

107TH CONGRESS
1ST SESSION

S. 932

To amend the Food Security Act of 1985 to establish the conservation security program.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2001

Mr. HARKIN (for himself, Mr. SMITH of Oregon, Mr. JOHNSON, Mr. DASCHLE, Mr. LEAHY, Mr. SCHUMER, Mr. DORGAN, Mr. DAYTON, Mrs. CLINTON, Ms. STABENOW, Mr. KENNEDY, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mr. WELLSTONE, Mr. DURBIN, and Mrs. BOXER) 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 establish the conservation security program.

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 Security
5 Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) in addition to producing food and fiber, ag-
2 ricultural producers can contribute to the public
3 good by providing improved soil productivity, clean
4 air and water, fish and wildlife habitat, landscape
5 and recreational amenities, and other natural re-
6 sources and environmental benefits;

7 (2) agricultural producers in the United States
8 have a long history of embracing environmentally
9 friendly conservation practices and desire to con-
10 tinue those practices and engage in new and addi-
11 tional conservation practices;

12 (3) agricultural producers that engage in con-
13 servation practices—

14 (A) may not receive economic rewards for
15 implementing conservation practices; and

16 (B) should be encouraged to engage in
17 good stewardship, and should be rewarded for
18 doing so;

19 (4) despite significant progress in recent years,
20 significant environmental challenges on agricultural
21 land remain;

22 (5) since the 1930's, when agricultural con-
23 servation became a national priority, Federal re-
24 sources for conservation assistance have declined
25 over 50 percent, when adjusted for inflation;

1 (6) existing conservation programs do not pro-
2 vide opportunities for all interested agricultural pro-
3 ducers to participate;

4 (7) a voluntary, incentive-based conservation
5 program open to all agricultural producers that
6 qualify and desire to participate would—

7 (A) encourage greater improvement of nat-
8 ural resources and the environment;

9 (B) address the economic implications of
10 conservation practices in a manner consistent
11 with international obligations of the United
12 States;

13 (C) enable United States farmers and
14 ranchers to produce food for a growing world
15 population; and

16 (D) encourage conservation practices that
17 provide a public benefit while not infringing on
18 the freedom of an agricultural producer to man-
19 age agricultural operations as the agricultural
20 producer chooses;

21 (8) total farm conservation planning can help
22 producers increase profitability, enhance resource
23 protection, and improve quality of life;

(10) a conservation program described in paragraph (7) would help achieve a better balance between Federal payments supporting conservation on land used for agricultural production and Federal payments for the purpose of retiring agricultural land from production.

(a) IN GENERAL.—Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

16 **“SEC. 1240P. DEFINITIONS.**

18 “(1) CONSERVATION PRACTICE.—The term
19 ‘conservation practice’ means a land-based farming
20 technique that—

23 “(B) promotes 1 or more of the purposes
24 described in section 1240Q(a).

1 “(2) CONSERVATION SECURITY CONTRACT.—

2 The term ‘conservation security contract’ means a
3 contract described in section 1240Q(e).

4 “(3) CONSERVATION SECURITY PLAN.—The
5 term ‘conservation security plan’ means a plan de-
6 scribed in section 1240Q(c).

7 “(4) CONSERVATION SECURITY PROGRAM.—The
8 term ‘conservation security program’ means the pro-
9 gram established under section 1240Q(a).

10 “(5) NUTRIENT MANAGEMENT.—The term ‘nu-
11 trient management’ means management of the quan-
12 tity, source, placement, form, and timing of the land
13 application of nutrients on land enrolled in the con-
14 servation security program and other additions to
15 soil—

16 “(A) to achieve or maintain adequate soil
17 fertility for agricultural production; and

18 “(B) to minimize the potential for loss of
19 environmental quality, including soil, water, fish
20 and wildlife habitat, and air quality impair-
21 ment.

22 “(6) RESOURCE OF CONCERN.—The term ‘re-
23 source of concern’ means a conservation priority of
24 the State and locality under section 1240Q(c)(3).

1 “(7) RESOURCE-CONSERVING CROP.—The term
2 ‘resource-conserving crop’ means—

3 “(A) a perennial grass;

4 “(B) a legume grown for use as forage,
5 seed for planting, or green manure;

6 “(C) a legume-grass mixture;

7 “(D) a small grain grown in combination
8 with a grass or legume, whether interseeded or
9 planted in succession; and

10 “(E) such other plantings, including trees
11 and annual grasses, as the Secretary considers
12 appropriate for a particular area.

13 “(8) RESOURCE-CONSERVING CROP ROTA-
14 TION.—The term ‘resource-conserving crop rotation’
15 means a crop rotation that—

16 “(A) includes at least 1 resource-con-
17 serving crop;

18 “(B) reduces erosion;

19 “(C) improves soil fertility and tilth; and

20 “(D) interrupts pest cycles.

21 “(9) RESOURCE MANAGEMENT SYSTEM.—The
22 term ‘resource management system’ means a system
23 of conservation practices and management relating
24 to land or water use that is designed to prevent re-
25 source degradation and permit sustained use of the

1 land and water, as defined in the Natural Resource
2 Conservation Service technical guidance handbooks.

3 **“SEC. 1240Q. CONSERVATION SECURITY PROGRAM.**

4 “(a) IN GENERAL.—The Secretary shall establish a
5 conservation security program to assist owners and opera-
6 tors of agricultural operations to promote, as is applicable
7 for each operation—

8 “(1) conservation of soil, water, energy, and
9 other related resources;

10 “(2) soil quality protection and improvement;

11 “(3) water quality protection and improvement;

12 “(4) air quality protection and improvement;

13 “(5) soil, plant, or animal health and well-
14 being;

15 “(6) diversity of flora and fauna;

16 “(7) on-farm conservation and regeneration of
17 biological resources, including plant and animal
18 germplasm;

19 “(8) wetland restoration, conservation, and en-
20 hancement;

21 “(9) wildlife habitat management, with special
22 emphasis on species identified by the Natural Herit-
23 age Program of the State;

24 “(10) reduction of greenhouse gas emissions
25 and enhancement of carbon sequestration;

1 “(11) systems that protect human health and
2 safety;

3 “(12) environmentally sound management of
4 invasive species; or

5 “(13) any similar conservation purpose (as de-
6 termined by the Secretary).

7 “(b) ELIGIBILITY.—

8 “(1) ELIGIBLE OWNERS AND OPERATORS.—To
9 be eligible to participate in the conservation security
10 program (other than to receive technical assistance
11 under subsection (h)(6) for the development of con-
12 servation security contracts), an owner or operator
13 shall—

14 “(A) develop and submit to the Secretary,
15 and obtain the approval of the Secretary of, a
16 conservation security plan that meets the re-
17 quirements of subsection (c)(1); and

18 “(B) enter into a conservation security
19 contract with the Secretary to carry out the
20 conservation security plan.

21 “(2) ELIGIBLE LAND.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (C)(iii), private agricultural land
24 (including cropland, rangeland, grassland, and
25 pasture land) that is entirely used as part of

the agricultural operation of an owner or operator on the date of enactment of this chapter shall be eligible for enrollment in the conservation security program.

“(B) FORESTED LAND.—Private forested land shall be eligible for enrollment in the conservation security program if the forested land is integrated into the agricultural operation, including land that is used for—

“(i) alleycropping;

“(ii) forest farming;

“(iii) forest buffers;

“(iv) windbreaks;

“(v) silvopasture systems; and

“(vi) such other uses as the Secretary may determine appropriate.

“(C) EXCLUSIONS.—

“(i) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter I shall not be eligible for enrollment in the conservation security program except for land enrolled in partial field conservation practice enrollment options.

1 “(ii) WETLANDS RESERVE PRO-
 2 GRAM.—Land enrolled in the wetlands pre-
 3 serve program established under sub-
 4 chapter C of chapter 1 of subtitle D shall
 5 not be eligible for enrollment in the con-
 6 servation security program.

7 “(iii) TOLERANCE LEVEL.—The Sec-
 8 retary shall promulgate regulations to en-
 9 sure that land shall not be eligible for en-
 10 rollment in the conservation security pro-
 11 gram if the land—

12 “(I) is initially used for the pro-
 13 duction of an agricultural commodity
 14 after the date of enactment of this
 15 chapter; and

16 “(II) cannot be used for the pro-
 17 duction of an agricultural commodity
 18 without resulting in the loss of soil at
 19 a level that exceeds the soil loss toler-
 20 ance level.

21 “(c) CONSERVATION SECURITY PLANS.—

22 “(1) IN GENERAL.—A conservation security
 23 plan shall—

1 “(A) identify the resources and designated
2 land to be conserved under the conservation se-
3 curity plan;

4 “(B) describe the tier of conservation prac-
5 tices, and the particular conservation practices
6 to be implemented, maintained, or improved, in
7 accordance with subsection (d) on the land cov-
8 ered by the conservation security contract for
9 the specified term;

10 “(C) contain a schedule for the implemen-
11 tation, maintenance, or improvement of the con-
12 servation practices described in the conservation
13 security plan during the term of the conserva-
14 tion security contract;

15 “(D) meet the requirements of the highly
16 erodible land and wetland conservation require-
17 ments of subtitles B and C; and

18 “(E) contain such other terms as the Sec-
19 retary determines to be appropriate.

20 “(2) COMPREHENSIVE PLANNING.—The Sec-
21 retary shall encourage owners and operators that
22 enter into conservation security contracts—

23 “(A) to undertake a comprehensive exam-
24 ination of the opportunities for conserving nat-
25 ural resources and improving the profitability,

1 environmental health, and quality of life in rela-
 2 tion to their entire agricultural operations;

3 “(B) to develop a long-term strategy for
 4 implementing, monitoring, and evaluating con-
 5 servation practices and environmental results in
 6 the entire agricultural operation;

7 “(C) to participate in other Federal, State,
 8 local, or private conservation programs;

9 “(D) to maintain the agricultural integrity
 10 of the land; and

11 “(E) to adopt innovative conservation tech-
 12 nologies and management practices.

13 “(3) STATE AND LOCAL CONSERVATION PRIOR-
 14 ITIES.—To the maximum extent practicable and in
 15 a manner consistent with the conservation security
 16 program, each conservation security plan shall ad-
 17 dress the conservation priorities of the State and lo-
 18 cality in which the agricultural operation is located
 19 (as determined by the State conservationist in con-
 20 sultation with the State technical committee estab-
 21 lished under subtitle G and the local working groups
 22 of the State technical committee).

23 “(d) CONSERVATION PRACTICES.—

24 “(1) IN GENERAL.—

1 “(A) ESTABLISHMENT OF TIERS.—The
 2 Secretary shall establish 3 tiers of conservation
 3 practices that are eligible for payment under a
 4 conservation security contract.

5 “(B) ELIGIBLE CONSERVATION PRAC-
 6 TICES.—

7 “(i) IN GENERAL.—The Secretary
 8 shall make eligible for payment under a
 9 conservation security contract land man-
 10 agement, vegetative, and structural prac-
 11 tices that—

12 “(I) are necessary to achieve the
 13 objectives of the conservation security
 14 plan; and

15 “(II) primarily provide for and
 16 have as the primary purpose resource
 17 protection and environmental improve-
 18 ment.

19 “(ii) DETERMINATION.—

20 “(I) IN GENERAL.—In deter-
 21 mining the eligibility of a practice de-
 22 scribed in clause (i), the Secretary
 23 shall require the lowest cost alter-
 24 natives be used to fulfill the objectives
 25 of the conservation security plan.

1 “(II) LIMITATION.—Notwith-
 2 standing subclause (I), the adoption
 3 of innovative technologies shall, to the
 4 maximum extent practicable, not be
 5 limited.

6 “(2) SUSTAINABLE ECONOMIC USES.—With re-
 7 spect to land enrolled in the conservation security
 8 program, including all land use adjustment activities
 9 specified under Tier II, the Secretary shall permit
 10 economic uses of the land that—

11 “(A) maintain the agricultural nature of
 12 land;

13 “(B) achieve the natural resource and en-
 14 vironmental benefits of the plan; and

15 “(C) are approved as part of the conserva-
 16 tion security plan.

17 “(3) ON-FARM RESEARCH AND DEMONSTRA-
 18 TION.—With respect to land enrolled in the con-
 19 servation security program that will be maintained
 20 using a Tier II or Tier III conservation practice es-
 21 tablished under paragraph (5), the Secretary may
 22 approve a conservation security plan that includes
 23 on-farm research and demonstration activities, in-
 24 cluding innovative approaches to—

25 “(A) total farm planning;

1 “(B) total resource management;

2 “(C) integrated farming systems;

3 “(D) germplasm conservation and regen-
4 eration;

5 “(E) greenhouse gas reduction and carbon
6 sequestration;

7 “(F) agro-ecological restoration and wild-
8 life habitat restoration;

9 “(G) agro-forestry;

10 “(H) invasive species control;

11 “(I) energy conservation and management;

12 or

13 “(J) farm and environmental results moni-
14 toring and evaluation.

15 “(4) USE OF HANDBOOK AND GUIDES.—

16 “(A) IN GENERAL.—In determining eligible
17 conservation practices under the conservation
18 security program, the Secretary shall use the
19 National Handbook of Conservation Practices
20 and the field office technical guides of the Nat-
21 ural Resources Conservation Service.

22 “(B) CONSERVATION PRACTICE STAND-
23 ARDS.—To the maximum extent practicable, the
24 Secretary shall establish guidance standards for
25 implementation of eligible conservation prac-

1 tices that shall include measurable goals for en-
2 hancing and preventing degradation of re-
3 sources.

4 “(C) ADJUSTMENTS.—After providing no-
5 tice and an opportunity for public participation,
6 the Secretary shall make such adjustments to
7 the National Handbook of Conservation Prac-
8 tices as are necessary to carry out this chapter.

9 “(D) PILOT TESTING.—

10 “(i) IN GENERAL.—Under any of the
11 3 tiers of conservation practices established
12 under paragraph (5), the Secretary may
13 approve requests by an owner or operator
14 for pilot testing of new technologies and
15 innovative conservation practices and sys-
16 tems.

17 “(ii) INCORPORATION INTO STAND-
18 ARDS.—After evaluation by the Secretary
19 and provision of notice and an opportunity
20 for public participation, the Secretary may
21 incorporate new technologies and innova-
22 tive conservation practices and systems
23 into the standards for implementation of
24 conservation practices established under
25 paragraph (1)(C).

1 “(5) TIERS.—To carry out this subsection, the
 2 Secretary shall establish the following 3 tiers of con-
 3 servation practices:

4 “(A) TIER I.—

5 “(i) IN GENERAL.—A conservation se-
 6 curity plan for land enrolled in the con-
 7 servation security program that will be
 8 maintained using Tier I conservation prac-
 9 tices shall—

10 “(I) if applicable, address at least
 11 1 resource of concern to the particular
 12 agricultural operation;

13 “(II) apply to the total agricul-
 14 tural operation or to a particular unit
 15 of the agricultural operation;

16 “(III) cover both—

17 “(aa) conservation practices
 18 that are being implemented as of
 19 the date on which the conserva-
 20 tion security contract is entered
 21 into; and

22 “(bb) conservation practices
 23 that are newly implemented
 24 under the conservation security
 25 contract; and

1 “(IV) meet applicable standards
2 for implementation of conservation
3 practices established under paragraph
4 (4);

5 “(ii) CONSERVATION PRACTICES.—
6 Tier I conservation practices shall consist
7 of, as appropriate for the agricultural oper-
8 ation of an owner or operator, 1 or more
9 of the following basic conservation activi-
10 ties:

11 “(I) Soil conservation, quality,
12 and residue management.

13 “(II) Nutrient management.

14 “(III) Pest management.

15 “(IV) Invasive species manage-
16 ment.

17 “(V) Irrigation water conserva-
18 tion and water quality management.

19 “(VI) Grazing, pasture, and
20 rangeland management.

21 “(VII) Fish and wildlife habitat
22 management, with special emphasis
23 on species identified by the Natural
24 Heritage Program of the State or the
25 appropriate State agency.

1 “(VIII) Fish and wildlife protec-
2 tion and enhancement.

3 “(IX) Air quality management.

4 “(X) Energy conservation meas-
5 ures.

6 “(XI) Biological resource con-
7 servation and regeneration.

8 “(XII) Worker health and safety
9 protection measures.

10 “(XIII) Animal welfare manage-
11 ment.

12 “(XIV) Plant and animal
13 germplasm conservation, evaluation,
14 and development.

15 “(XV) Contour farming.

16 “(XVI) Strip cropping.

17 “(XVII) Cover cropping.

18 “(XVIII) Sediment dams.

19 “(XIX) Recordkeeping.

20 “(XX) Monitoring and evalua-
21 tion.

22 “(XXI) Any other conservation
23 practice that the Secretary determines
24 to be appropriate and comparable to

1 other conservation practices described
2 in this clause.

3 “(iii) TIER II PRACTICES.—A con-
4 servation security plan for land enrolled in
5 the conservation security program that will
6 be maintained using Tier I conservation
7 practices may include Tier II conservation
8 practices.

9 “(B) TIER II.—

10 “(i) IN GENERAL.—A conservation se-
11 curity plan for land enrolled in the con-
12 servation security program that will be
13 maintained using Tier II conservation
14 practices shall—

15 “(I) address at least 1 resource
16 of concern as specified in the con-
17 servation security plan covering the
18 total agricultural operation;

19 “(II) cover both—

20 “(aa) conservation practices
21 that are being implemented as of
22 the date on which the conserva-
23 tion security contract is entered
24 into; and

1 “(bb) conservation practices
 2 that are newly implemented
 3 under the conservation security
 4 contract; and

5 “(III) meet applicable resource
 6 management system criteria for the
 7 chosen resource of concern of the ag-
 8 ricultural operation;

9 “(ii) CONSERVATION PRACTICES.—
 10 Tier II conservation practices shall consist
 11 of, as appropriate for the agricultural oper-
 12 ation of an owner or operator, any of the
 13 Tier I conservation practices and 1 or
 14 more of the following land use adjustment
 15 or protection practices:

16 “(I) Resource-conserving crop ro-
 17 tations.

18 “(II) Controlled, rotational graz-
 19 ing.

20 “(III) Conversion of portions of
 21 cropland from a soil-depleting use to a
 22 soil-conserving use, including produc-
 23 tion of cover crops.

24 “(IV) Partial field conservation
 25 practices (including windbreaks, grass

1 waterways, shelter belts, filter strips,
2 riparian buffers, wetland buffers, con-
3 tour buffer strips, living snow fences,
4 crosswind trap strips, field borders,
5 grass terraces, wildlife corridors, and
6 critical area planting appropriate to
7 the agricultural operation).

8 “(V) Fish and wildlife habitat
9 protection and restoration.

10 “(VI) Native grassland and prai-
11 rie protection and restoration.

12 “(VII) Wetland protection and
13 restoration.

14 “(VIII) Agroforestry practices
15 and systems.

16 “(IX) Any other conservation
17 practice involving modification of the
18 use of land that the Secretary deter-
19 mines to be appropriate and com-
20 parable to other conservation practices
21 described in this clause.

22 “(C) TIER III.—

23 “(i) IN GENERAL.—A conservation se-
24 curity plan for land enrolled in the con-
25 servation security program that will be

maintained using Tier III conservation practices shall—

“(I) address all resources of concern in the total agricultural operation;

“(II) cover both—

“(aa) conservation practices that are being implemented as of the date on which the conservation security contract is entered into; and

“(bb) conservation practices that are newly implemented under the conservation security contract; and

“(III) meet applicable resource management system criteria;

“(ii) CONSERVATION PRACTICES.—Tier III conservation practices shall consist of, as appropriate for the agricultural operation of an owner or operator—

“(I) appropriate Tier I and Tier II conservation practices; and

“(II) development, implementation, and maintenance of a conserva-

1 tion security plan that, over the term
2 of the conservation security
3 contract—

4 “(aa) integrates a full com-
5 plement of conservation practices
6 to foster environmental enhance-
7 ment and the long-term sustain-
8 ability of the natural resource
9 base of an agricultural operation;
10 and

11 “(bb) improves profitability
12 and quality of life associated with
13 the agricultural operation.

14 “(e) CONSERVATION SECURITY CONTRACTS.—

15 “(1) IN GENERAL.—On approval of a conserva-
16 tion security plan of an owner or operator, the Sec-
17 retary shall enter into a conservation security con-
18 tract with the owner or operator to enroll the land
19 covered by the conservation security plan in the con-
20 servation security program.

21 “(2) TERM.—Subject to paragraphs (3) and
22 (4)—

23 “(A) a conservation security contract for
24 land enrolled in the conservation security pro-
25 gram that will be maintained using 1 or more

1 Tier I conservation practices shall have a term
2 of 5 years; and

3 “(B) a conservation security contract for
4 land enrolled in the conservation security pro-
5 gram that implements a conservation security
6 plan that meets the requirements of subpara-
7 graph (B) or (C) of subsection (d)(5) shall have
8 a term of 5 to 10 years, at the option of the
9 owner or operator.

10 “(3) MODIFICATIONS.—

11 “(A) OPTIONAL MODIFICATIONS.—

12 “(i) IN GENERAL.—An owner or oper-
13 ator may apply to the Secretary to modify
14 the conservation security plan in a manner
15 consistent with the purposes of the con-
16 servation security program.

17 “(ii) APPROVAL BY THE SEC-
18 RETARY.—Any modification under clause
19 (i)—

20 “(I) shall be approved by the
21 Secretary; and

22 “(II) shall authorize the Sec-
23 retary to redetermine, if necessary,
24 the amount and timing of the pay-
25 ments pursuant to the conservation

1 security contract under subsection
2 (h)(2)(C).

3 “(B) OTHER MODIFICATIONS.—

4 “(i) IN GENERAL.—The Secretary
5 may in writing require an owner or oper-
6 ator to modify a conservation security con-
7 tract before the expiration of the conserva-
8 tion security contract if the Secretary de-
9 termines that a change made to the type,
10 size, management, or other aspect of the
11 agricultural operation of the owner or op-
12 erator would, without the modification, sig-
13 nificantly interfere with achieving the pur-
14 poses of the conservation security program.

15 “(ii) PAYMENTS.—The Secretary may
16 adjust the amount and timing of the pay-
17 ment schedule under the conservation secu-
18 rity contract to reflect any modifications
19 required under this subparagraph.

20 “(iii) DEADLINE.—The Secretary may
21 terminate a conservation security contract
22 if a modification required under this sub-
23 paragraph is not submitted to the Sec-
24 retary in the form of an amended con-
25 servation security contract by the date that

1 is 90 days after the date of receipt of the
2 written request for the modification.

3 “(iv) TERMINATION.—An owner or
4 operator that is required to modify a con-
5 servation security contract under this sub-
6 paragraph may, in lieu of modifying the
7 contract—

8 “(I) terminate the conservation
9 security contract; and

10 “(II) retain payments received
11 under the conservation security con-
12 tract, if the owner or operator fully
13 complied with the obligations of the
14 owner or operator under the conserva-
15 tion security contract.

16 “(4) RENEWAL.—

17 “(A) IN GENERAL.—At the option of an
18 owner or operator, the conservation security
19 contract of the owner or operator may be re-
20 newed, for a term described in subparagraph
21 (B), if—

22 “(i) the owner or operator agrees to
23 any modification of the applicable con-
24 servation security contract that the Sec-
25 retary determines to be necessary to

1 achieve the purposes of the conservation
2 security program;

3 “(ii) the Secretary determines that
4 the owner or operator has complied with
5 the terms and conditions of the conserva-
6 tion security contract, including the con-
7 servation security plan; and

8 “(iii) in the case of a conservation se-
9 curity contract for land previously enrolled
10 at the tier I level in the conservation secu-
11 rity program, the owner or operator shall
12 increase the level of conservation treatment
13 on lands enrolled in the conservation secu-
14 rity program by—

15 “(I) adopting new conservation
16 practices; or

17 “(II) expanding existing practices
18 to meet the resource management sys-
19 tems criteria.

20 “(B) TERMS OF RENEWAL.—Under sub-
21 paragraph (A)—

22 “(i) a conservation security contract
23 for land enrolled in the conservation secu-
24 rity program that will be maintained using

1 a Tier I conservation practice may be re-
 2 newed for 5-year terms;

3 “(ii) a conservation security contract
 4 for land enrolled in the conservation secu-
 5 rity program that will be maintained using
 6 a Tier II or Tier III conservation practice
 7 may be renewed for 5-year to 10-year
 8 terms, at the option of the owner or oper-
 9 ator; and

10 “(iii) previous participation in the
 11 conservation security program does not bar
 12 renewal more than once.

13 “(f) NO VIOLATION FOR NONCOMPLIANCE DUE TO
 14 CIRCUMSTANCES BEYOND THE CONTROL OF THE OWNER
 15 OR OPERATOR.—The Secretary shall include in the con-
 16 servation security contract a provision, and may modify
 17 a conservation security contract under subsection
 18 (e)(3)(B), to ensure that an owner or operator shall not
 19 be considered in violation of a conservation security con-
 20 tract for failure to comply with the conservation security
 21 contract due to circumstances beyond the control of the
 22 owner or operator, including a disaster or related condi-
 23 tion.

24 “(g) DUTIES OF OWNERS AND OPERATORS.—Under
 25 a conservation security contract, an owner or operator

1 shall agree, during the term specified under the conserva-
2 tion security contract—

3 “(1) to implement the applicable conservation
4 security plan approved by the Secretary;

5 “(2) to keep appropriate records showing the
6 effective and timely implementation of the conserva-
7 tion security plan;

8 “(3) not to engage in any activity that would
9 interfere with the purposes of the conservation secu-
10 rity plan;

11 “(4) at the option of the Secretary, to refund
12 all or a portion of the payments to the Secretary if
13 the owner or operator fails to maintain a conserva-
14 tion practice, as specified in the conservation secu-
15 rity contract; and

16 “(5) on the violation of a term or condition of
17 the conservation security contract—

18 “(A) if the Secretary determines that the
19 violation warrants termination of the conserva-
20 tion security contract—

21 “(i) to forfeit all rights to receive pay-
22 ments under the conservation security con-
23 tract; and

24 “(ii) to refund to the Secretary all or
25 a portion of the payments received by the

1 owner or operator under the conservation
 2 security contract, including an advance
 3 payment and interest on the payments, as
 4 determined by the Secretary; or

5 “(B) if the Secretary determines that the
 6 violation does not warrant termination of the
 7 conservation security contract, to refund to the
 8 Secretary, or accept adjustments to, the pay-
 9 ments provided to the owner or operator, as the
 10 Secretary determines to be appropriate.

11 “(h) DUTIES OF THE SECRETARY.—

12 “(1) ADVANCE PAYMENT.—At the time at
 13 which a person enters into a conservation security
 14 contract, the Secretary shall make an advance pay-
 15 ment to the person in an amount not to exceed—

16 “(A) in the case of a contract to maintain
 17 Tier I conservation practices described in sub-
 18 section (d)(5)(A), the greater of—

19 “(i) \$1,000; or

20 “(ii) 20 percent of the value of the
 21 annual payment under the contract, as de-
 22 termined by the Secretary;

23 “(B) in the case of a contract to maintain
 24 Tier II conservation practices described in sub-
 25 section (d)(5)(B), the greater of—

1 “(i) \$2,000; or

2 “(ii) 20 percent of the value of the
3 annual payment under the contract, as de-
4 termined by the Secretary; or

5 “(C) in the case of a contract to maintain
6 Tier III conservation practices described in sub-
7 section (d)(5)(C), the greater of—

8 “(i) \$3,000; or

9 “(ii) 20 percent of the value of the
10 annual payment under the contract, as de-
11 termined by the Secretary.

12 “(2) ANNUAL PAYMENTS.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graphs (B) through (F), under a conservation
15 security contract, the Secretary shall, in
16 amounts and for a period of years specified in
17 the conservation security contract and taking
18 into account any advance payments, make an
19 annual payment to the person in an amount not
20 to exceed—

21 “(i) in the case of a contract to main-
22 tain Tier I conservation practices described
23 in subsection (d)(5)(A), \$20,000;

24 “(ii) in the case of a contract to main-
25 tain Tier II conservation practices de-

1 scribed in subsection (d)(5)(B), \$35,000;
2 or

3 “(iii) in the case of a contract to
4 maintain Tier III conservation practices
5 described in subsection (d)(5)(C), \$50,000.

6 “(B) INFLATION ADJUSTMENT.—The Sec-
7 retary may periodically, including at the time at
8 which a conservation security contract is re-
9 newed, adjust the payment and payment limita-
10 tions under subparagraph (A) to reflect changes
11 in the Prices Paid by Farmers Index.

12 “(C) TIME OF PAYMENT.—The Secretary
13 shall provide payment under a conservation se-
14 curity contract as soon as practicable after Oc-
15 tober 1 of each calendar year.

16 “(D) CRITERIA FOR DETERMINING
17 AMOUNT OF PAYMENTS.—Subject to subpara-
18 graphs (A) and (F), the Secretary shall estab-
19 lish criteria for determining the amount of an
20 annual payment to a person under this para-
21 graph that—

22 “(i) shall be as objective and trans-
23 parent as practicable; and

24 “(ii) shall be based on—

1 “(I) to the maximum extent prac-
2 ticable, outcome-based factors related
3 to the natural resource and environ-
4 mental benefits that result from the
5 adoption, maintenance, and improve-
6 ment in implementation of the con-
7 servation practices carried out by the
8 person;

9 “(II) practice-based factors,
10 including—

11 “(aa) the number of eligible
12 practices established or main-
13 tained;

14 “(bb) the schedule for the
15 conservation practices described
16 in subsection (c)(1)(C);

17 “(cc) the cost of the adop-
18 tion, maintenance, and improve-
19 ment in implementation of con-
20 servation practices that are newly
21 implemented under the conserva-
22 tion security contract;

23 “(dd) the extent to which
24 compensation will ensure mainte-
25 nance and improvement of con-

1 servations practices that are or
2 have been implemented;

3 “(ee) the extent to which the
4 conservation security plan meets
5 applicable resource management
6 system standards;

7 “(ff) the extent to which the
8 conservation security plan ad-
9 dresses State and local conserva-
10 tion priorities as provided for
11 under subsection (c)(3); and

12 “(gg) the extent of activities
13 undertaken beyond what is re-
14 quired to comply with any appli-
15 cable Federal agricultural law;

16 “(III) additional cost factors,
17 including—

18 “(aa) the income loss or eco-
19 nomic value forgone by the per-
20 son due to land use adjustments
21 resulting from the adoption,
22 maintenance, and improvement
23 of conservation practices;

24 “(bb) the costs associated
25 with any on-farm research, dem-

1 onstration, or pilot testing com-
2 ponents of the conservation secu-
3 rity plan; and

4 “(cc) the costs associated
5 with monitoring and evaluating
6 results under the conservation se-
7 curity plan; and

8 “(IV) such other factors as the
9 Secretary determines to be appro-
10 priate to encourage participation in
11 the conservation security program and
12 to reward environmental stewardship.

13 “(E) BONUS PAYMENT.—Subject to sub-
14 paragraph (A), the Secretary shall offer bonus
15 payments based on—

16 “(i) participation in a watershed or
17 regional resource conservation plan involv-
18 ing at least 75 percent of landowners in
19 the targeted area; and

20 “(ii) the special considerations associ-
21 ated with an owner or operator that is a
22 qualified beginning farmer or rancher (as
23 defined in section 343(a) of the Consoli-
24 dated Farm and Rural Development Act (7
25 U.S.C. 1991(a))).

1 “(F) LAND ENROLLED IN OTHER CON-
2 SERVATION PROGRAMS.—

3 “(i) IN GENERAL.—Notwithstanding
4 any other provision of law, if an owner or
5 operator has land enrolled in another con-
6 servations program administered by the
7 Secretary and has applied to enroll the
8 same land in the conservation security pro-
9 gram, the owner or operator may elect
10 to—

11 “(I) convert the contract under
12 the other conservation program to a
13 conservation security contract, with-
14 out penalty, except that this subclause
15 shall not apply to a long-term perma-
16 nent conservation or easement; or

17 “(II) have each annual payment
18 to the owner or operator under this
19 paragraph reduced to reflect payment
20 for practices the owner or operator re-
21 ceives under the other conservation
22 program, except that the annual pay-
23 ment under this paragraph may in-
24 clude incentives for qualified practices
25 that enhance or extend the conserva-

1 tion benefit achieved under the other
2 conservation program.

3 “(ii) PAYMENT LIMITATIONS.—If an
4 owner or operator has identical land en-
5 rolled in the conservation security program
6 and 1 or more other conservation pro-
7 grams administered by the Secretary, the
8 Secretary shall include all payments, other
9 than easement or rental payments, from
10 the conservation security program and the
11 other conservation programs in applying
12 the annual payment limitations under sub-
13 paragraph (A).

14 “(iii) PAYMENT FROM NON-FEDERAL
15 AGRICULTURAL PROGRAMS.—Payments re-
16 ceived from a Federal program adminis-
17 tered by the Secretary, or any State, local,
18 or private agricultural program, shall not
19 be considered an annual payment for pur-
20 poses of the annual payment limitations
21 under subparagraph (A).

22 “(G) WASTE STORAGE OR TREATMENT FA-
23 CILITIES.—An annual payment to an owner or
24 operator under this paragraph shall not be pro-
25 vided for the purpose of construction or mainte-

1 nance of animal waste storage or treatment fa-
 2 cilities or associated waste transport or transfer
 3 devices for animal feeding operations.

4 “(3) REGULATIONS.—

5 “(A) IN GENERAL.—The Secretary shall
 6 issue regulations—

7 “(i) defining the term ‘person’ for the
 8 purposes of this chapter—

9 “(I) which regulations shall con-
 10 form, to the extent practicable, to the
 11 regulations defining the term ‘person’
 12 issued under section 1001; and

13 “(II) which term shall be defined
 14 so that no individual directly or indi-
 15 rectly may receive payments exceeding
 16 the applicable amount specified in
 17 paragraph (1) or (2);

18 “(ii) providing adequate safeguards to
 19 protect the interests of tenants and share-
 20 croppers, including provision for sharing,
 21 on a fair and equitable basis; and

22 “(iii) prescribing such other rules as
 23 the Secretary determines to be necessary
 24 to ensure a fair and reasonable application

1 of the limitations established under para-
2 graphs (1) and (2).

3 “(B) PENALTIES FOR SCHEMES OR DE-
4 VICES.—

5 “(i) IN GENERAL.—If the Secretary
6 determines that a person has adopted a
7 scheme or device to evade, or that has the
8 purpose of evading, the regulations issued
9 under subparagraph (A), the person shall
10 be ineligible to participate in the conserva-
11 tion security program for the year for
12 which the scheme or device was adopted
13 and each of the following 5 years.

14 “(ii) FRAUD.—If the Secretary deter-
15 mines that fraud was committed in connec-
16 tion with the scheme or device, the person
17 shall be ineligible to participate in the con-
18 servation security program for the year for
19 which the scheme or device was adopted
20 and each of the following 10 years.

21 “(4) TERMINATION.—

22 “(A) IN GENERAL.—Subject to subsection
23 (g), the Secretary shall allow an owner or oper-
24 ator to terminate the conservation security con-
25 tract.

1 “(B) PAYMENTS.—The owner or operator
2 may retain any or all payments received under
3 a terminated conservation security contract if—

4 “(i) the owner or operator is in full
5 compliance with the terms and conditions,
6 including any maintenance requirements,
7 of the conservation security contract; and

8 “(ii) the Secretary determines that re-
9 tention of payment will not defeat the
10 goals enumerated in the conservation secu-
11 rity plan of the owner or operator.

12 “(5) TRANSFER OR CHANGE OF INTEREST IN
13 LAND SUBJECT TO CONSERVATION SECURITY CON-
14 TRACT.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), the transfer, or change in
17 the interest, of an owner or operator in land
18 subject to a conservation security contract shall
19 result in the termination of the conservation se-
20 curity contract.

21 “(B) TRANSFER OF DUTIES AND
22 RIGHTS.—Subparagraph (A) shall not apply if,
23 not later than 60 days after the date of the
24 transfer or change in the interest in land, the
25 transferee of the land provides written notice to

the Secretary that all duties and rights under the conservation security contract have been transferred to the transferee.

“(6) TECHNICAL ASSISTANCE.—

“(A) IN GENERAL.—For each fiscal year, the Secretary shall use such sums as are necessary from funds of the Commodity Credit Corporation to provide technical assistance to owners and operators for the development and implementation of conservation security contracts.

“(B) TECHNICAL ASSISTANCE PROVIDED BY PERSONS NOT EMPLOYED BY THE DEPARTMENT OF AGRICULTURE.—

“(i) IN GENERAL.—Under subparagraph (A), subject to clause (ii), technical assistance provided by qualified persons not employed by the Department of Agriculture, including farmers, ranchers, and local conservation district personnel, may include—

“(I) conservation planning;

“(II) design, installation, and certification of conservation practices;

“(III) training for producers; and

1 “(IV) such other activities as the
2 Secretary determines to be appro-
3 priate.

4 “(ii) OUTSIDE ASSISTANCE.—

5 “(I) IN GENERAL.—The Sec-
6 retary may contract directly with
7 qualified persons not employed by the
8 Department of Agriculture to provide
9 technical assistance.

10 “(II) PAYMENT BY SEC-
11 RETARY.—The Secretary may provide
12 a payment or voucher to an owner or
13 operator enrolled in the conservation
14 security program if the owner or oper-
15 ator chooses to contract with qualified
16 persons not employed by the Depart-
17 ment of Agriculture.

18 “(iii) COORDINATION BY THE SEC-
19 RETARY.—The Secretary shall provide
20 overall technical coordination and leader-
21 ship for the conservation security program,
22 including final approval of all conservation
23 security plans.

24 “(7) EDUCATION, OUTREACH, MONITORING,
25 AND EVALUATION.—

“(A) IN GENERAL.—

“(i) FUNDING.—In addition to the amounts made available under paragraph (6), for each fiscal year, the Secretary shall use such sums as are necessary from funds of the Commodity Credit Corporation to carry out education, outreach, monitoring, and evaluation activities in support of the conservation security program, of which not less than 50 percent of the sums shall be used for monitoring and evaluation activities.

“(ii) AMOUNT.—For each fiscal year, the amount made available under clause (i) shall be not less than 40 percent of the amount made available for technical assistance under paragraph (6) for the fiscal year.

“(B) USE OF PERSONS NOT AFFILIATED WITH DEPARTMENT OF AGRICULTURE.—

“(i) IN GENERAL.—In carrying out activities described in subparagraph (A), the Secretary may use persons not employed by the Department of Agriculture, including networks of agricultural pro-

ducers operating in a small watershed,
local conservation district personnel, or
other appropriate local entity.

“(ii) EDUCATION, OUTREACH, AND
MONITORING.—The Secretary may con-
tract with private non-profit, community-
based organizations, and educational insti-
tutions with demonstrated experience in
providing education, outreach, monitoring,
evaluation, or related services to agricul-
tural producers (including owners and op-
erators of small and medium-size farms,
socially disadvantaged agricultural pro-
ducers, and limited resource agricultural
producers).

“(C) INCLUDED ACTIVITIES.—Activities
described in subparagraph (A) may include in-
novative uses of computer technology and re-
mote sensing to monitor and evaluate resource
and environmental results on a local, regional,
or national level.

“(8) SOCIALLY DISADVANTAGED AND LIMITED
RESOURCE OWNERS AND OPERATORS.—The Sec-
retary shall provide outreach, training, and technical
assistance specifically to encourage and assist so-

cially disadvantaged owners and operators to participate in the conservation security program.

“(9) PROGRAM EVALUATION.—The Secretary shall maintain data concerning conservation security plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under this section.

“(10) CONFIDENTIALITY.—To maintain confidentiality, the Secretary shall not release or disclose publicly the conservation security plan of an owner or operator under this chapter unless the Secretary—

“(A) obtains the authorization of the owner or operator for the release or disclosure;

“(B) releases the information in an anonymous or aggregated form; or

“(C)(i) is otherwise required by law to release or disclose the plan and;

“(ii) releases the plan in an anonymous or aggregated form.

“(11) MEDIATION AND INFORMAL HEARINGS.—If the Secretary makes a decision under this chapter that is adverse to an owner or operator, at the request of the owner or operator, the Secretary shall

1 provide the owner or operator with mediation serv-
2 ices or an informal hearing on the decision.

3 “(i) REPORTS.—Not later than 18 months after the
4 date of enactment of this chapter and at the end of each
5 2-year period thereafter, the Secretary shall submit to
6 Congress a report evaluating the results of the conserva-
7 tion security program, including—

8 “(1) an evaluation of the scope, quality, and
9 outcomes of the conservation practices carried out
10 under this section; and

11 “(2) recommendations for achieving specific
12 and quantifiable improvements for each of the pur-
13 poses specified in subsection (a).

14 “(j) FUNDING.—Of the funds of the Commodity
15 Credit Corporation, the Corporation shall make available
16 to carry out this chapter such sums as are necessary, to
17 remain available until expended.

18 “(k) EXEMPTION FROM AUTOMATIC SEQUESTER.—
19 Notwithstanding any other provision of law, no order
20 issued for any fiscal year under section 252 of the Bal-
21 anced Budget and Emergency Deficit Control Act of 1985
22 (2 U.S.C. 902) shall affect any payment under this chap-
23 ter.”.

24 (b) ADMINISTRATION.—Section 1243(a) of the Food
25 Security Act of 1985 (16 U.S.C. 3843(a)) is amended—

1 (1) in paragraph (1)(C), by striking “and” at
2 the end;

3 (2) in paragraph (2), by striking the period at
4 the end and inserting “; and”; and

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

6 “(3) the conservation security program estab-
7 lished under chapter 6 of subtitle D.”.

8 (c) STATE TECHNICAL COMMITTEES.—Section
9 1262(c)(8) of the Food Security Act of 1985 (16 U.S.C.
10 3862(c)(8)) is amended by striking “chapter 4” and in-
11 serting “chapters 4 and 6”.

12 **SEC. 4. REGULATIONS.**

13 The Secretary of Agriculture shall promulgate such
14 regulations as are necessary to carry out this Act and the
15 amendments made by this Act.

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