

107TH CONGRESS
1ST SESSION

S. 785

To amend the Food Security Act of 1985 to require the Secretary of Agriculture to establish a carbon sequestration program to permit owners and operators of land to enroll the land in the program to increase the sequestration of carbon, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2001

Mr. BROWNBACK (for himself, Mr. MURKOWSKI, and Mr. JOHNSON) 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 require the Secretary of Agriculture to establish a carbon sequestration program to permit owners and operators of land to enroll the land in the program to increase the sequestration of carbon, 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 “Carbon Conservation
5 Incentive Act”.

1 **SEC. 2. ESTABLISHMENT.**

2 Subtitle D of title XII of the Food Security Act of
3 1985 (16 U.S.C. 3830 et seq.) is amended by inserting
4 after chapter 1 the following:

5 **“CHAPTER 2—CARBON SEQUESTRATION**
6 **PROGRAM**

7 **“SEC. 1238. CARBON SEQUESTRATION PROGRAM.**

8 “(a) IN GENERAL.—Effective beginning with the
9 2002 calendar year, the Secretary, acting through the
10 Chief of the Natural Resources Conservation Service, shall
11 establish a carbon sequestration program to permit owners
12 and operators of land located in the United States to en-
13 roll the land in the program to increase the sequestration
14 of carbon.

15 “(b) ELIGIBLE LAND.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), the Secretary may include in the program
18 established under this chapter any land, as deter-
19 mined by the Secretary.

20 “(2) CONSERVATION RESERVE LAND AND WET-
21 LANDS RESERVE LAND.—The Secretary may include
22 in the carbon sequestration program land that is en-
23 rolled in the conservation reserve program or the
24 wetlands reserve program established under sub-
25 chapters B and C, respectively, of chapter 1, if the
26 owner or operator of the land has not received any

1 payments under the program for the implementation
 2 of carbon sequestration measures on the land.

3 “(c) MAXIMUM ENROLLMENT.—The Secretary may
 4 maintain up to 20,000,000 acres of land in the United
 5 States in the carbon sequestration program at any 1 time
 6 during a calendar year.

7 “(d) DURATION OF CONTRACT.—

8 “(1) IN GENERAL.—For the purpose of car-
 9 rying out this chapter, the Secretary shall enter into
 10 contracts of not less than 10 years.

11 “(2) CERTAIN LAND.—In the case of land de-
 12 voted to hardwood trees, shelterbelts, windbreaks, or
 13 wildlife corridors under a contract entered into
 14 under this chapter, the owner or operator of the
 15 land may, within the limitations prescribed under
 16 this section, specify the duration of the contract.

17 **“SEC. 1238A. CARBON SEQUESTRATION PRACTICES.**

18 “(a) ADVISORY PANEL.—

19 “(1) ESTABLISHMENT.—The Secretary shall es-
 20 tablish an advisory panel to assist the Secretary in
 21 carrying out this chapter.

22 “(2) COMPOSITION.—The advisory panel shall
 23 consist of—

24 “(A) the Chief of the Forest Service;

25 “(B) the Secretary of State;

1 “(C) the Secretary of Energy; and

2 “(D) representatives of nongovernmental
3 organizations who have an expertise and experi-
4 ence in carbon sequestration practices, ap-
5 pointed by the Secretary.

6 “(b) CRITERIA FOR EVALUATING CARBON SEQUES-
7 TRATION PRACTICES.—

8 “(1) IN GENERAL.—The advisory panel shall
9 develop, and propose to the Secretary, criteria for
10 determining the acceptability of, and evaluating,
11 practices by owners and operators that will increase
12 the sequestration of carbon for the purposes of de-
13 termining the acceptability of contract offers made
14 by the owners and operators.

15 “(2) CONTENT.—The criteria shall address—

16 “(A) forest preservation and restoration
17 and afforestation;

18 “(B) biodiversity enhancement;

19 “(C) the use of acreage to produce high-
20 storage crops;

21 “(D) soil erosion management;

22 “(E) soil fertility restoration;

23 “(F) wetland restoration;

24 “(G) no-till farming practices;

25 “(H) conservation buffers;

1 “(I) improved cropping systems with win-
2 ter cover crops; and

3 “(J) any other conservation practices that
4 the Secretary determines to be appropriate for
5 increasing carbon sequestration.

6 “(3) REGULATIONS.—The Secretary, acting
7 through the Chief of the Natural Resources Con-
8 servation Service and the Chief of the Forest Serv-
9 ice, by regulation, shall establish criteria described
10 in paragraphs (1) and (2).

11 “(c) ESTIMATES OF CARBON SEQUESTRATION
12 RATES.—

13 “(1) IN GENERAL.—The advisory panel shall
14 develop, and propose to the Secretary, estimates of
15 the rates of carbon sequestration for various plants,
16 agricultural commodities, and agricultural practices
17 for the purposes of determining the acceptability of
18 contract offers made by owners and operators.

19 “(2) BASIS.—In developing the estimates, the
20 advisory panel shall—

21 “(A) consult with representatives of the
22 Consortium for Agricultural Soils Mitigation of
23 Greenhouse Gases; and

24 “(B) use information reported to the Sec-
25 retary of Energy from projects carried out

1 under the voluntary reporting program of the
2 Energy Information Administration under sec-
3 tion 1605 of the Energy Policy Act of 1992 (42
4 U.S.C. 13385).

5 “(d) ACCEPTABILITY OF CARBON SEQUESTRATION
6 PRACTICES.—

7 “(1) IN GENERAL.—As part of a contract offer
8 accepted under this chapter, the owner or operator
9 shall agree to carry out on land enrolled in the pro-
10 gram established under this chapter carbon seques-
11 tration practices proposed by the owner or operator
12 that (as determined by the Secretary)—

13 “(A) provide for additional sequestration
14 beyond that which would be provided in the ab-
15 sence of enrollment of the land in the program;
16 and

17 “(B) contribute to a positive reduction of
18 greenhouse gases in the atmosphere through se-
19 questration over at least a 10-year period.

20 “(2) MAXIMUM SEQUESTRATION BENEFITS.—In
21 determining the acceptability of contract offers, the
22 Secretary shall take into consideration the extent to
23 which enrollment of the land that is the subject of
24 the contract offer would provide the maximum se-

1 questration benefits under the criteria developed
2 under subsection (b).

3 “(e) COMPLIANCE WITH CARBON SEQUESTRATION
4 CONTRACTS.—

5 “(1) IN GENERAL.—As part of a contract offer
6 accepted under this chapter, an owner or operator of
7 land shall permit the Secretary to verify that the
8 owner or operator is implementing practices that se-
9 quester carbon in accordance with the contract, in-
10 cluding an actual verification of the practices at
11 least once every 5 years and such random inspec-
12 tions as are necessary.

13 “(2) FRAUD OR FALSE STATEMENTS.—Section
14 1001 of title 18, United States Code, shall apply to
15 a statement, representation, writing, or document
16 provided by an owner or operator under this sub-
17 section.

18 “(3) CONFIDENTIALITY.—Information provided
19 by an owner or operator under this subsection shall
20 be considered to be confidential information for the
21 purposes of section 552(b)(4) of title 5, United
22 States Code.

23 “(f) REPORTING.—

24 “(1) ADVISORY PANEL.—The advisory panel es-
25 tablished under subsection (a) shall periodically re-

1 port to the Administrator of the Energy Information
2 Administration on—

3 “(A) sequestration improvements made as
4 a result of this chapter; and

5 “(B) sequestration practices carried out
6 under this chapter.

7 “(2) SECRETARY.—The Secretary, in consulta-
8 tion with the Administrator of the Energy Informa-
9 tion Administration, shall—

10 “(A) develop forms to monitor sequestra-
11 tion improvements made as a result of the pro-
12 gram established this chapter and distribute the
13 forms to owners and operators of land enrolled
14 in the program; and

15 “(B) at least once every 5 years, report to
16 Congress and the public on the program,
17 including—

18 “(i) sequestration improvements made
19 as a result of the program;

20 “(ii) sequestration practices on land
21 enrolled in the program; and

22 “(iii) compliance with contracts en-
23 tered into under this chapter.

24 “(g) EDUCATIONAL OUTREACH.—In consultation
25 with the Consortium for Agricultural Soils Mitigation of

1 Greenhouse Gases, the Secretary, acting through the Ex-
 2 tension Service, shall conduct an educational outreach pro-
 3 gram to collect and disseminate to owners and operators
 4 of land research-based information on agricultural prac-
 5 tices that will increase the sequestration of carbon, while
 6 preserving the social and economic well-being of the own-
 7 ers and operators.

8 **“SEC. 1238B. DUTIES OF OWNERS AND OPERATORS.**

9 “(a) IN GENERAL.—Under the terms of a contract
 10 entered into under this chapter, during the term of the
 11 contract, an owner or operator of a farm or ranch shall
 12 agree—

13 “(1) to implement a plan approved by the Sec-
 14 retary for carrying out on land subject to the con-
 15 tract practices that will increase the sequestration of
 16 carbon, substantially in accordance with a schedule,
 17 covering a period of not less than 10 years, that is
 18 outlined in the plan;

19 “(2) to place land subject to the contract in the
 20 carbon sequestration program established under this
 21 chapter;

22 “(3) in addition to the remedies provided under
 23 section 1238F(d), on the violation of a term or con-
 24 dition of the contract at any time at which the
 25 owner or operator has control of the land—

1 “(A) to forfeit all rights to receive rental
2 payments and cost-sharing payments under the
3 contract and to refund to the Secretary any
4 rental payments and cost-sharing payments re-
5 ceived by the owner or operator under the con-
6 tract, and interest on the payments as deter-
7 mined by the Secretary, if the Secretary deter-
8 mines that the violation is of such nature as
9 to warrant termination of the contract; or

10 “(B) to refund to the Secretary, or accept
11 adjustments to, the rental payments and cost-
12 sharing payments provided to the owner or op-
13 erator, as the Secretary considers appropriate,
14 if the Secretary determines that the violation
15 does not warrant termination of the contract;

16 “(4) on the transfer of the right and interest of
17 the owner or operator in land subject to the
18 contract—

19 “(A)(i) to forfeit all rights to rental pay-
20 ments and cost-sharing payments under the
21 contract; and

22 “(ii) to refund to the United States all
23 rental payments and cost-sharing payments re-
24 ceived by the owner or operator, or accept such
25 payment adjustments or make such refunds as

1 the Secretary considers appropriate and con-
2 sistent with the objectives of this chapter; un-
3 less

4 “(B)(i) the transferee of the land agrees
5 with the Secretary to assume all obligations of
6 the contract;

7 “(ii) the land is purchased by or for the
8 United States Fish and Wildlife Service; or

9 “(iii) the transferee and the Secretary
10 agree to modifications to the contract that are
11 consistent with the objectives of the program,
12 as determined by the Secretary;

13 “(5) not to adopt any practice specified by the
14 Secretary in the contract as a practice that would
15 tend to defeat the purposes of this chapter; and

16 “(6) to comply with such additional provisions
17 as the Secretary determines are desirable and are in-
18 cluded in the contract to carry out this chapter or
19 to facilitate the practical administration of this
20 chapter.

21 “(b) PLAN.—The plan referred to in subsection
22 (a)(1)—

23 “(1) shall specify the carbon sequestration prac-
24 tices to be carried out by the owner or operator dur-
25 ing the term of the contract; and

1 “(2) may provide for the permanent retirement
2 of any existing cropland base and allotment history
3 for the land.

4 “(c) FORECLOSURE.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of law, an owner or operator that is a
7 party to a contract entered into under this chapter
8 may not be required to make repayments to the Sec-
9 retary of amounts received under the contract if—

10 “(A) the land that is subject to the con-
11 tract has been foreclosed on; and

12 “(B) the Secretary determines that for-
13 giving the repayments is appropriate in order to
14 provide fair and equitable treatment.

15 “(2) RESUMPTION OF CONTROL.—

16 “(A) IN GENERAL.—This subsection shall
17 not void the responsibilities of such an owner or
18 operator under the contract if the owner or op-
19 erator resumes control over the land that is
20 subject to the contract within the period speci-
21 fied in the contract.

22 “(B) CONTRACT APPLICABILITY.—On the
23 resumption of the control over the land by the
24 owner or operator, the provisions of the con-

1 tract in effect on the date of the foreclosure
2 shall apply.

3 **“SEC. 1238C. DUTIES OF THE SECRETARY.**

4 “In return for a contract entered into by an owner
5 or operator under section 1238B, the Secretary shall—

6 “(1) share the cost of carrying out on the land
7 carbon sequestration practices specified in the con-
8 tract for which the Secretary determines that cost
9 sharing is appropriate and in the public interest;

10 “(2) for a period of years not in excess of the
11 term of the contract, pay an annual rental payment
12 in an amount necessary to compensate for—

13 “(A) the use of carbon sequestration prac-
14 tices on the land; and

15 “(B) the retirement of any cropland base
16 and allotment history that the owner or oper-
17 ator agrees to retire permanently; and

18 “(3) provide conservation technical assistance
19 to assist the owner or operator in carrying out the
20 contract.

21 **“SEC. 1238D. PAYMENTS.**

22 “(a) TIME OF PAYMENT.—The Secretary shall pro-
23 vide payment for obligations incurred by the Secretary
24 under a contract entered into under this chapter—

1 “(1) with respect to any cost-sharing payment
 2 obligation incurred by the Secretary, as soon as
 3 practicable after the obligation is incurred; and

4 “(2) with respect to any annual rental payment
 5 obligation incurred by the Secretary—

6 “(A) as soon as practicable after October
 7 1 of each calendar year; or

8 “(B) at the option of the Secretary, at any
 9 time before that date during the year in which
 10 the obligation is incurred.

11 “(b) COST-SHARING PAYMENTS.—

12 “(1) IN GENERAL.—In making cost-sharing
 13 payments to an owner or operator under a contract
 14 entered into under this chapter, the Secretary shall
 15 pay not more than 50 percent of the cost of carrying
 16 out carbon sequestration practices required under
 17 the contract for which the Secretary determines that
 18 cost-sharing is appropriate and in the public inter-
 19 est.

20 “(2) MAXIMUM AMOUNT.—The Secretary shall
 21 not make any payment under this chapter to the ex-
 22 tent that the total amount of cost-sharing payments
 23 provided to an owner or operator for carbon seques-
 24 tration practices from all sources would exceed 100

1 percent of the total cost of carrying out the prac-
2 tices.

3 “(3) OTHER FEDERAL ASSISTANCE.—An owner
4 or operator shall not be eligible to receive or retain
5 cost-share assistance for land under this subsection
6 if the owner or operator receives any other Federal
7 cost-share assistance under this Act with respect to
8 the land under any other provision of law.

9 “(c) RENTAL PAYMENTS.—

10 “(1) IN GENERAL.—In determining the amount
11 of annual rental payments to be paid to owners and
12 operators for carrying out carbon sequestration
13 practices, the Secretary may consider, among other
14 factors, the amount necessary to encourage owners
15 or operators of land to participate in the program
16 established by this chapter.

17 “(2) BIDS OR OTHER MEANS.—The amounts
18 payable to owners or operators in the form of rental
19 payments under contracts entered into under this
20 chapter may be determined through—

21 “(A) the submission of bids for such con-
22 tracts by owners and operators in such manner
23 as the Secretary may prescribe; or

24 “(B) such other means as the Secretary
25 determines are appropriate.

1 “(3) FACTORS.—In determining the accept-
2 ability of contract offers, the Secretary—

3 “(A) shall take into consideration the ex-
4 tent to which enrollment of the land that is the
5 subject of the contract offer would increase the
6 sequestration of carbon in accordance with sec-
7 tion 1238A;

8 “(B) may take into consideration the ex-
9 tent to which enrollment of the land that is the
10 subject of the contract offer would improve soil
11 resources, water quality, or wildlife habitat, or
12 provide other environmental benefits; and

13 “(C) may establish different criteria in
14 various States and regions of the United States
15 based on the extent to which the sequestration
16 of carbon, water quality, or wildlife habitat may
17 be improved or erosion may be abated.

18 “(d) FORM OF PAYMENT.—

19 “(1) IN GENERAL.—Except as otherwise pro-
20 vided in this section, payments under this chapter—

21 “(A) shall be made in cash or in the form
22 of in-kind commodities in such amount and on
23 such time schedule as is agreed on by the owner
24 or operator and specified in the contract; and

1 “(B) may be made in advance of deter-
2 mination of performance.

3 “(2) IN-KIND COMMODITIES.—If the payment is
4 made with in-kind commodities, the payment shall
5 be made by the Commodity Credit Corporation—

6 “(A) by delivery of the commodity involved
7 to the owner or operator at a warehouse or
8 other similar facility located in the county in
9 which the land subject to the contract is located
10 or at such other location as is agreed to by the
11 Secretary and the owner or operator;

12 “(B) by the transfer of negotiable ware-
13 house receipts; or

14 “(C) by such other method, including the
15 sale of the commodity in commercial markets,
16 as is determined by the Secretary to be appro-
17 priate to enable the owner or operator to receive
18 efficient and expeditious possession of the com-
19 modity.

20 “(3) SUBSTITUTION IN CASH.—If stocks of a
21 commodity acquired by the Commodity Credit Cor-
22 poration are not readily available to make full pay-
23 ment in kind to the owner or operator, the Secretary
24 may substitute full or partial payment in cash for
25 payment in kind.

1 “(4) STATE CARBON SEQUESTRATION PRO-
2 GRAM.—Payments to an owner or operator under a
3 special carbon sequestration program described in
4 subsection (f)(4) shall be in the form of cash only.

5 “(e) PAYMENT TO OTHERS.—If an owner or operator
6 that is entitled to a payment under a contract entered into
7 under this chapter dies, becomes incompetent, is otherwise
8 unable to receive a payment under this chapter, or is suc-
9 ceeded by another person that renders or completes the
10 required performance, the Secretary shall make the pay-
11 ment, in accordance with regulations promulgated by the
12 Secretary and without regard to any other provision of
13 law, in such manner as the Secretary determines is fair
14 and reasonable in light of all the circumstances.

15 “(f) PAYMENT LIMITATIONS.—

16 “(1) TOTAL AMOUNT.—The total amount of
17 rental payments, including rental payments made in
18 the form of in-kind commodities, made to a person
19 under this chapter for any fiscal year may not ex-
20 ceed \$50,000.

21 “(2) AMOUNT PER ACRE.—The amount of rent-
22 al payments made to a person under this chapter for
23 any fiscal year may not exceed \$20 per acre.

24 “(3) REGULATIONS.—

1 “(A) IN GENERAL.—The Secretary shall
2 issue regulations—

3 “(i) defining the term ‘person’ as used
4 in this subsection; and

5 “(ii) prescribing such rules as the Sec-
6 retary determines are necessary to ensure
7 a fair and reasonable application of the
8 limitation contained in this subsection.

9 “(B) CORPORATIONS.—The regulations
10 issued by the Secretary on December 18, 1970,
11 under section 101 of the Agricultural Act of
12 1970 (7 U.S.C. 1307) shall be used to deter-
13 mine whether corporations and their stock-
14 holders may be considered to be separate per-
15 sons under this subsection.

16 “(4) OTHER PAYMENTS.—Rental payments re-
17 ceived by an owner or operator shall be in addition
18 to, and shall not affect, the total amount of pay-
19 ments that the owner or operator is otherwise eligi-
20 ble to receive under—

21 “(A) the Federal Agriculture Improvement
22 and Reform Act of 1996 (Public Law 104–
23 127), including the Agricultural Market Transi-
24 tion Act (7 U.S.C. 7201 et seq.);

1 “(B) the Food, Agriculture, Conservation,
2 and Trade Act of 1990 (Public Law 101–624);
3 or

4 “(C) the Agricultural Act of 1949 (7
5 U.S.C. 1421 et seq.).

6 “(5) STATE CARBON SEQUESTRATION PRO-
7 GRAM.—

8 “(A) IN GENERAL.—This subsection and
9 section 1305(f) of the Agricultural Reconcili-
10 ation Act of 1987 (7 U.S.C. 1308 note; Public
11 Law 100–203) shall not be applicable to pay-
12 ments received by a State, political subdivision,
13 or agency of a State or political subdivision in
14 connection with agreements entered into under
15 a special carbon sequestration program carried
16 out by that entity that has been approved by
17 the Secretary.

18 “(B) PAYMENTS TO STATES AND POLIT-
19 ICAL SUBDIVISIONS.—The Secretary may enter
20 into such agreements for payments to States,
21 political subdivisions, or agencies of States or
22 political subdivisions as the Secretary deter-
23 mines will advance the purposes of this chapter.

24 “(g) EXEMPTION FROM AUTOMATIC SEQUESTER.—
25 Notwithstanding any other provision of law, no order

1 issued for any fiscal year under section 252 of the Bal-
 2 anced Budget and Emergency Deficit Control Act of 1985
 3 (2 U.S.C. 902) shall affect any payment under this chap-
 4 ter.

5 “(h) OTHER ASSISTANCE.—In addition to any pay-
 6 ment under this chapter, an owner or operator may receive
 7 cost-share assistance, rental payments, or tax benefits
 8 from a State or political subdivision of a State for enroll-
 9 ing land in the carbon sequestration program.

10 “(i) TREATMENT OF PAYMENTS.—Payments received
 11 by an owner or operator under this chapter shall be con-
 12 sidered rentals from real estate for the purposes of section
 13 1402(a)(1) of the Internal Revenue Code of 1986.

14 **“SEC. 1238E. CHANGES IN OWNERSHIP; MODIFICATION OR**
 15 **TERMINATION OF CONTRACTS.**

16 “(a) CHANGES IN OWNERSHIP.—

17 “(1) IN GENERAL.—Subject to paragraphs (2)
 18 and (3), no contract shall be entered into under this
 19 chapter concerning land with respect to which the
 20 ownership has changed in the 1-year period pre-
 21 ceding the first year of the contract period unless—

22 “(A) the new ownership was acquired by
 23 will or succession as a result of the death of the
 24 previous owner;

1 “(B) the new ownership was acquired be-
2 fore April 1, 2001;

3 “(C) the Secretary determines that the
4 land was acquired under circumstances that
5 give adequate assurances that the land was not
6 acquired for the purpose of enrolling the land in
7 the carbon sequestration program; or

8 “(D) the ownership change occurred be-
9 cause of foreclosure on the land and the owner
10 of the land immediately before the foreclosure
11 exercises a right of redemption from the mort-
12 gage holder in accordance with State law.

13 “(2) LIMITATIONS.—Paragraph (1) shall not—

14 “(A) prohibit the continuation of an agree-
15 ment by a new owner after an agreement has
16 been entered into under this chapter; or

17 “(B) require a person to own the land as
18 a condition of eligibility for entering into the
19 contract if the person—

20 “(i) has operated the land to be cov-
21 ered by a contract under this section for at
22 least 1 year preceding the later of—

23 “(I) the date of the contract; or

24 “(II) April 1, 2001; and

1 “(ii) controls the land for the contract
2 period.

3 “(3) OPTIONS FOR NEW OWNER OR OPER-
4 ATOR.—If, during the term of a contract entered
5 into under this chapter, an owner or operator of
6 land subject to the contract sells or otherwise trans-
7 fers the ownership or right of occupancy of the land,
8 the new owner or operator of the land may—

9 “(A) continue the contract under the same
10 terms or conditions;

11 “(B) enter into a new contract in accord-
12 ance with this chapter; or

13 “(C) elect not to participate in the pro-
14 gram established by this chapter.

15 “(b) MODIFICATION OF CONTRACTS.—The Secretary
16 may modify a contract entered into with an owner or oper-
17 ator under this chapter if—

18 “(1) the owner or operator agrees to the modi-
19 fication; and

20 “(2) the Secretary determines that the modi-
21 fication is desirable—

22 “(A) to carry out this chapter;

23 “(B) to facilitate the practical administra-
24 tion of this chapter; or

1 “(C) to achieve such other goals as the
2 Secretary determines are appropriate, con-
3 sistent with this chapter.

4 “(c) TERMINATION OF CONTRACTS.—

5 “(1) IN GENERAL.—The Secretary may termi-
6 nate a contract entered into with an owner or oper-
7 ator under this chapter if—

8 “(A) the owner or operator agrees to the
9 termination; and

10 “(B) the Secretary determines that the ter-
11 mination would be in the public interest.

12 “(2) CONGRESSIONAL NOTICE.—Not later than
13 90 days before taking any action to terminate under
14 paragraph (1) a contract entered into under this
15 chapter, the Secretary shall provide to the Com-
16 mittee on Agriculture of the House of Representa-
17 tives and the Committee on Agriculture, Nutrition,
18 and Forestry of the Senate written notice of the ac-
19 tion.

20 **“SEC. 1238F. BASE HISTORY.**

21 “(a) IN GENERAL.—A reduction, based on a ratio be-
22 tween the total cropland acreage on the farm and the acre-
23 age placed in the carbon sequestration program authorized
24 by this chapter, as determined by the Secretary, shall be
25 made during the period of the contract, in the aggregate,

1 in crop bases, quotas, and allotments on the farm with
2 respect to crops for which there is a production adjust-
3 ment program.

4 “(b) PRESERVATION OF BASE AND ALLOTMENT HIS-
5 TORY.—Notwithstanding sections 1211 and 1221, the
6 Secretary, by regulation, may provide for preservation of
7 cropland base and allotment history applicable to acreage
8 on which carbon sequestration practices are carried out
9 under this section, for the purpose of any Federal program
10 under which the history is used as a basis for participation
11 in the program or for an allotment or other limitation in
12 the program, unless the owner and operator agree under
13 the contract to retire permanently that cropland base and
14 allotment history.

15 “(c) EXTENSION OF BASE AND ALLOTMENT HIS-
16 TORY.—

17 “(1) IN GENERAL.—The Secretary shall offer
18 the owner or operator of a farm or ranch an oppor-
19 tunity to extend the preservation of cropland base
20 and allotment history under subsection (b) for such
21 time as the Secretary determines is appropriate after
22 the expiration date of a contract under this chapter
23 at the request of the owner or operator.

24 “(2) CONDITIONS.—In return for the extension,
25 the owner or operator shall agree to continue to

1 abide by the terms and conditions of the original
 2 contract, except that the owner or operator shall re-
 3 ceive no additional cost share, annual rental, or
 4 bonus payment.

5 “(d) VIOLATION OF CONTRACTS.—In addition to any
 6 other remedy prescribed by law, the Secretary may reduce
 7 or terminate the quantity of cropland base and allotment
 8 history preserved under this section for acreage with re-
 9 spect to which there has occurred a violation of a term
 10 or condition of a contract entered into under this chapter.

11 **“SEC. 1238G. CARBON MONITORING PILOT PROGRAMS.**

12 “(a) ESTABLISHMENT.—

13 “(1) IN GENERAL.—The Secretary, in coopera-
 14 tion with the Consortium for Agricultural Soils Miti-
 15 gation of Greenhouse Gases, shall carry out 4 or
 16 more pilot programs to develop, demonstrate, and
 17 verify the best management practices for carbon
 18 monitoring on agricultural land.

19 “(2) CRITERIA.—The Secretary shall select
 20 pilot programs based on—

21 “(A) the merit of the proposed program;
 22 and

23 “(B) the diversity of soil sequestration
 24 types available at the site of the proposed pro-
 25 gram.

1 “(b) REQUIREMENTS.—Pilot programs carried out
2 under this section shall—

3 “(1) involve agricultural producers in the devel-
4 opment and verification of best management prac-
5 tices for carbon monitoring on agricultural land;

6 “(2) involve research and testing of the best
7 management practices in various soil types and cli-
8 matic zones;

9 “(3) analyze the effects of the adoption of the
10 best management practices on watershed levels; and

11 “(4) use the results of the research conducted
12 under the program to—

13 “(A) encourage agricultural producers to
14 adopt the best management practices;

15 “(B) analyze the economic impact of the
16 best management practices; and

17 “(C) develop the best management prac-
18 tices on a regional basis for watersheds and

19 States not participating in the pilot programs.

20 **“SEC. 1238H. FUNDING.**

21 “The Secretary shall use to carry out this chapter
22 (including to pay administrative costs incurred by the Nat-
23 ural Resources Conservation Service in carrying out this
24 chapter)—

1 “(1) funds of the Commodity Credit Corpora-
 2 tion made available under section 1241(a)(3); and

3 “(2) at the option of, and transfer by, another
 4 Federal agency, funds of the agency that are avail-
 5 able to the agency for climate change initiatives or
 6 greenhouse gas emission reductions.”.

7 **SEC. 3. FUNDING.**

8 Section 1241(a)(3) of the Food Security Act of 1985
 9 (16 U.S.C. 3841(a)(3)) is amended by striking “chapter
 10 4” and inserting “chapters 2 and 4”.

11 **SEC. 4. REGULATIONS.**

12 (a) PROPOSED REGULATIONS.—Not later than 180
 13 days after the date of enactment of this Act, the Secretary
 14 of Agriculture shall publish in the Federal Register pro-
 15 posed regulations for carrying out this Act and the amend-
 16 ments made by this Act.

17 (b) FINAL REGULATIONS.—Not later than 60 days
 18 after the date of publication of the proposed regulations,
 19 the Secretary shall promulgate final regulations for car-
 20 rying out this Act and the amendments made by this Act.

21 **SEC. 5. EFFECTIVE DATES.**

22 (a) IN GENERAL.—Except as provided in subsection
 23 (b), this Act and the amendments made by this Act take
 24 effect on January 1, 2002.

1 (b) REGULATIONS.—Section 4 takes effect on the
2 date of enactment of this Act.

○