

107TH CONGRESS
1ST SESSION

S. 1267

To extend and improve conservation programs administered by the Secretary
of Agriculture.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2001

Mr. CRAPO (for himself, Mr. LUGAR, Mr. ROBERTS, and Mr. HUTCHINSON)
introduced the following bill; which was read twice and referred to the
Committee on Agriculture, Nutrition, and Forestry

A BILL

To extend and improve conservation programs administered
by the Secretary of Agriculture.

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 “Conservation Extension and Enhancement Act of 2001”.

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

Sec. 1. Short title; table of contents.

TITLE I—ENVIRONMENTAL CONSERVATION ACREAGE RESERVE
PROGRAM

Sec. 101. Environmental conservation acreage reserve program.

TITLE II—CONSERVATION RESERVE PROGRAM

- Sec. 201. Extension of program.
- Sec. 202. Eligible lands.
- Sec. 203. Conservation buffers and conservation reserve enhancement program.
- Sec. 204. Hardwood trees.
- Sec. 205. Haying and grazing.

TITLE III—WETLANDS RESERVE PROGRAM

- Sec. 301. Annual enrollment authority.
- Sec. 302. Extension of program.
- Sec. 303. Technical assistance.

TITLE IV—GRASSLAND RESERVE PROGRAM

- Sec. 401. Grassland reserve program.
- Sec. 402. Funding.

TITLE V—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

- Sec. 501. Air quality.
- Sec. 502. Extension of program.
- Sec. 503. Term.
- Sec. 504. Federal share of cost-share payments.
- Sec. 505. Limitation on confined livestock operations.
- Sec. 506. Technical assistance.
- Sec. 507. Technical advisers.
- Sec. 508. Conservation priority areas; nonpoint source pollution.
- Sec. 509. Payment limitations.
- Sec. 510. Timing of expenditures.
- Sec. 511. Funding.

TITLE VI—RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

- Sec. 601. Resource conservation and development program.

TITLE VII—CONSERVATION OF PRIVATE GRAZING LAND

- Sec. 701. Conservation of private grazing land.

TITLE VIII—WILDLIFE HABITAT INCENTIVE PROGRAM

- Sec. 801. Pilot programs to avoid listing of endangered species and preserve critical habitats.
- Sec. 802. Authorization of appropriations.

TITLE IX—FARMLAND PROTECTION PROGRAM

- Sec. 901. Authorization of appropriations.

TITLE X—MISCELLANEOUS CONSERVATION PROVISIONS

- Sec. 1001. Privacy of personal information relating to natural resources conservation programs.
- Sec. 1002. Study of conservation accounting system.
- Sec. 1003. Study of disaster programs.
- Sec. 1004. Technical amendments.

TITLE XI—EFFECT OF AMENDMENTS

Sec. 1101. Effect of amendments.

1 **TITLE I—ENVIRONMENTAL CON-**
2 **SERVATION ACREAGE RE-**
3 **SERVE PROGRAM**

4 **SEC. 101. ENVIRONMENTAL CONSERVATION ACREAGE RE-**
5 **SERVE PROGRAM.**

6 (a) IN GENERAL.—Section 1230(a)(1) of the Food
7 Security Act of 1985 (16 U.S.C. 3830(a)(1)) is amended
8 by striking “2002” and inserting “2011”.

9 (b) FUNDING.—Section 1241(a) of the Food Security
10 Act of 1985 (16 U.S.C. 3841(a)) is amended by striking
11 “2002” and inserting “2011”.

12 **TITLE II—CONSERVATION**
13 **RESERVE PROGRAM**

14 **SEC. 201. EXTENSION OF PROGRAM.**

15 (a) IN GENERAL.—Section 1231 of the Food Security
16 Act of 1985 (16 U.S.C. 3831) is amended—

17 (1) in subsections (a), (b)(3), and (d), by strik-
18 ing “2002” each place it appears and inserting
19 “2011”; and

20 (2) in subsection (h)(1), by striking “the 2001
21 and 2002” and inserting “each of the 2001 through
22 2011”.

23 (b) DUTIES OF OWNERS AND OPERATORS.—Section
24 1232(c) of the Food Security Act of 1985 (16 U.S.C.

1 3832(c)) is amended by striking “2002” and inserting
2 “2011”.

3 **SEC. 202. ELIGIBLE LANDS.**

4 Section 1231(b)(4) of the Food Security Act of 1985
5 (16 U.S.C. 3831(b)(4)) is amended by striking “crop-
6 lands” each place it appears and inserting “lands”.

7 **SEC. 203. CONSERVATION BUFFERS AND CONSERVATION**
8 **RESERVE ENHANCEMENT PROGRAM.**

9 Section 1231(d) of the Food Security Act of 1985
10 (16 U.S.C. 3831(d)) is amended—

11 (1) by striking “36,400,000” and inserting
12 “40,000,000”;

13 (2) by striking “1986 through 2002” and in-
14 serting “2003 through 2011”; and

15 (3) by inserting before the period at the end the
16 following: “, of which not less than—

17 “(1) 2,500,000 acres shall be enrolled to estab-
18 lish conservation buffers using continuous signup
19 under section 1234(c)(2)(B); and

20 “(2) 1,100,000 acres shall be enrolled through
21 the conservation reserve enhancement program es-
22 tablished by the Secretary.”.

23 **SEC. 204. HARDWOOD TREES.**

24 Section 1231(e)(2) of the Food Security Act of 1985
25 (16 U.S.C. 3831(e)(2)) is amended—

1 (1) by striking “In the” and inserting the fol-
 2 lowing:

3 “(A) IN GENERAL.—In the”;

4 (2) by striking “The Secretary” and inserting
 5 the following:

6 “(B) EXISTING HARDWOOD TREE CON-
 7 TACTS.—The Secretary”; and

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

9 “(C) NEW HARDWOOD TREE CON-
 10 TRACTS.—In the case of land devoted to hard-
 11 wood trees under a contact entered under this
 12 subchapter after the date of enactment of this
 13 subparagraph, on the request of the owner or
 14 operator of the land, the Secretary shall extend
 15 the contract for terms of not to exceed 10
 16 years.”.

17 **SEC. 205. HAYING AND GRAZING.**

18 Section 1232(a)(7)(A) of the Food Security Act of
 19 1985 (16 U.S.C. 3832(a)(7)(A)) is amended by striking
 20 clause (ii) and inserting the following:

21 “(ii) harvesting or grazing in accord-
 22 ance with approved stocking rates, or other
 23 commercial use of the forage on the land,
 24 that will (as determined by the Sec-
 25 retary)—

1 “(I) enhance the quality of vege-
 2 tative cover; and

3 “(II) be conducted not more fre-
 4 quently than authorized for other
 5 maintenance options; and”.

6 **TITLE III—WETLANDS RESERVE** 7 **PROGRAM**

8 **SEC. 301. ANNUAL ENROLLMENT AUTHORITY.**

9 Section 1237(b) of the Food Security Act of 1985
 10 (16 U.S.C. 3837(b)) is amended by striking paragraph (1)
 11 and inserting the following:

12 “(1) ANNUAL ENROLLMENT AUTHORITY.—The
 13 Secretary may enroll in the wetlands reserve pro-
 14 gram not more than 250,000 acres for each of cal-
 15 endar years 2003 through 2011.”.

16 **SEC. 302. EXTENSION OF PROGRAM.**

17 Section 1237(c) of the Food Security Act of 1985 (16
 18 U.S.C. 3837(c)) is amended by striking “2002” and in-
 19 serting “2011”.

20 **SEC. 303. TECHNICAL ASSISTANCE.**

21 Section 1241(a)(2) of the Food Security Act of 1985
 22 (16 U.S.C. 3841(a)(2)) is amended by inserting before the
 23 semicolon at the end the following: “, of which not more
 24 than 10 percent of the funds made available for a fiscal

1 year may be used by the Secretary to provide technical
 2 assistance under that subchapter”.

3 **TITLE IV—GRASSLAND RESERVE** 4 **PROGRAM**

5 **SEC. 401. GRASSLAND RESERVE PROGRAM.**

6 Chapter 1 of subtitle D of title XII of the Food Secu-
 7 rity Act of 1985 (16 U.S.C. 3830 et seq.) is amended by
 8 adding at the end the following:

9 **“Subchapter D—Grassland Reserve Program**

10 **“SEC. 1238. GRASSLAND RESERVE PROGRAM.**

11 “(a) ESTABLISHMENT.—The Secretary, acting
 12 through the Natural Resource Conservation Service, shall
 13 establish a grassland reserve program (referred to in this
 14 subchapter as ‘the program’) to assist owners in restoring
 15 and protecting eligible land described in subsection (c).

16 “(b) ENROLLMENT CONDITIONS.—

17 “(1) IN GENERAL.—The Secretary shall enroll
 18 in the program, from willing owners, not less than—

19 “(A) 100 contiguous acres of land west of
 20 the 90th meridian; or

21 “(B) 50 contiguous acres of land east of
 22 the 90th meridian.

23 “(2) MAXIMUM ENROLLMENT.—The total num-
 24 ber of acres enrolled in the program shall not exceed
 25 1,000,000 acres.

1 “(3) METHODS OF ENROLLMENT.—The Sec-
2 retary shall enroll land in the program through—

3 “(A) permanent easements or 30-year
4 easements;

5 “(B) in a State that imposes a maximum
6 duration for such an easement, an easement for
7 the maximum duration allowed under State law;
8 or

9 “(C) a 30-year rental agreement.

10 “(c) ELIGIBLE LAND.—Land shall be eligible to be
11 enrolled in the program if the Secretary determines that
12 the land is—

13 “(1) natural grassland or shrubland;

14 “(2) land that—

15 “(A) is located in an area that has been
16 historically dominated by natural grassland or
17 shrubland; and

18 “(B) has potential to serve as habitat for
19 animal or plant populations of significant eco-
20 logical value if the land is restored to natural
21 grassland or shrubland; or

22 “(3) land that is incidental to land described in
23 paragraph (1) or (2), if the incidental land is deter-
24 mined by the Secretary to be necessary for the effi-
25 cient administration of the easement.

1 **“SEC. 1238A. EASEMENTS AND AGREEMENTS.**

2 “(a) IN GENERAL.—To be eligible to enroll land in
3 the program, the owner of the land shall enter into an
4 agreement with the Secretary—

5 “(1) to grant an easement that runs with the
6 land to the Secretary;

7 “(2) to create and record an appropriate deed
8 restriction in accordance with applicable State law to
9 reflect the easement;

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

13 “(4) to provide proof of unencumbered title to
14 the underlying fee interest in the land that is the
15 subject of the easement; and

16 “(5) to comply with the terms of the easement
17 and restoration agreement.

18 “(b) TERMS OF EASEMENT.—An easement under
19 subsection (a) shall—

20 “(1) permit—

21 “(A) grazing on the land in a manner that
22 is consistent with maintaining the viability of
23 natural grass and shrub species indigenous to
24 that locality;

25 “(B) haying (including haying for seed
26 production) or mowing, except during the nest-

1 ing season for birds in the area that are in sig-
 2 nificant decline, as determined by the Natural
 3 Resources Conservation Service State conserva-
 4 tionist, or are protected Federal or State law;
 5 and

6 “(C) fire rehabilitation, construction of fire
 7 breaks, and fences (including placement of the
 8 posts necessary for fences);

9 “(2) prohibit—

10 “(A) the production of row crops, fruit
 11 trees, vineyards, or any other agricultural com-
 12 modity that requires breaking the soil surface;
 13 and

14 “(B) except as permitted under paragraph
 15 (1)(C), the conduct of any other activities that
 16 would disturb the surface of the land covered by
 17 the easement, including—

18 “(i) plowing; and

19 “(ii) disking; and

20 “(3) include such additional provisions as the
 21 Secretary determines are appropriate to carry out
 22 this subchapter or to facilitate the administration of
 23 this subchapter.

24 “(c) EVALUATION AND RANKING OF EASEMENT AP-
 25 PPLICATIONS.—

1 “(1) IN GENERAL.—The Secretary, in conjunc-
2 tion with State technical committees, shall establish
3 criteria to evaluate and rank applications for ease-
4 ments under this subchapter.

5 “(2) CRITERIA.—In establishing the criteria,
6 the Secretary shall emphasize support for grazing
7 operations, plant and animal biodiversity, and grass-
8 land and shrubland under the greatest threat of con-
9 version.

10 “(d) RESTORATION AGREEMENTS.—

11 “(1) IN GENERAL.—The Secretary shall pre-
12 scribe the terms by which grassland and shrubland
13 subject to an easement under an agreement entered
14 into under the program shall be restored.

15 “(2) REQUIREMENTS.—The restoration agree-
16 ment shall describe the respective duties of the
17 owner and the Secretary (including paying the Fed-
18 eral share of the cost of restoration and the provi-
19 sion of technical assistance).

20 “(e) VIOLATIONS.—

21 “(1) IN GENERAL.—On the violation of the
22 terms or conditions of an easement or restoration
23 agreement entered into under this section—

24 “(A) the easement shall remain in force;
25 and

1 “(B) the Secretary may require the owner
 2 to refund all or part of any payments received
 3 by the owner under this subchapter, with inter-
 4 est on the payments as determined appropriate
 5 by the Secretary.

6 “(2) PERIODIC INSPECTIONS.—

7 “(A) IN GENERAL.—After providing notice
 8 to the owner, the Secretary shall conduct peri-
 9 odic inspections of land subject to easements
 10 under this subchapter to ensure that the terms
 11 of the easement and restoration agreement are
 12 being met.

13 “(B) LIMITATION.—The Secretary may
 14 not prohibit the owner, or a representative of
 15 the owner, from being present during a periodic
 16 inspection.

17 **“SEC. 1238B. DUTIES OF SECRETARY.**

18 “(a) IN GENERAL.—In return for the granting of an
 19 easement by an owner under this subchapter, the Sec-
 20 retary shall, in accordance with this section—

21 “(1) make easement payments;

22 “(2) pay the Federal share of the cost of res-
 23 toration; and

24 “(3) provide technical assistance to the owner.

25 “(b) PAYMENT SCHEDULE.—

1 “(1) EASEMENT PAYMENTS.—

2 “(A) AMOUNT.—In return for the granting
3 of an easement by an owner under this sub-
4 chapter, the Secretary shall make easement
5 payments to the owner in an amount equal to—

6 “(i) in the case of a permanent ease-
7 ment, the fair market value of the land
8 less the grazing value of the land encum-
9 bered by the easement; and

10 “(ii) in the case of a 30-year easement
11 or an easement for the maximum duration
12 allowed under applicable State law, 30 per-
13 cent of the fair market value of the land
14 less the grazing value of the land for the
15 period during which the land is encum-
16 bered by the easement.

17 “(B) SCHEDULE.—Easement payments
18 may be provided in not less than 1 payment nor
19 more than 10 annual payments of equal or un-
20 equal amount, as agreed to by the Secretary
21 and the owner.

22 “(2) RENTAL AGREEMENT PAYMENTS.—

23 “(A) AMOUNT.—If an owner enters into a
24 30-year rental agreement authorized under sec-
25 tion 1238(b)(3)(C), the Secretary shall make 30

1 annual rental payments to the owner in an
2 amount that equals, to the maximum extent
3 practicable, the 30-year easement payment
4 amount under paragraph (1)(A)(ii).

5 “(B) ASSESSMENT.—Not less than once
6 every 5 years throughout the 30-year rental pe-
7 riod, the Secretary shall assess whether the
8 value of the rental payments under subpara-
9 graph (A) equals, to the maximum extent prac-
10 ticable, the 30-year easement payments as of
11 the date of the assessment.

12 “(C) ADJUSTMENT.—If on completion of
13 the assessment under subparagraph (B), the
14 Secretary determines that the rental payments
15 do not equal, to the maximum extent prac-
16 ticable, the value of payments under a 30-year
17 easement, the Secretary shall adjust the
18 amount of the remaining payments to equal, to
19 the maximum extent practicable, the value of a
20 30-year easement over the entire 30-year rental
21 period.

22 “(c) FEDERAL SHARE OF COST OF RESTORATION.—
23 The Secretary shall make payments to the owner of not
24 more than 75 percent of the cost of carrying out measures

1 and practices necessary to restore grassland and
2 shrubland functions and values.

3 “(d) TECHNICAL ASSISTANCE.—

4 “(1) IN GENERAL.—The Secretary shall provide
5 owners with technical assistance to execute easement
6 documents and restore the grassland and shrubland.

7 “(2) REIMBURSEMENT BY COMMODITY CREDIT
8 CORPORATION.—The Commodity Credit Corporation
9 shall reimburse the Secretary, acting through the
10 Natural Resources Conservation Service, for not
11 more than 10 percent of the cost of acquisition of
12 the easement and the Federal share of the cost of
13 restoration obligated for that fiscal year.

14 “(e) PAYMENTS TO OTHERS.—If an owner that is en-
15 titled to a payment under this subchapter dies, becomes
16 incompetent, is otherwise unable to receive the payment,
17 or is succeeded by another person who renders or com-
18 pletes the required performance, the Secretary shall make
19 the payment, in accordance with regulations promulgated
20 by the Secretary and without regard to any other provision
21 of law, in such manner as the Secretary determines is fair
22 and reasonable in light of all the circumstances.

23 “(f) OTHER PAYMENTS.—Easement payments re-
24 ceived by an owner under this subchapter shall be in addi-
25 tion to, and not affect, the total amount of payments that

1 the owner is otherwise eligible to receive under other Fed-
 2 eral laws.

3 **“SEC. 1238C. ADMINISTRATION.**

4 “(a) DELEGATION TO PRIVATE ORGANIZATIONS.—

5 “(1) IN GENERAL.—The Secretary shall permit
 6 a private conservation or land trust organization or
 7 a State agency to hold and enforce an easement
 8 under this subchapter, in lieu of the Secretary, if—

9 “(A) the Secretary determines that grant-
 10 ing such permission is likely to promote grass-
 11 land and shrubland protection; and

12 “(B) the owner authorizes the private con-
 13 servation or land trust or a State agency to
 14 hold and enforce the easement.

15 “(2) APPLICATION.—An organization that de-
 16 sires to hold an easement under this subchapter
 17 shall apply to the Secretary for approval.

18 “(3) APPROVAL BY SECRETARY.—The Sec-
 19 retary shall approve an organization under this sub-
 20 chapter that is constituted for conservation or
 21 ranching purposes and is competent to administer
 22 grassland and shrubland easements.

23 “(4) REASSIGNMENT.—If an organization hold-
 24 ing an easement on land under this subchapter
 25 terminates—

1 “(A) the owner of the land shall reassign
2 the easement to another organization described
3 in paragraph (1) or to the Secretary; and

4 “(B) the owner and the new organization
5 shall notify the Secretary in writing that a reas-
6 signment for termination has been made.

7 “(b) REGULATIONS.—Not later than 180 days after
8 the date of enactment of this subchapter, the Secretary
9 shall issue such regulations as are necessary to carry out
10 this subchapter.”.

11 **SEC. 402. FUNDING.**

12 Section 1241(a)(2) of the Food Security Act of 1985
13 (16 U.S.C. 3841(a)(2)) is amended by striking “sub-
14 chapter C” and inserting “subchapters C and D”.

15 **TITLE V—ENVIRONMENTAL**
16 **QUALITY INCENTIVES PROGRAM**

17 **SEC. 501. AIR QUALITY.**

18 Sections 1240 and 1240A of the Food Security Act
19 of 1985 (16 U.S.C. 3839aa, 3838aa–1) are amended by
20 inserting “air,” after “soil,” each place it appears.

21 **SEC. 502. EXTENSION OF PROGRAM.**

22 Section 1240B(a)(1) of the Food Security Act of
23 1985 (16 U.S.C. 3839aa–2(a)(1)) is amended by striking
24 “2002” and inserting “2011”.

1 **SEC. 503. TERM.**

2 Section 1240B(b)(2) of the Food Security Act of
 3 1985 (16 U.S.C. 3839aa–2(b)(2)) is amended by striking
 4 “not less than 5, nor more than 10, years,” and inserting
 5 “not less than 1 year, nor more than 10 years,”.

6 **SEC. 504. FEDERAL SHARE OF COST-SHARE PAYMENTS.**

7 Section 1240B(e)(1)(A) of the Food Security Act of
 8 1985 (16 U.S.C. 3839aa–2(e)(1)(A)) is amended by strik-
 9 ing “not more than” and inserting “equal to”.

10 **SEC. 505. LIMITATION ON CONFINED LIVESTOCK OPER-**
 11 **ATIONS.**

12 Section 1240B(e)(1) of the Food Security Act of
 13 1985 (16 U.S.C. 3839aa–2(e)(1)) is amended—
 14 (1) by striking subparagraph (B); and
 15 (2) by redesignating subparagraph (C) as sub-
 16 paragraph (B).

17 **SEC. 506. TECHNICAL ASSISTANCE.**

18 Section 1240B(e)(3)(A) of the Food Security Act of
 19 1985 (16 U.S.C. 3839aa–2(e)(3)(A)) is amended in the
 20 first sentence by striking “funding under this chapter”
 21 and inserting “not more than 25 percent of the funding
 22 under this chapter for a fiscal year”.

23 **SEC. 507. TECHNICAL ADVISERS.**

24 Section 1240B(e)(3)(C) of the Food Security Act of
 25 1985 (16 U.S.C. 3839aa–2(e)(3)(C)) is amended in the
 26 first sentence by striking “and certified crop advisers” and

1 inserting “certified crop advisers, and other technical ad-
 2 visers (approved by the Secretary)”.

3 **SEC. 508. CONSERVATION PRIORITY AREAS; NONPOINT**
 4 **SOURCE POLLUTION.**

5 (a) IN GENERAL.—Section 1240C of the Food Secu-
 6 rity Act of 1985 (16 U.S.C. 3839aa–3) is amended—

7 (1) by striking paragraph (1) and inserting the
 8 following;

9 “(1) assist producers in complying with—

10 “(A) nonpoint source pollution require-
 11 ments under the Federal Water Pollution Con-
 12 trol Act (33 U.S.C. 1251 et seq.); and

13 “(B) the provisions of other Federal and
 14 State environmental laws relating to the agri-
 15 cultural operations of the producers;”; and

16 (2) in paragraph (3), by striking “watersheds,
 17 regions, or conservation priority areas” and insert-
 18 ing “watersheds or regions”.

19 (b) CONFORMING AMENDMENTS.—Section 1230(c)
 20 of the Food Security Act of 1985 (16 U.S.C. 3830(c)) is
 21 amended by striking “and chapter 4” each place it ap-
 22 pears.

23 **SEC. 509. PAYMENT LIMITATIONS.**

24 Section 1240G(a) of the Food Security Act of 1985
 25 (16 U.S.C. 3839aa–7(a)) is amended—

1 (1) in paragraph (1), by striking “\$10,000”
 2 and inserting “\$30,000”; and

3 (2) in paragraph (2), by striking “\$50,000”
 4 and inserting “\$150,000”.

5 **SEC. 510. TIMING OF EXPENDITURES.**

6 Section 1240G of the Food Security Act of 1985 (16
 7 U.S.C. 3839aa–7) is amended by striking subsection (c).

8 **SEC. 511. FUNDING.**

9 Section 1241(b) of the Food Security Act of 1985
 10 (16 U.S.C. 3841(b)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “and” after “1996,”; and

13 (B) by inserting “and \$615,0000,000 for
 14 each of fiscal years 2003 through 2011 (to re-
 15 main available until expended),” after “through
 16 2002,”;

17 (2) in paragraph (2), by striking “2002” and
 18 inserting “2011”; and

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

20 “(3) COLORADO RIVER BASIN SALINITY CON-
 21 TROL.—Of the amount made available under para-
 22 graph (1) for a fiscal year, the Secretary shall use
 23 not less than \$15,000,000 to carry out salinity con-
 24 trol measures (including watershed enhancement and

1 cost-share measures with livestock and crop pro-
 2 ducers) in the Colorado River Basin.”.

3 **TITLE VI—RESOURCE CON-**
 4 **SERVATION AND DEVELOP-**
 5 **MENT PROGRAM**

6 **SEC. 601. RESOURCE CONSERVATION AND DEVELOPMENT**
 7 **PROGRAM.**

8 Subtitle H of title XV of the Agriculture and Food
 9 Act of 1981 (16 U.S.C. 3451 et seq.) is amended to read
 10 as follows:

11 **“Subtitle H—Resource Conserva-**
 12 **tion and Development Program**

13 **“SEC. 1528. DEFINITIONS.**

14 “In this subtitle:

15 “(1) AREA PLAN.—The term ‘area plan’ means
 16 a resource conservation and use plan that is devel-
 17 oped by a council for a designated area of a State
 18 or States through a planning process and that in-
 19 cludes 1 or more of the following elements:

20 “(A) A land conservation element, the pur-
 21 pose of which is to control erosion and sedi-
 22 mentation.

23 “(B) A water management element, the
 24 purpose of which is to provide for—

1 “(i) the conservation, use, and quality
 2 of water, including irrigation and rural
 3 water supplies;

4 “(ii) the mitigation of floods and high
 5 water tables;

6 “(iii) the construction, repair, and im-
 7 provement of dams and reservoirs;

8 “(iv) the improvement of agricultural
 9 water management; and

10 “(v) the improvement of water qual-
 11 ity.

12 “(C) A community development element,
 13 the purpose of which is—

14 “(i) the development of resources-
 15 based industries;

16 “(ii) the protection of rural industries
 17 from natural resource hazards;

18 “(iii) the development of adequate
 19 rural water and waste disposal systems;

20 “(iv) the improvement of recreation
 21 facilities;

22 “(v) the improvement in the quality of
 23 rural housing;

24 “(vi) the provision of adequate health
 25 and education facilities;

1 “(vii) the satisfaction of essential
 2 transportation and communication needs;
 3 and

4 “(viii) the promotion of food security,
 5 economic development, and education.

6 “(D) A land management element, the
 7 purpose of which is—

8 “(i) energy conservation;

9 “(ii) the protection of agricultural
 10 land, as appropriate, from conversion to
 11 other uses;

12 “(iii) farmland protection; and

13 “(iv) the protection of fish and wild-
 14 life habitats.

15 “(2) BOARD.—The term ‘Board’ means the Re-
 16 source Conservation and Development Policy Advi-
 17 sory Board established under section 1533(a).

18 “(3) COUNCIL.—The term ‘council’ means a
 19 nonprofit entity (including an affiliate of the entity)
 20 operating in a State that is—

21 “(A) established by volunteers or rep-
 22 resentatives of States, local units of govern-
 23 ment, Indian tribes, or local nonprofit organiza-
 24 tions to carry out an area plan in a designated
 25 area; and

1 “(B) designated by the chief executive offi-
2 cer or legislature of the State to receive tech-
3 nical assistance and financial assistance under
4 this subtitle.

5 “(4) DESIGNATED AREA.—The term ‘des-
6 ignated area’ means a geographic area designated by
7 the Secretary to receive technical assistance and fi-
8 nancial assistance under this subtitle.

9 “(5) FINANCIAL ASSISTANCE.—The term ‘fi-
10 nancial assistance’ means a grant, cooperative agree-
11 ment, or loan provided by the Secretary (or the Sec-
12 retary and other Federal agencies) to a council, or
13 association of councils, to carry out an area plan in
14 a designated area, including assistance provided for
15 planning, analysis, feasibility studies, training, edu-
16 cation, and other activities necessary to carry out
17 the area plan.

18 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
19 has the meaning given the term by section 4 of the
20 Indian Health Care Improvement Act (25 U.S.C.
21 1603).

22 “(7) LOCAL UNIT OF GOVERNMENT.—The term
23 ‘local unit of government’ means—

1 “(A) any county, city, town, township, par-
 2 ish, village, or other general-purpose subdivision
 3 of a State; and

4 “(B) any local or regional special district
 5 or other limited political subdivision of a State,
 6 including any soil conservation district, school
 7 district, park authority, and water or sanitary
 8 district.

9 “(8) NONPROFIT ORGANIZATION.—The term
 10 ‘nonprofit organization’ means any organization that
 11 is—

12 “(A) described in section 501(c) of the In-
 13 ternal Revenue Code of 1986; and

14 “(B) exempt from taxation under section
 15 501(a) of the Internal Revenue Code of 1986.

16 “(9) PLANNING PROCESS.—The term ‘planning
 17 process’ means actions taken by a council to develop
 18 and carry out an effective area plan in a designated
 19 area, including development of the area plan, goals,
 20 objectives, policies, implementation activities, evalua-
 21 tions and reviews, and the opportunity for public
 22 participation in the actions.

23 “(10) PROJECT.—The term ‘project’ means a
 24 project that is carried out by a council to achieve
 25 any of the elements of an area plan.

1 “(11) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Agriculture.

3 “(12) STATE.—The term ‘State’ means any of
4 the States, the District of Columbia, or any territory
5 or possession of the United States.

6 “(13) TECHNICAL ASSISTANCE.—The term
7 ‘technical assistance’ means any service provided by
8 the Secretary or agent of the Secretary, including—

9 “(A) inventorying, evaluating, planning,
10 designing, supervising, laying out, and inspect-
11 ing projects;

12 “(B) providing maps, reports, and other
13 documents associated with the services pro-
14 vided;

15 “(C) providing assistance for the long-term
16 implementation of area plans; and

17 “(D) providing services of an agency of the
18 Department of Agriculture to assist councils in
19 developing and carrying out area plans.

20 **“SEC. 1529. RESOURCE CONSERVATION AND DEVELOP-**
21 **MENT PROGRAM.**

22 “The Secretary shall establish a resource conserva-
23 tion and development program under which the Secretary
24 shall provide technical assistance and financial assistance

1 to councils to develop and carry out area plans and
2 projects in designated areas—

3 “(1) to conserve and improve the use of land,
4 develop natural resources, and improve and enhance
5 the social, economic, and environmental conditions in
6 primarily rural areas of the United States; and

7 “(2) to encourage and improve the capability of
8 State, units of government, Indian tribes, nonprofit
9 organizations, and councils to carry out the purposes
10 described in paragraph (1).

11 **“SEC. 1530. SELECTION OF DESIGNATED AREAS.**

12 “The Secretary shall select designated areas for as-
13 sistance under this subtitle on the basis of the elements
14 of area plans.

15 **“SEC. 1531. AUTHORITY OF THE SECRETARY.**

16 “In carrying out this subtitle, the Secretary may—

17 “(1) provide technical assistance to any council
18 to assist in developing and implementing an area
19 plan for a designated area;

20 “(2) cooperate with other departments and
21 agencies of the Federal Government, States, local
22 units of government, local Indian tribes, and local
23 nonprofit organizations in conducting surveys and
24 inventories, disseminating information, and devel-
25 oping area plans;

1 “(3) assist in carrying out an area plan ap-
 2 proved by the Secretary for any designated area by
 3 providing technical assistance and financial assist-
 4 ance to any council; and

5 “(4) enter into agreements with councils in ac-
 6 cordance with section 1532.

7 **“SEC. 1532. ELIGIBILITY; TERMS AND CONDITIONS.**

8 “(a) ELIGIBILITY.—Technical assistance and finan-
 9 cial assistance may be provided by the Secretary under
 10 this subtitle to any council to assist in carrying out a
 11 project specified in an area plan approved by the Secretary
 12 only if—

13 “(1) the council agrees in writing—

14 “(A) to carry out the project; and

15 “(B) to finance or arrange for financing of
 16 any portion of the cost of carrying out the
 17 project for which financial assistance is not pro-
 18 vided by the Secretary under this subtitle;

19 “(2) the project is included in an area plan and
 20 is approved by the council;

21 “(3) the Secretary determines that assistance is
 22 necessary to carry out the area plan;

23 “(4) the project provided for in the area plan
 24 is consistent with any current comprehensive plan
 25 for the area;

1 “(5) the cost of the land or an interest in the
 2 land acquired or to be acquired under the plan by
 3 any State, local unit of government, Indian tribe, or
 4 local nonprofit organization is borne by the State,
 5 local unit of government, Indian tribe, or local non-
 6 profit organization, respectively; and

7 “(6) the State, local unit of government, Indian
 8 tribe, or local nonprofit organization participating in
 9 the area plan agrees to maintain and operate the
 10 project.

11 “(b) LOANS.—

12 “(1) IN GENERAL.—Subject to paragraphs (2)
 13 and (3), a loan made under this subtitle shall be
 14 made on such terms and conditions as the Secretary
 15 may prescribe.

16 “(2) TERM.—A loan for a project made under
 17 this subtitle shall have a term of not more than 30
 18 years after the date of completion of the project.

19 “(3) INTEREST RATE.—A loan made under this
 20 subtitle shall bear interest at the average rate of in-
 21 terest paid by the United States on obligations of a
 22 comparable term, as determined by the Secretary of
 23 the Treasury.

24 “(c) APPROVAL BY SECRETARY.—Technical assist-
 25 ance and financial assistance under this subtitle may not

1 be made available to a council to carry out an area plan
 2 unless the area plan has been submitted to and approved
 3 by the Secretary.

4 “(d) WITHDRAWAL.—The Secretary may withdraw
 5 technical assistance and financial assistance with respect
 6 to any area plan if the Secretary determines that the as-
 7 sistance is no longer necessary or that sufficient progress
 8 has not been made toward developing or implementing the
 9 elements of the area plan.

10 “(e) USE OF OTHER ENTITIES AND PERSONS.—A
 11 council may use another person or entity to assist in devel-
 12 oping and implementing an area plan and otherwise car-
 13 rying out this subtitle.

14 **“SEC. 1533. RESOURCE CONSERVATION AND DEVELOP-**
 15 **MENT POLICY ADVISORY BOARD.**

16 “(a) ESTABLISHMENT.—The Secretary shall estab-
 17 lish within the Department of Agriculture a Resource Con-
 18 servation and Development Policy Advisory Board.

19 “(b) COMPOSITION.—

20 “(1) IN GENERAL.—The Board shall be com-
 21 posed of at least 7 employees of the Department of
 22 Agriculture selected by the Secretary.

23 “(2) CHAIRPERSON.—A member of the Board
 24 shall be designated by the Secretary to serve as
 25 chairperson of the Board.

1 “(c) DUTIES.—The Board shall advise the Secretary
2 regarding the administration of this subtitle, including the
3 formulation of policies for carrying out this subtitle.

4 **“SEC. 1534. EVALUATION OF PROGRAM.**

5 “(a) IN GENERAL.—The Secretary, in consultation
6 with councils, shall evaluate the program established
7 under this subtitle to determine whether the program is
8 effectively meeting the needs of, and the objectives identi-
9 fied by, States, units of government, Indian tribes, non-
10 profit organizations, and councils participating in, or
11 served by, the program.

12 “(b) REPORT.—Not later than December 31, 2011,
13 the Secretary shall submit to the Committee on Agri-
14 culture of the House of Representatives and the Com-
15 mittee on Agriculture, Nutrition, and Forestry of the Sen-
16 ate a report describing the results of the evaluation, to-
17 gether with any recommendations of the Secretary for con-
18 tinuing, terminating, or modifying the program.

19 **“SEC. 1535. LIMITATION ON ASSISTANCE.**

20 “‘In carrying out this subtitle, the Secretary shall pro-
21 vide technical assistance and financial assistance to not
22 more than 450 active designated areas.

1 **“SEC. 1536. SUPPLEMENTAL AUTHORITY OF THE SEC-**
 2 **RETARY.**

3 “The authority of the Secretary under this subtitle
 4 to assist councils in the development and implementation
 5 of area plans shall be supplemental to, and not in lieu
 6 of, any authority of the Secretary under any other provi-
 7 sion of law.

8 **“SEC. 1537. AUTHORIZATION OF APPROPRIATIONS.**

9 “(a) IN GENERAL.—There are authorized to be such
 10 sums as are necessary to carry out this subtitle.

11 “(b) LOANS.—The Secretary shall not use more than
 12 \$15,000,000 of any funds made available for a fiscal year
 13 to make loans under this subtitle.

14 “(c) AVAILABILITY.—Funds appropriated to carry
 15 out this subtitle shall remain available until expended.”.

16 **TITLE VII—CONSERVATION OF**
 17 **PRIVATE GRAZING LAND**

18 **SEC. 701. CONSERVATION OF PRIVATE GRAZING LAND.**

19 (a) IN GENERAL.—Section 386 of the Federal Agri-
 20 culture Improvement and Reform Act of 1996 (16 U.S.C.
 21 2005b) is amended by striking subsection (f) and inserting
 22 the following:

23 “(f) FUNDING.—Of the funds of the Commodity
 24 Credit Corporation, the Secretary shall use to carry out
 25 this section \$60,000,000 for each of fiscal years 2003
 26 through 2011.”.

(b) CONFORMING AMENDMENT.—Section 386(d)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 2005b(d)(2)) is amended by striking “ELEMENTS.—” and all that follows through “EDUCATION.—Personnel” and inserting “ELEMENTS.—Personnel”.

TITLE VIII—WILDLIFE HABITAT INCENTIVE PROGRAM

SEC. 801. PILOT PROGRAMS TO AVOID LISTING OF ENDANGERED SPECIES AND PRESERVE CRITICAL HABITATS.

Section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

“(c) PILOT PROGRAMS TO AVOID LISTING OF ENDANGERED SPECIES AND PRESERVE CRITICAL HABITATS.—

“(1) IN GENERAL.—Of the total amount made available under subsection (e) for a fiscal year, the Secretary shall use not less than \$40,000,000 to support pilot programs involving local initiatives that, to the greatest extent, avoid the listing of a

1 fish, wildlife, or plant species as a threatened species
 2 or an endangered species under the Endangered
 3 Species Act of 1973 (16 U.S.C. 1531 et seq.).

4 “(2) GEOGRAPHIC DIVERSITY.—The Secretary
 5 shall support not more than 2 pilot programs under
 6 this subsection in any region of the United States,
 7 as determined by the Secretary.

8 “(d) EFFECT OF PARTICIPATION.—A person shall
 9 not be considered to have engaged in a taking of any
 10 threatened species or endangered species under the En-
 11 dangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
 12 as a result of participation in the program authorized
 13 under this section, including restoring any land enrolled
 14 in the program to the use of the land before enrollment
 15 in the program, as determined by the Secretary.”.

16 **SEC. 802. AUTHORIZATION OF APPROPRIATIONS.**

17 Section 387 of the Federal Agriculture Improvement
 18 and Reform Act of 1996 (16 U.S.C. 3836a) (as amended
 19 by section 901) is amended by striking subsection (e) and
 20 inserting the following:

21 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 22 is authorized to be appropriated to carry out this section
 23 \$100,000,000 for each of fiscal years 2003 through
 24 2011.”.

1 **TITLE IX—FARMLAND** 2 **PROTECTION PROGRAM**

3 **SEC. 901. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 388 of the Federal Agriculture Improvement
5 and Reform Act of 1996 (16 U.S.C. 3830 note; Public
6 Law 104–127) is amended by striking subsection (c) and
7 inserting the following:

8 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
9 is authorized to be appropriated to carry out this section
10 \$100,000,000 for each of fiscal years 2003 through
11 2011.”.

12 **TITLE X—MISCELLANEOUS** 13 **CONSERVATION PROVISIONS**

14 **SEC. 1001. PRIVACY OF PERSONAL INFORMATION RELAT-** 15 **ING TO NATURAL RESOURCES CONSERVA-** 16 **TION PROGRAMS.**

17 Subtitle E of title XII of the Food Security Act of
18 1985 (16 U.S.C. 3841 et seq.) is amended—

19 (1) by redesignating sections 1244 and 1245
20 (16 U.S.C. 3844, 3845) as sections 1245 and 1246,
21 respectively; and

22 (2) by inserting after section 1243 (16 U.S.C.
23 3843) the following:

1 **“SEC. 1244. PRIVACY OF PERSONAL INFORMATION RELAT-**
 2 **ING TO NATURAL RESOURCES CONSERVA-**
 3 **TION PROGRAMS.**

4 “(a) INFORMATION RECEIVED FOR TECHNICAL AND
 5 FINANCIAL ASSISTANCE.—Except as provided in sub-
 6 section (c) and notwithstanding any other provision of law,
 7 information provided to, or developed by, the Secretary
 8 (including a contractor of the Secretary) for the purpose
 9 of providing technical or financial assistance to an owner
 10 or operator with respect to any natural resources con-
 11 servation program administered by the Natural Resources
 12 Conservation Service or the Farm Service Agency—

13 “(1) shall not be considered to be public infor-
 14 mation; and

15 “(2) shall not be released to any person or Fed-
 16 eral, State, local, or tribal agency outside the De-
 17 partment of Agriculture.

18 “(b) INVENTORY, MONITORING, AND SITE SPECIFIC
 19 INFORMATION.—Except as provided in subsection (c) and
 20 notwithstanding any other provision of law, in order to
 21 maintain the personal privacy, confidentiality, and co-
 22 operation of owners and operators, and to maintain the
 23 integrity of sample sites, the specific geographic locations
 24 of the National Resources Inventory of the Department
 25 of Agriculture data gathering sites and the information
 26 generated by those sites—

1 “(1) shall not be considered to be public infor-
 2 mation; and

3 “(2) shall not be released to any person or Fed-
 4 eral, State, local, or tribal agency outside the De-
 5 partment of Agriculture.

6 “(c) EXCEPTIONS.—

7 “(1) RELEASE AND DISCLOSURE FOR ENFORCE-
 8 MENT.—The Secretary may release or disclose to the
 9 Attorney General information covered by subsection
 10 (a) or (b) to the extent necessary to enforce the nat-
 11 ural resources conservation programs referred to in
 12 subsection (a).

13 “(2) DISCLOSURE TO COOPERATING PERSONS
 14 AND AGENCIES.—

15 “(A) IN GENERAL.—The Secretary may re-
 16 lease or disclose information covered by sub-
 17 section (a) or (b) to a person or Federal, State,
 18 local, or tribal agency working in cooperation
 19 with the Secretary in providing technical and fi-
 20 nancial assistance described in subsection (a) or
 21 collecting information from National Resources
 22 Inventory data gathering sites.

23 “(B) USE OF INFORMATION.—The person
 24 or Federal, State, local, or tribal agency that
 25 receives information described in subparagraph

1 (A) may release the information only for the
 2 purpose of assisting the Secretary—

3 “(i) in providing the requested tech-
 4 nical or financial assistance; or

5 “(ii) in collecting information from
 6 National Resources Inventory data gath-
 7 ering sites.

8 “(3) STATISTICAL AND AGGREGATE INFORMA-
 9 TION.—Information covered by subsection (b) may
 10 be disclosed to the public if the information has been
 11 transformed into a statistical or aggregate form that
 12 does not allow the identification of any individual
 13 owner, operator, or specific data gathering site.

14 “(d) VIOLATIONS; PENALTIES.—Section 1770(c)
 15 shall apply with respect to the release of information col-
 16 lected in any manner or for any purpose prohibited by this
 17 section.”.

18 **SEC. 1002. STUDY OF CONSERVATION ACCOUNTING SYS-**
 19 **TEM.**

20 (a) IN GENERAL.—The Secretary of Agriculture shall
 21 request the National Academy of Sciences to conduct a
 22 study of the development and implementation of an ac-
 23 counting system that can be used by the Secretary to es-
 24 tablish protocols to measure, on a county-by-county basis,
 25 efforts, gains, and losses with respect to program partici-

1 pation and effects on natural resources under conservation
2 and environmental programs carried out by the Secretary.

3 (b) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary shall prepare and
5 submit to the Committee on Agriculture of the House of
6 Representatives and the Committee on Agriculture, Nutri-
7 tion, and Forestry of the Senate a report that describes
8 the results of the study conducted under subsection (a),
9 including any appropriate recommendations.

10 **SEC. 1003. STUDY OF DISASTER PROGRAMS.**

11 (a) IN GENERAL.—The Secretary of Agriculture shall
12 conduct a study on the effectiveness of disaster programs
13 carried out by the Secretary, including the noninsured
14 crop assistance program established under section 196 of
15 the Agricultural Market Transition Act (7 U.S.C. 7333)
16 and excluding any program carried out under the Federal
17 Crop Insurance Act (7 U.S.C. 1501 et seq.).

18 (b) REPORT.—Not later than 60 days after the date
19 of enactment of this Act, the Secretary shall submit to
20 the Committee on Agriculture of the House of Representa-
21 tives and the Committee on Agriculture, Nutrition, and
22 Forestry of the Senate a report that describes the results
23 of the study conducted under subsection (a), including any
24 recommendations for improving the timeliness and effec-

1 tiveness of the disaster programs described in subsection
 2 (a).

3 **SEC. 1004. TECHNICAL AMENDMENTS.**

4 (a) DELINEATION OF WETLANDS; EXEMPTIONS TO
 5 PROGRAM INELIGIBILITY.—

6 (1) REFERENCES TO PRODUCER.—Section
 7 322(e) of the Federal Agriculture Improvement and
 8 Reform Act of 1996 (Public Law 104–127; 110
 9 Stat. 991) is amended by inserting “each place it
 10 appears” before “and inserting”.

11 (2) GOOD FAITH EXEMPTION.—Section
 12 1222(h)(2) of the Food Security Act of 1985 (16
 13 U.S.C. 3822(h)(2)) is amended by striking “to ac-
 14 tively” and inserting “to be actively”.

15 (3) DETERMINATIONS.—Section 1222(j) of the
 16 Food Security Act of 1985 (16 U.S.C. 3822(j)) is
 17 amended by striking “National” and inserting “Nat-
 18 ural”.

19 (b) CONTINUOUS SIGNUP.—Section 1234(c)(2)(B) of
 20 the Food Security Act of 1985 (16 U.S.C. 3834(c)(2)(B))
 21 is amended by inserting “(including the use of continuous
 22 signup)” after “appropriate”.

23 (c) ENVIRONMENTAL EASEMENT PROGRAM.—Chap-
 24 ter 3 of subtitle D of title XII of the Food Security Act
 25 of 1985 (16 U.S.C. 3839 et seq.) is repealed.

1 (d) TEMPORARY ADMINISTRATION OF ENVIRON-
 2 MENTAL QUALITY INCENTIVES PROGRAM.—Section
 3 1240H of the Food Security Act of 1985 (16 U.S.C.
 4 3839aa–8) is repealed.

5 (e) WILDLIFE HABITAT INCENTIVE PROGRAM.—Sec-
 6 tion 387 of the Federal Agriculture Improvement and Re-
 7 form Act of 1996 (16 U.S.C. 3836a) is amended in the
 8 section heading by striking “**INCENTIVES**” and inserting
 9 “**INCENTIVE**”.

10 **TITLE XI—EFFECT OF** 11 **AMENDMENTS**

12 **SEC. 1101. EFFECT OF AMENDMENTS.**

13 (a) IN GENERAL.—Except as otherwise specifically
 14 provided in this Act and notwithstanding any other provi-
 15 sion of law, this Act and the amendments made by this
 16 Act shall not affect the authority of the Secretary of Agri-
 17 culture to carry out a conservation program for any of
 18 the 1996 through 2002 fiscal or calendar years under a
 19 provision of law in effect immediately before the date of
 20 enactment of this Act.

21 (b) LIABILITY.—A provision of this Act or an amend-
 22 ment made by this Act shall not affect the liability of any
 23 person under any provision of law as in effect immediately
 24 before the date of enactment of this Act.

