserting before the pe-  
20 riod at the following: “, except that a State may ob-  
21 tain \$2 from private sources for each \$1 the State  
22 is required to match under this Act”; and

23 (2) in paragraph (4)(A), by inserting before the  
24 period at the following: “, except that an insular  
25 area or the District of Columbia may obtain \$2 from  
26 private sources for each \$1 the insular area or the

1 District of Columbia, respectively, is required to  
2 match under this Act”.

3 **SEC. 5004. BIOMASS RESEARCH AND DEVELOPMENT INITIA-**  
4 **TIVE.**

5 (a) MOVEMENT OF INITIATIVE.—Section 9008 of the  
6 Farm Security and Rural Investment Act of 2002 (7  
7 U.S.C. 8108) is—

8 (1) redesignated as section 1473H of the Na-  
9 tional Agricultural Research, Extension, and Teach-  
10 ing Policy Act of 1977; and

11 (2) moved so as to appear at the end of subtitle  
12 K of that Act (7 U.S.C. 3310 et seq.).

13 (b) REAUTHORIZATION AND IMPROVEMENT OF INI-  
14 TIATIVE.—Section 1473H of the National Agricultural  
15 Research, Extension, and Teaching Policy Act of 1977 (as  
16 redesignated and moved by subsection (a)) is amended—

17 (1) in subsection (a)—

18 (A) by redesignating paragraphs (1), (2),  
19 and (3) as paragraphs (2), (6), and (7), respec-  
20 tively;

21 (B) by inserting before paragraph (2) (as  
22 so redesignated) the following:

23 “(1) ADVISORY COMMITTEE.—The term ‘Advi-  
24 sory Committee’ means the Biomass Research and

1 Development Technical Advisory Committee estab-  
2 lished by subsection (d)(1).”;

3 (C) by inserting after paragraph (2) (as so  
4 redesignated) the following:

5 “(3) BIOFUEL.—The term ‘biofuel’ means a  
6 fuel derived from renewable biomass.

7 “(4) BIOREFINERY.—The term ‘biorefinery’  
8 means a facility (including equipment and processes)  
9 that—

10 “(A) converts renewable biomass into  
11 biofuels and biobased products; and

12 “(B) may produce electricity.

13 “(5) BOARD.—The term ‘Board’ means the  
14 Biomass Research and Development Board estab-  
15 lished by subsection (c).”;

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

17 “(8) INSTITUTION OF HIGHER EDUCATION.—  
18 The term ‘institution of higher education’ has the  
19 meaning given the term in section 102(a) of the  
20 Higher Education Act of 1965 (20 U.S.C. 1002(a)).

21 “(9) RENEWABLE BIOMASS.—The term ‘renew-  
22 able biomass’ has the meaning given the term in sec-  
23 tion 9001 of the Farm Security and Rural Invest-  
24 ment Act of 2002 (7 U.S.C. 8101).”;

25 (2) in subsection (e)—

1 (A) in paragraph (3)—

2 (i) in the matter preceding subpara-  
3 graph (A), by striking “the Administrator  
4 of the Environmental Protection Agency  
5 and”; and

6 (ii) by subparagraph (B)(i), by strik-  
7 ing “cellulosic”; and

8 (B) in paragraph (4)(C), by striking “cel-  
9 lulosic”;

10 (3) in subsection (g), in the matter preceding  
11 paragraph (1), by striking “For each fiscal year for  
12 which funds are made available to carry out this sec-  
13 tion” and inserting “Every 2 years”; and

14 (4) in subsection (h)—

15 (A) in paragraph (1), by striking “ex-  
16 pended—” and all that follows through the pe-  
17 riod at the end and inserting “expended,  
18 \$60,000,000 for each of fiscal years 2013  
19 through 2017.”; and

20 (B) in paragraph (2), by striking  
21 “\$35,000,000 for each of fiscal years 2009  
22 through 2012” and inserting “\$115,000,000  
23 for each of fiscal years 2013 through 2017”.

1 (c) CONFORMING AMENDMENTS.—Section 9001 of  
2 the Farm Security and Rural Investment Act of 2002 (7  
3 U.S.C. 8101) is amended—

4 (1) by striking paragraphs (2) and (8);

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

7 (3) by redesignating paragraphs (9) through  
8 (14) as paragraphs (7) through (12), respectively.

## 9 **TITLE VI—MISCELLANEOUS**

### 10 **SEC. 6001. BUDGETARY EFFECTS.**

11 The budgetary effects of this Act, for the purpose of  
12 complying with the Statutory Pay-As-You-Go Act of 2010,  
13 shall be determined by reference to the latest statement  
14 titled “Budgetary Effects of PAYGO Legislation” for this  
15 Act, submitted for printing in the Congressional Record  
16 by the Chairman of the Senate Budget Committee, pro-  
17 vided that such statement has been submitted prior to the  
18 vote on passage.

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