

115TH CONGRESS
2D SESSION

S. 2978

To amend the Food Security Act of 1985 to modify the conservation reserve enhancement program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2018

Mr. CASEY (for himself, Mr. VAN HOLLEN, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to modify the conservation reserve enhancement program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Conservation Reserve
5 Enhancement Program Improvement Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Conservation Reserve Enhancement
9 Program established by the Secretary of Agriculture

1 under subchapter B of chapter 1 of subtitle D of
2 title XII of the Food Security Act of 1985 (16
3 U.S.C. 3831 et seq.) (referred to in this Act as the
4 “Conservation Reserve Enhancement Program”) has
5 been successfully used across the United States to
6 protect and restore environmentally sensitive land-
7 scapes;

8 (2) the Conservation Reserve Enhancement
9 Program targets regionally or nationally significant
10 resource concerns identified by local, State, or Tribal
11 governments, including wildlife habitat, water qual-
12 ity, water conservation and recharge, soil conserva-
13 tion and health, air quality, at-risk species habitat,
14 rare and declining habitat, and drinking water and
15 source water protection;

16 (3) Conservation Reserve Enhancement Pro-
17 gram agreements provide meaningful partnership be-
18 tween the Department of Agriculture and non-Fed-
19 eral partners, such as State or Tribal governments,
20 and nongovernmental organizations, such as farm,
21 conservation, and environmental organizations;

22 (4) Conservation Reserve Enhancement Pro-
23 gram agreements tailor conservation practices and
24 incentives under the conservation reserve program
25 established under subchapter B of chapter 1 of sub-

1 title D of title XII of the Food Security Act of 1985
2 (16 U.S.C. 3831 et seq.) to specific geographic tar-
3 get areas to address regionally or nationally signifi-
4 cant resource concerns;

5 (5) the Conservation Reserve Enhancement
6 Program and other voluntary conservation efforts
7 have helped farmers and ranchers voluntarily imple-
8 ment conservation practices aimed at improving
9 water quality, which may help avoid the need for
10 regulatory requirements aimed at improving water
11 quality;

12 (6) the Conservation Reserve Enhancement
13 Program is critical to meeting State and Federal re-
14 source protection goals, such as—

15 (A) State nutrient reduction strategies to
16 address hypoxia in the Gulf of Mexico;

17 (B) compliance with State watershed im-
18 plementation plans to restore Chesapeake Bay
19 water quality;

20 (C) voluntary local or regional efforts to
21 protect candidate species habitat to prevent the
22 need to list as endangered species sage-grouse,
23 lesser prairie-chickens, or other species under
24 the Endangered Species Act of 1973 (16 U.S.C.
25 1531 et seq.);

1 (D) State water conservation plans, com-
2 pacts, or other vehicles to protect and recharge
3 overtaxed surface water or groundwater sup-
4 plies, including the Ogallala Aquifer and the
5 Rio Grande River; and

6 (E) numerous local and State watershed
7 management plans and total maximum daily
8 loads, including the protection of water quality
9 in the Great Lakes and the tributaries of the
10 Great Lakes;

11 (7) a renewed commitment and willingness to
12 play a leadership role is needed from Federal, State,
13 and local partners to increase enrollment in the Con-
14 servation Reserve Enhancement Program;

15 (8) nongovernmental entities have significant
16 experience in implementing conservation practices
17 and are well positioned to help increase the adoption
18 of Conservation Reserve Enhancement Program con-
19 servation practices in agricultural landscapes, de-
20 pending on the areas of expertise and relationships
21 of the nongovernmental entities;

22 (9) the Conservation Reserve Enhancement
23 Program has worked best where strong partnerships
24 are involved; and

1 (10) flexibility and decisionmaking at the local
2 level can facilitate increased landowner participation
3 in voluntary conservation practices and environ-
4 mental benefits consistent with the purposes of the
5 Conservation Reserve Enhancement Program.

6 **SEC. 3. PURPOSE.**

7 The purpose of this Act is to modify the Conservation
8 Reserve Enhancement Program to facilitate increased en-
9 rollment in, and increased environmental benefits from,
10 the Conservation Reserve Enhancement Program.

11 **SEC. 4. MODIFICATIONS TO CONSERVATION RESERVE EN-**
12 **HANCEMENT PROGRAM.**

13 (a) IN GENERAL.—Subchapter B of chapter 1 of sub-
14 title D of title XII of the Food Security Act of 1985 is
15 amended by inserting after section 1231 (16 U.S.C. 3831)
16 the following:

17 **“SEC. 1231A. CONSERVATION RESERVE ENHANCEMENT**
18 **PROGRAM.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) ELIGIBLE LAND.—The term ‘eligible land’
21 means land that is eligible to be included in the pro-
22 gram established under this subchapter.

23 “(2) MANAGEMENT.—The term ‘management’
24 means an activity conducted by an owner or oper-
25 ator after the establishment of a conservation prac-

1 tice on eligible land, to regularly maintain or en-
2 hance the vegetative cover established by the con-
3 servation practice—

4 “(A) throughout the term of a contract en-
5 tered into under this subchapter; and

6 “(B) consistent with the conservation plan
7 that covers the eligible land.

8 “(3) PROGRAM.—The term ‘program’ means a
9 conservation reserve enhancement program carried
10 out under an agreement under subsection (b)(1).

11 “(b) AGREEMENTS.—

12 “(1) IN GENERAL.—The Secretary may enter
13 into an agreement with a State or an Indian tribe
14 to carry out a conservation reserve enhancement
15 program—

16 “(A) to assist in enrolling eligible land in
17 the program established under this subchapter;
18 and

19 “(B) that the Secretary determines will ad-
20 vance the purposes of this subchapter.

21 “(2) CONTENTS.—An agreement entered into
22 under paragraph (1) shall describe—

23 “(A) one or more specific State or nation-
24 ally significant conservation concerns to be ad-
25 dressed by the agreement;

1 “(B) quantifiable environmental goals for
2 addressing the concerns under subparagraph
3 (A);

4 “(C) a suitable acreage goal for enrollment
5 of eligible land under the agreement;

6 “(D) the location of eligible land to be en-
7 rolled under the agreement;

8 “(E) the payments to be offered by the
9 Secretary and State or Indian tribe, as applica-
10 ble, to an owner or operator; and

11 “(F) an appropriate list of conservation re-
12 serve program conservation practice standards,
13 including any modifications to the practice
14 standards, that are appropriate to meeting the
15 State and nationally significant conservation
16 concerns described under subparagraph (A), as
17 determined by the Secretary.

18 “(3) EFFECT ON EXISTING AGREEMENTS.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), an agreement under this subsection
21 shall not affect, modify, or interfere with exist-
22 ing agreements under this subchapter.

23 “(B) MODIFICATION OF EXISTING AGREE-
24 MENTS.—To implement this section, the sig-
25 natories to an agreement under this subsection

1 may mutually agree to a modification of an
2 agreement entered into before the date of enact-
3 ment of this section under the Conservation Re-
4 serve Enhancement Program established by the
5 Secretary under this subchapter.

6 “(c) PAYMENTS.—

7 “(1) MATCHING REQUIREMENT.—Any matching
8 requirement under a program shall be satisfied by
9 cash funding or in-kind contributions.

10 “(2) MARGINAL PASTURELAND COST-SHARE
11 PAYMENTS.—The Secretary shall ensure that cost-
12 share payments to an owner or operator to install
13 stream fencing, crossings, and alternative water de-
14 velopment on marginal pastureland under a program
15 reflect the fair market value of the cost of installa-
16 tion.

17 “(3) COST-SHARE AND PRACTICE INCENTIVE
18 PAYMENTS.—On request of an owner or operator,
19 the Secretary shall provide cost-share and practice
20 incentive payments when a major conservation prac-
21 tice component is completed under a program, as de-
22 termined by the Secretary.

23 “(4) FORESTED RIPARIAN BUFFER MAINTEN-
24 NANCE PAYMENTS.—

1 “(A) IN GENERAL.—In the case of an
2 agreement under subsection (b)(1) that includes
3 forested riparian buffers as an eligible conserva-
4 tion practice, the Secretary shall make cost-
5 share payments to encourage the regular man-
6 agement of the forested riparian buffer
7 throughout the term of the agreement, con-
8 sistent with the conservation plan that covers
9 the eligible land.

10 “(B) LIMITATION.—The amount of pay-
11 ments received by an owner or operator under
12 subparagraph (A) shall not be greater than 100
13 percent of the normal and customary projected
14 management cost, as determined by the Sec-
15 retary, in consultation with the applicable State
16 technical committee established under section
17 1261(a).

18 “(d) FORESTED RIPARIAN BUFFER PRACTICE.—

19 “(1) FOOD-PRODUCING WOODY PLANTS.—In
20 the case of an agreement under subsection (b)(1)
21 that includes forested riparian buffers as an eligible
22 conservation practice, the Secretary shall allow an
23 owner or operator—

1 “(A) to plant food-producing woody plants
2 in the forested riparian buffers, on the condi-
3 tions that—

4 “(i) the plants shall contribute to the
5 conservation of soil, water quality, and
6 wildlife habitat; and

7 “(ii) the planting shall be consistent
8 with—

9 “(I) recommendations of the ap-
10 plicable State technical committee es-
11 tablished under section 1261(a); and

12 “(II) technical guide standards of
13 the applicable field office of the Nat-
14 ural Resources Conservation Service;
15 and

16 “(B) to harvest from plants described in
17 subparagraph (A), on the conditions that—

18 “(i) the harvesting shall not damage
19 the conserving cover or otherwise have a
20 negative impact on the conservation con-
21 cerns targeted by the program; and

22 “(ii) only native plant species appro-
23 priate to the region shall be used within 35
24 feet of the watercourse.

1 “(2) TECHNICAL ASSISTANCE.—For the pur-
2 pose of enrolling forested riparian buffers in a pro-
3 gram, the Administrator of the Farm Service Agen-
4 cy, in consultation with the Chief of the Forest Serv-
5 ice—

6 “(A) shall provide funds for technical as-
7 sistance directly to a State forestry agency; and

8 “(B) is encouraged to partner with a non-
9 governmental organization—

10 “(i) to make recommendations for
11 conservation practices under the program;

12 “(ii) to provide technical assistance
13 necessary to carry out the conservation
14 practices recommended under clause (i);
15 and

16 “(iii) to implement riparian buffers
17 by—

18 “(I) pooling and submitting ap-
19 plications on behalf of owners and op-
20 erators in a specific watershed; and

21 “(II) carrying out management
22 activities for the duration of the pro-
23 gram.

24 “(e) ACREAGE ENROLLMENT GOAL.—To the max-
25 imum extent practicable, the Secretary shall enroll not less

1 than 3,000,000 acres of eligible land under this sub-
2 chapter by September 30, 2023.

3 “(f) STATUS REPORT.—Not later than 120 days
4 after the end of each fiscal year, the Secretary shall sub-
5 mit to Congress a report that describes, with respect to
6 each agreement entered into under subsection (b)(1)—

7 “(1) the status of the agreement;

8 “(2) the purposes and objectives of the agree-
9 ment;

10 “(3) the Federal commitments made under the
11 agreement; and

12 “(4) the progress made in fulfilling those com-
13 mitments.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 1234(g) of the Food Security Act of
16 1985 (16 U.S.C. 3834(g)) is amended—

17 (A) by striking “PAYMENT” in the sub-
18 section heading and all that follows through
19 “The total” in paragraph (1) and inserting
20 “PAYMENTS.—The total”; and

21 (B) by striking paragraph (2).

22 (2) Section 1240R(c)(3) of the Food Security
23 Act of 1985 (16 U.S.C. 3839bb–5(c)(3)) is amended
24 by striking “a special conservation reserve enhance-
25 ment program described in section 1234(f)(4)” and

1 inserting “the Conservation Reserve Enhancement
2 Program under section 1231A”.

3 (3) Section 1244(f)(3) of the Food Security Act
4 of 1985 (16 U.S.C. 3844(f)(3)) is amended by strik-
5 ing “subsection (d)(2)(A)(ii) or (g)(2) of section
6 1234” and inserting “section 1231A or
7 1234(d)(2)(A)(ii)”.

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