

115TH CONGRESS
2D SESSION

H. R. 5487

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2018

Mr. COSTA introduced the following bill; which was referred to the Committee on Agriculture

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. ESTABLISHMENT AND PURPOSES.**

7 Section 1271 of the Food Security Act of 1985 (16
8 U.S.C. 3871) is amended—

9 (1) in subsection (a)—

1 (A) in paragraph (1), by inserting “, in-
2 cluding grant agreements under section
3 1271C(d),” after “partnership agreements”;
4 and

5 (B) in paragraph (2), by striking “con-
6 tracts with producers” and inserting “program
7 contracts with eligible producers”; and
8 (2) in subsection (b)—

9 (A) in paragraph (1), in the matter pre-
10 ceeding subparagraph (A), by striking “use cov-
11 ered programs” and inserting “carry out con-
12 servation activities”;

13 (B) by striking paragraph (2) and insert-
14 ing the following:

15 “(2) To further the conservation, protection,
16 restoration, and sustainable use of soil, water (in-
17 cluding sources of drinking water), wildlife, agricul-
18 tural land, and related natural resources on eligible
19 land on a regional or watershed scale.”;

20 (C) in paragraph (3)—

21 (i) in the matter preceding subpara-
22 graph (A), by inserting “eligible” before
23 “producers”; and

1 (ii) in subparagraph (B), by striking
2 “installation” and inserting “adoption, in-
3 stallation,”; and

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

5 “(4) To encourage the flexible and streamlined
6 delivery of conservation assistance to eligible pro-
7 ducers through partnership agreements.

8 “(5) To encourage alignment of partnership
9 projects with other Federal, State, and local agen-
10 cies and programs addressing similar natural re-
11 source concerns in a coordinated manner.

12 “(6) To engage eligible producers in conserva-
13 tion projects to achieve greater conservation out-
14 comes and benefits for eligible producers than would
15 otherwise be achieved.

16 “(7) To advance conservation and rural commu-
17 nity development goals simultaneously.”.

18 **SEC. 3. DEFINITIONS.**

19 Section 1271A of the Food Security Act of 1985 (16
20 U.S.C. 3871a) is amended—

21 (1) in paragraph (1) by adding at the end the
22 following:

23 “(E) The conservation reserve program es-
24 tablished under subchapter B of chapter 1 of
25 subtitle D.”;

1 (2) by striking paragraphs (2) and (3) and in-
2 serting the following:

3 “(2) ELIGIBLE ACTIVITY.—The term ‘eligible
4 activity’ means—

5 “(A) an eligible activity under the statu-
6 tory authority for a covered program; and

7 “(B) any other related activity that an eli-
8 gible partner determines will help achieve con-
9 servation benefits, subject to the approval of the
10 Secretary.

11 “(3) ELIGIBLE LAND.—The term ‘eligible land’
12 means—

13 “(A) eligible land under the statutory au-
14 thority for a covered program; and

15 “(B) any other agricultural or nonindus-
16 trial private forest land or associated land on
17 which the Secretary determines an eligible ac-
18 tivity would help achieve conservation bene-
19 fits.”;

20 (3) in paragraph (4), in subparagraph (E), by
21 inserting “management or” after “specific water”;

22 (4) by redesignating paragraphs (5) and (6) as
23 paragraphs (6) and (7), respectively;

24 (5) by inserting after paragraph (4) the fol-
25 lowing:

1 “(5) ELIGIBLE PRODUCER.—The term ‘eligible
2 producer’ means a person, legal entity, or Indian
3 tribe that is an owner or operator of eligible land.”;
4 and

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

6 “(8) PROGRAM CONTRACT.—The term ‘program
7 contract’ means a contract established by the Sec-
8 retary under section 1271C(a).”.

9 **SEC. 4. REGIONAL CONSERVATION PARTNERSHIPS.**

10 (a) IN GENERAL.—Section 1271B of the Food Secu-
11 rity Act of 1985 (16 U.S.C. 3871b) is amended—

12 (1) in subsection (a), by inserting “eligible” be-
13 fore “producers”;

14 (2) by striking subsection (b) and inserting the
15 following:

16 “(b) MAXIMUM LENGTH.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), the term of a partnership agreement shall
19 not be longer than 5 years.

20 “(2) EXCEPTIONS.—

21 “(A) CONCURRENT PROGRAM DEAD-
22 LINE.—The Secretary may enter into a partner-
23 ship agreement for a term that is longer than
24 5 years if the eligible partner with which the
25 Secretary enters into such agreement is a par-

1 participant in a State or Federal program that re-
2 lates specifically to the project that is the sub-
3 ject of the partnership agreement and such par-
4 ticipation is for a term longer than 5 years.

5 “(B) SPECIAL CIRCUMSTANCES.—Upon re-
6 quest by an eligible partner, the Secretary may
7 extend the term of a partnership agreement
8 with the eligible partner if the Secretary deter-
9 mines that special circumstances outside the
10 control of the eligible partner have created a
11 delay in the implementation of a project that is
12 a subject of the partnership agreement.”;

13 (3) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) in subparagraph (A)—

16 (I) by redesignating clauses (iii)
17 and (iv) as clauses (iv) and (v), re-
18 spectively; and

19 (II) by striking clauses (i) and
20 (ii) and inserting the following:

21 “(i) 1 or more natural resource con-
22 cerns that the project will address;

23 “(ii) the eligible activities to be con-
24 ducted under the project to address the
25 natural resource concerns;

1 “(iii) the implementation timeline for
2 carrying out the project, including any in-
3 terim milestones;”;

4 (ii) in subparagraph (B), by inserting
5 “eligible” before “producers”;

6 (iii) in subparagraph (C), by striking
7 “a producer” each place it appears and in-
8 serting “an eligible producer”;

9 (iv) in subparagraph (D), by inserting
10 “or in-kind contributions” after “addi-
11 tional funds”; and

12 (v) in subparagraph (E), by striking
13 “of the project’s effects; and” and insert-
14 ing the following: “of—

15 “(i) the progress made by the project
16 in addressing each natural resource con-
17 cern defined under subparagraph (A), in-
18 cluding in a quantified form; and

19 “(ii) as appropriate, other environ-
20 mental, economic, or social outcomes of the
21 project; and”; and

22 (B) in paragraph (2)—

23 (i) by striking “An eligible” and in-
24 serting the following:

25 “(A) IN GENERAL.—An eligible”; and

1 (ii) by adding at the end the fol-
2 lowing:

3 “(B) FORM.—A contribution of an eligible
4 partner under this paragraph may be in the
5 form of—

6 “(i) direct funding; or

7 “(ii) in-kind support.

8 “(C) TREATMENT.—Any amounts ex-
9 pended before the effective date of a partner-
10 ship agreement under this section by an eligible
11 partner for staff salaries for development of the
12 partnership agreement shall be considered to be
13 a part of the contribution of the eligible partner
14 under this paragraph.”;

15 (4) by redesignating subsection (d) as sub-
16 section (e);

17 (5) by inserting after subsection (c) the fol-
18 lowing:

19 “(d) DUTIES OF SECRETARY.—The Secretary shall—

20 “(1) establish a timeline for carrying out the
21 duties of the Secretary under a partnership agree-
22 ment, including—

23 “(A) entering into contracts with eligible
24 producers;

1 “(B) providing financial assistance to eligi-
2 ble producers; and

3 “(C) in the case of a partnership agree-
4 ment that is a grant agreement under section
5 1271C(d), providing the grant amounts to the
6 eligible partner;

7 “(2) establish in each State a program coordi-
8 nator for the State, who shall be responsible solely
9 for providing assistance to eligible partners and eli-
10 gible producers under the program;

11 “(3) establish guidance to assist eligible part-
12 ners with carrying out the assessment required
13 under subsection (c)(1)(E); and

14 “(4) provide to each eligible partner that has
15 entered into a partnership agreement—

16 “(A) a quarterly report describing the sta-
17 tus of each pending and obligated contract
18 under the project of the eligible partner; and

19 “(B) an annual report describing how the
20 Secretary used amounts reserved by the Sec-
21 retary for that year for technical assistance
22 under section 1271D(f).”; and

23 (6) in subsection (e) (as redesignated by para-
24 graph (4))—

25 (A) in paragraph (3)—

1 (i) by striking the paragraph designa-
2 tion and heading and all that follows
3 through “description of—” and inserting
4 the following:

5 “(3) CONTENTS.—The Secretary shall develop
6 a simplified application process that requires each
7 application submitted under this subsection to in-
8 clude a description of—”;

9 (ii) in subparagraph (C), by striking
10 “, including the covered programs to be
11 used”; and

12 (iii) in subparagraph (D), by inserting
13 “or in-kind” after “financial”;

14 (B) in paragraph (4)—

15 (i) in subparagraphs (A) and (B), by
16 inserting “eligible” before “producers”
17 each place it appears;

18 (ii) by redesignating subparagraphs
19 (E) and (F) as subparagraphs (F) and
20 (G), respectively; and

21 (iii) by inserting after subparagraph
22 (D) the following:

23 “(E) develop and implement watershed or
24 habitat plans to address 1 or more natural re-
25 source concerns;” and

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

2 “(5) FUNDING RENEWALS.—If an eligible part-
3 ner demonstrates to the satisfaction of the Secretary
4 that the eligible partner has made progress in ad-
5 dressing 1 or more natural resource concerns de-
6 fined in the partnership agreement, not earlier than
7 1 year before the date of expiration of the partner-
8 ship agreement, the eligible partner may request
9 from the Secretary a renewal of the partnership
10 agreement, including a renewal of funding, through
11 an expedited approval process—

12 “(A) to continue to implement the partner-
13 ship agreement;

14 “(B) to expand the scope of the partner-
15 ship agreement;

16 “(C) to enroll additional eligible producers;
17 or

18 “(D) to carry out other conservation activi-
19 ties relating to the project, including the assess-
20 ment of the project under subsection (e)(1)(E),
21 as mutually agreed by the Secretary and the eli-
22 gible partner.”.

23 (b) CONFORMING AMENDMENT.—Section 1271E(a)
24 of the Food Security Act of 1985 (16 U.S.C. 3871e(a))

1 is amended by striking “1271B(d)” each place it appears
2 and inserting “1271B(e)”.

3 **SEC. 5. ASSISTANCE TO ELIGIBLE PRODUCERS.**

4 (a) IN GENERAL.—Section 1271C of the Food Secu-
5 rity Act of 1985 (16 U.S.C. 3871c) is amended—

6 (1) in the section heading, by inserting “**ELIGI-**
7 **BLE**” before “**PRODUCERS**”;

8 (2) by striking subsections (a) and (b) and in-
9 serting the following:

10 “(a) IN GENERAL.—The Secretary may enter into
11 contracts with eligible producers to provide to such eligible
12 producer financial or technical assistance to conduct eligi-
13 ble activities on eligible land, subject to such terms and
14 conditions as the Secretary considers appropriate.

15 “(b) AGGREGATED APPLICATIONS.—

16 “(1) IN GENERAL.—For the purposes of ad-
17 dressing a natural resources concern that would be
18 benefitted by the submission of an aggregated appli-
19 cation, an eligible partner may submit to the Sec-
20 retary, on behalf multiple eligible producers, such
21 aggregated application for a contract for assistance
22 under this section.

23 “(2) PRIORITY.—The Secretary shall give pri-
24 ority to such aggregated applications described in
25 paragraph (1).”;

1 (3) in subsection (c)—

2 (A) in paragraph (1), by striking “In ac-
3 cordance with statutory requirements of the
4 covered programs involved, the Secretary may
5 make payments to a producer” and inserting
6 “Subject to section 1271D, the Secretary may
7 make payments to an eligible producer”;

8 (B) in paragraph (2), by inserting “eligi-
9 ble” before “producers” each place it appears;
10 and

11 (C) in paragraph (3), by striking “partici-
12 pating” and inserting “eligible”; and

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

14 “(d) FUNDING ARRANGEMENTS THROUGH GRANT
15 AGREEMENTS.—

16 “(1) IN GENERAL.—A contract entered into
17 under this section may be a grant agreement entered
18 into with an eligible partner in accordance with this
19 subsection.

20 “(2) REQUIREMENTS.—Under a grant agree-
21 ment under paragraph (1)—

22 “(A) using amounts made available to
23 carry out this subtitle, the Secretary shall pro-
24 vide to the eligible partner a grant;

1 “(B) the eligible partner shall carry out el-
2 igible activities on eligible land (including by
3 contracting with 1 or more producers, if the eli-
4 gible partner determines the contracting to be
5 appropriate), on the condition that the eligible
6 activities directly or indirectly benefit agricul-
7 tural producers (including forestry producers),
8 to address natural resource concerns on a re-
9 gional or watershed scale, such as—

10 “(i) infrastructure investments relat-
11 ing to agricultural or nonindustrial private
12 forest production that would benefit mul-
13 tiple producers, such as a multiproducer ir-
14 rigation water delivery system;

15 “(ii) projects addressing water quality
16 or quantity concerns in coordination with
17 producers, including the development and
18 implementation of watershed plans;

19 “(iii) projects that use innovative ap-
20 proaches to leveraging the Federal invest-
21 ment in conservation with private financial
22 mechanisms, in conjunction with agricul-
23 tural production or forest resource man-
24 agement, such as—

1 “(I) the provision of perform-
2 ance-based payments to eligible pro-
3 ducers; and

4 “(II) support for an environ-
5 mental market;

6 “(iv) projects that promote ground-
7 water replenishment;

8 “(v) projects that facilitate pilot test-
9 ing of new conservation practices, tech-
10 nologies, or activities;

11 “(vi) projects that promote the long-
12 term viability and sustainability of agricul-
13 tural land through innovative agricultural
14 land protection strategies and mechanisms,
15 including projects that support the transfer
16 of land to beginning farmers and ranchers,
17 veteran farmers and ranchers (as deter-
18 mined by the Secretary), socially disadvan-
19 taged farmers and ranchers, and limited
20 resource farmers and ranchers (as deter-
21 mined by the Secretary); and

22 “(vii) other projects for which the
23 Secretary determines that the goals and
24 objectives of the program would be easier

1 to achieve through the grant agreement;
2 and

3 “(C) the Secretary may provide technical
4 and administrative assistance, as mutually
5 agreed by the parties.

6 “(3) NONAPPLICABILITY OF ADJUSTED GROSS
7 INCOME LIMITATION.—The adjusted gross income
8 limitation described in section 1001D(b)(1) shall not
9 apply to the receipt by an eligible partner of a grant
10 under this subsection.

11 “(4) LIMITATION.—The Secretary may not use
12 more than 30 percent of funding made available to
13 carry out the program for grant agreements.

14 “(5) REPORTS.—An eligible partner that enters
15 into a grant agreement under this subsection shall
16 submit to the Secretary—

17 “(A) any information that the Secretary
18 requires to prepare the report under section
19 1271E(b); and

20 “(B) an annual report that describes the
21 status of the project carried out by the eligible
22 partner, including a description of—

23 “(i) the use of the grant funds;

24 “(ii) any subcontracts awarded using
25 grant funds;

1 “(iii) the eligible producers receiving
2 funding using the grant funds;

3 “(iv)(I) the progress made by the
4 project in addressing each natural resource
5 concern defined in the grant agreement, in-
6 cluding in a quantified form; and

7 “(II) as appropriate, other environ-
8 mental, economic, or social outcomes of the
9 project; and

10 “(v) any other reporting data the Sec-
11 retary determines are necessary to ensure
12 compliance with the program rules.”.

13 (b) CONFORMING AMENDMENT.—Section
14 1271E(b)(4) of the Food Security Act of 1985 (16 U.S.C.
15 3871e(b)(4)) is amended in the matter preceding subpara-
16 graph (A) by striking “1271C(b)(2)” and inserting
17 “1271C(d)”.

18 **SEC. 6. FUNDING.**

19 (a) IN GENERAL.—Section 1271D of the Food Secu-
20 rity Act of 1985 (16 U.S.C. 3871d) is amended—

21 (1) in subsection (a), by striking “for each of
22 fiscal years 2014 through 2018” and inserting “for
23 each fiscal year”;

24 (2) in subsection (c), by striking paragraphs (1)
25 and (2) and inserting the following:

1 “(1) IN GENERAL.—To ensure that additional
2 resources are available to carry out the program, in
3 addition to the funds made available under sub-
4 section (a), for each fiscal year the Secretary shall
5 reserve 7 percent of the funds and acres made avail-
6 able for the following programs:

7 “(A) The conservation stewardship pro-
8 gram established under subchapter B of chapter
9 2 of subtitle D.

10 “(B) The environmental quality incentives
11 program established under chapter 4 of subtitle
12 D.

13 “(C) The agricultural conservation ease-
14 ment program established under subtitle H.

15 “(2) DURATION OF AVAILABILITY.—Any funds
16 or acres reserved under paragraph (1) shall remain
17 available for obligation only for the purposes of car-
18 rying out the program until expended.

19 “(3) DISTRIBUTION OF FUNDS.—To the max-
20 imum extent practicable, of projects receiving funds
21 or acres reserved under paragraph (1) from a pro-
22 gram described in subparagraph (A), (B), or (C) of
23 that paragraph, the percentage of projects that shall
24 have purposes similar to the purposes of the applica-
25 ble program from which funds or acres were re-

1 served shall be approximately equal to the percent-
2 age of funds or acres reserved from the applicable
3 program.”;

4 (3) in subsection (d)—

5 (A) in paragraph (1), by striking “25 per-
6 cent of the funds and acres to projects based on
7 a State competitive process administered by the
8 State Conservationist, with the advice of the
9 State technical committee” and inserting the
10 following: “40 percent of the funds and acres to
11 projects based on a State or multistate competi-
12 tive process administered, as applicable, by the
13 State Conservationist or jointly by the State
14 Conservationists of each State participating in
15 the multistate process, with the advice of the
16 applicable State technical committees”;

17 (B) by striking paragraph (2);

18 (C) by redesignating paragraph (3) as
19 paragraph (2); and

20 (D) in paragraph (2) (as so redesignated),
21 by striking “35 percent” and inserting “60 per-
22 cent”;

23 (4) in subsection (e)—

24 (A) by striking “None of the funds” and
25 inserting the following:

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), none of the funds”;

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

4 “(2) PROJECT DEVELOPMENT AND OUT-
5 REACH.—Under a partnership agreement, the Sec-
6 retary may advance reasonable amounts of funding
7 for technical assistance to eligible partners to con-
8 duct project development and outreach activities in
9 a project area (including activities conducted before
10 the effective date of the partnership agreement), in-
11 cluding—

12 “(A) providing outreach and education to
13 eligible producers for potential participation in
14 the project;

15 “(B) developing a watershed or habitat
16 plan;

17 “(C) establishing baseline metrics to sup-
18 port the development of the assessment re-
19 quired under section 1271B(c)(1)(E); or

20 “(D) providing technical assistance to eligi-
21 ble producers.”; and

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

23 “(f) TECHNICAL ASSISTANCE.—

24 “(1) IN GENERAL.—At the time of project se-
25 lection, the Secretary shall identify and make pub-

1 lically available the amount that the Secretary shall
2 use to provide technical assistance under the terms
3 of the partnership agreement.

4 “(2) LIMITATION.—The Secretary shall limit
5 costs of the Secretary for technical assistance to
6 costs specific and necessary to carry out the objec-
7 tives of the partnership agreement.

8 “(3) THIRD-PARTY PROVIDERS.—The Secretary
9 shall develop and implement strategies to encourage
10 third-party technical service providers to provide
11 technical assistance to eligible partners pursuant to
12 a partnership agreement.”.

13 (b) CONFORMING AMENDMENT.—Section 1271F(a)
14 of the Food Security Act of 1985 (16 U.S.C. 3871f(a))
15 is amended by striking “1271D(d)(3)” and inserting
16 “1271D(d)(2)”.

17 **SEC. 7. ADMINISTRATION.**

18 Section 1271E of the Food Security Act of 1985 (16
19 U.S.C. 3871e) (as amended by section 5(b)) is amended—

20 (1) in subsection (b)—

21 (A) in the matter preceding paragraph (1),
22 by striking “December 31, 2014” and inserting
23 “December 31, 2018”;

1 (B) in paragraphs (1) and (2), by inserting
2 “eligible” before “producers” each place it ap-
3 pears;

4 (C) by redesignating paragraphs (1)
5 through (4) as paragraphs (2) through (5), re-
6 spectively; and

7 (D) by inserting before paragraph (2) (as
8 so redesignated) the following:

9 “(1) a summary of—

10 “(A) the progress made towards address-
11 ing the 1 or more natural resource concerns de-
12 fined for the projects; and

13 “(B) any other related environmental, so-
14 cial, or economic outcomes of the projects;”;
15 and

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

17 “(c) COMPLIANCE WITH CERTAIN REQUIRE-
18 MENTS.—The Secretary may not provide assistance under
19 the program to an eligible producer unless the eligible pro-
20 ducer agrees, during the program year for which the as-
21 sistance is provided—

22 “(1) to comply with applicable conservation re-
23 quirements under subtitle B; and

24 “(2) to comply with applicable wetland protec-
25 tion requirements under subtitle C.

1 “(d) MAINTAINING BENEFITS.—

2 “(1) CONSERVATION.—For any conservation
3 practice standard developed or modified by an eligi-
4 ble partner and any related activity described in sec-
5 tion 1271A(2)(B), the Secretary shall ensure that
6 the new or modified conservation practice standard
7 or related activity—

8 “(A) is based on the best available science;

9 “(B) is implemented after consultation
10 with the State conservationist (or a designee) to
11 assess the anticipated effectiveness of the new
12 or modified conservation practice; and

13 “(C) produces conservation benefits.

14 “(2) HISTORICALLY UNDERSERVED PRO-
15 DUCERS.—To the maximum extent practicable, in
16 carrying out the program, the Secretary shall work
17 with eligible partners to maintain eligible benefits
18 available through the covered programs for histori-
19 cally underserved eligible producers, as determined
20 by the Secretary.

21 “(e) REGULATIONS.—The Secretary shall issue regu-
22 lations to carry out the program.”.

23 **SEC. 8. CRITICAL CONSERVATION AREAS.**

24 Section 1271F of the Food Security Act of 1985 (16
25 U.S.C. 3871f) is amended—

1 (1) in subsection (a), by striking “producer”
2 and inserting “program”;

3 (2) in subsection (b)—

4 (A) in paragraph (1)(E), by inserting “eli-
5 gible” before “producers”;

6 (B) by amending paragraph (2) to read as
7 follows:

8 “(2) REVIEW OF DESIGNATIONS.—The Sec-
9 retary may—

10 “(A) review designations of critical con-
11 servation areas under this section not more
12 than once every 5 years;

13 “(B) withdraw a designation of a critical
14 conservation area only if—

15 “(i) the designated area no longer
16 meets the conditions described in para-
17 graph (1); and

18 “(ii) the withdrawal has been ap-
19 proved by favorable resolutions of the Sen-
20 ate Agriculture Committee and House Ag-
21 riculture Committee.”; and

22 (C) in paragraph (3), by striking “8” and
23 inserting “10”;

24 (3) by redesignating subsection (c) as sub-
25 section (d);

1 (4) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) OUTREACH TO ELIGIBLE PARTNERS AND ELIGI-
4 BLE PRODUCERS.—The Secretary shall provide outreach
5 and education to eligible partners and eligible producers
6 in critical conservation areas designated under this section
7 to encourage the development of projects that address the
8 highest-priority natural resource concerns in the highest-
9 priority watersheds or regions within those critical con-
10 servation areas, as determined by the Secretary.”; and

11 (5) in subsection (d) (as so redesignated)—

12 (A) in paragraph (1), by striking “pro-
13 ducer” and inserting “program”; and

14 (B) by striking paragraph (3).

○