S. 2557

To amend the Food Security Act of 1985 to improve conservation programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2018

Mrs. Ernst (for herself, Mr. Brown, Mr. Grassley, and Mr. Casey) 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 improve conservation programs, 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 “Give Our Resources
5 the Opportunity to Work Act of 2018”.

6 SEC. 2. CONSERVATION RESERVE PROGRAM.

7 (a) INELIGIBLE LAND.—Section 1231 of the Food
8 Security Act of 1985 (16 U.S.C. 3831) is amended—
9 (1) by redesignating subsections (c) through (i)
10 as subsections (d) through (j), respectively; and
(2) by inserting after subsection (b) the following:

“(c) INELIGIBLE LAND.—

“(1) IN GENERAL.—The Secretary shall not include in the conservation reserve program established under this subchapter—

“(A) except as provided in paragraphs (2) and (3)(B), prime farmland or class I, II, or III land (as defined in the Soil Survey Manual of the Department of Agriculture) (or successor definitions) that is—

“(i) not highly erodible; and

“(ii) eroding at a level that is less than the soil loss tolerance level of the land; or

“(B) all of the land on a farm that is larger than 10 acres.

“(2) EXEMPTIONS.—In carrying out paragraph (1)(A), the Secretary shall exempt—

“(A) land that is eligible under subsection (b)(3); and

“(B) land that—

“(i) is eligible under subsection (b)(4); and

“(ii) is—
“(I) a grass sod waterway;
“(II) a contour grass sod strip;
“(III) a prairie strip;
“(IV) a filterstrip;
“(V) a riparian buffer;
“(VI) a wetland buffer;
“(VII) a saturated buffer;
“(VIII) a bioreactor; or
“(IX) a similar partial field that
will improve water quality if the land
is enrolled in the conservation reserve
program using continuous sign-up
under section 1234(d)(2)(A)(ii), as
determined by the Secretary.

“(3) PORTION OF FIELD.—

“(A) IN GENERAL.—Subject to subpara-
graph (C), in the case of a field described in
subparagraph (B), the Secretary shall enroll
only the land described in clause (ii) of that
subparagraph.

“(B) LAND DESCRIBED.—A field described
in this subparagraph is a field that contains—
“(i) land that is excluded under para-
graph (1)(A); and
“(ii) land that is—
“(I) not excluded under paragraph (1)(A); and

“(II) eligible under subsection (b).

“(C) EXCEPTION.—In the case of a field described in subparagraph (B) more than 90 percent of the land of which is land described in clause (ii) of that subparagraph, the Secretary may enroll all of the land of the field.”.

(b) ENROLLMENT.—Subsection (e) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) (as redesignated by subsection (a)) is amended—

(1) in paragraph (1), by striking “during—” in the matter preceding subparagraph (A) and all that follows through the period at the end of subparagraph (E) and inserting “not more than 24,000,000 acres.”;

(2) in paragraph (2)(A)—

(A) by striking “limitations” and inserting “limitation”;

(B) by striking “2,000,000” and inserting “3,000,000”; and

(C) by striking “2018” and inserting “2023”; and

(3) by adding at the end the following:
“(3) Enrollment of conservation buffers to foster clean lakes, estuaries, and rivers.—

“(A) In general.—For purposes of applying the limitation in paragraph (1), the Secretary shall give priority to the enrollment in the conservation reserve program under this subchapter of land that—

“(i) is described in subsection (c)(2)(B)(ii); and

“(ii) shall have a positive impact, as determined by the Secretary, on the water quality of—

“(I) a lake;

“(II) an estuary; or

“(III) a river.

“(B) Sediment and nutrient loadings.—In carrying out subparagraph (A), the Secretary shall focus on land that—

“(i) is located in a watershed impacted by sediment and nutrient; and

“(ii) if enrolled, will reduce sediment loadings, nutrient loadings, and harmful algal blooms, as determined by the Secretary.
“(C) Minimum Acreage.—Of the acres enrolled in the conservation reserve under paragraph (1), not less than 4,000,000 acres shall be—

“(i) of land described in subparagraph (A); and

“(ii) newly enrolled during fiscal years 2019 through 2028.”.

(e) Payment Rates.—Section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately; and

(B) by inserting before subparagraph (A) (as so redesignated) the following:

“(1) Signing and Practice Incentive Payments.—

“(A) In General.—In the case of a continuous enrollment contract, the Secretary may make a signing incentive payment or a practice incentive payment to an owner or operator of eligible land in an amount sufficient to encourage participation in the program established under this subchapter.
“(B) LIMITATION ON MAKING PAYMENTS.—The Secretary may only make a payment described in subparagraph (A) if the national average market price received by producers during the previous 12-month marketing year for all covered commodities is greater than the national average market price received by producers during the most recent 10 marketing years for all covered commodities.

“(2) TREE THINNING AND OTHER PRACTICES.—”;

(2) in subsection (d)—

(A) in paragraph (3), by adding at the end the following:

“(D) PRIORITY FOR LOW COST OFFERS.—In determining the acceptability of contract offers for new general enrollments, the Secretary shall—

“(i) give priority to a contract offer that maximizes the conservation value of the land that is the subject of the contract offer relative to the cost of the contract; and

“(ii) assign the cost value factor described in clause (i) a weight of not less
than 25 percent in any ranking scheme
used by the Secretary in determining the
acceptability of contract offers.”;

(B) in paragraph (5)—

(i) in subparagraph (C)—

(I) by striking “The Secretary
may use” and inserting “With respect
to”; and

(II) by striking “rental rates”
and inserting the following: “rental
rates, the Secretary—
“(i) shall apply the limitation de-
scribed in subsection (g)(1)(A); and
“(ii) may use the estimates”; and

(ii) by adding at the end the fol-
lowing:
“(D) LIMITATION.—Subject to subsection
(g), the amount of an annual rental payment
paid to an owner or operator under this sub-
chapter, in the case of general enrollment, shall
not be greater than 80 percent of the applicable
estimate of the county average market dryland
cash rental rates for cropland derived from the
survey conducted under subparagraph (A).”;
and
(3) in subsection (g)—

(A) in paragraph (1), by striking “exceed $50,000” and inserting the following: “exceed—

“(A) $50,000; and

“(B) $240 per acre.”; and

(B) in paragraph (2)(A), by striking “this subsection” and inserting “paragraph (1)”.

SEC. 3. CONSERVATION STEWARDSHIP PROGRAM.

(a) DEFINITIONS.—Section 1238D of the Food Security Act of 1985 (16 U.S.C. 3838d) is amended—

(1) in paragraph (2)(B)—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iii) development of a comprehensive conservation plan, as defined in section 1238G(f)(1).”; and

(2) in paragraph (7), by striking the period at the end and inserting the following: “through the use of—

“(A) quality criteria under a resource management system;
“(B) predictive analytics tools;

“(C) data from past and current enrollment in the program; and

“(D) other methods that measure conservation and improvement in priority resource concerns.”.

(b) Establishment.—Section 1238E(a) of the Food Security Act of 1985 (16 U.S.C. 3838e(a)) is amended in the matter preceding paragraph (1) by striking “2018” and inserting “2023”.

(c) Stewardship Contracts.—Section 1238F of the Food Security Act of 1985 (16 U.S.C. 3838f) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) Ranking of Applications.—

“(A) In General.—In evaluating contract offers submitted under subsection (a), the Secretary shall rank applications based on—

“(i) the natural resource conservation and environmental benefits that result from the conservation treatment on all applicable priority resource concerns at the time of submission of the application; and
“(ii) the degree to which the proposed conservation activities increase natural re-
source conservation and environmental benefits.

“(B) ADDITIONAL CRITERION.—If 2 or more applications receive the same ranking under subparagraph (A), the Secretary shall rank those contracts based on the extent to which the actual and anticipated conservation benefits from each contract are provided at the lowest cost relative to other similarly beneficial contract offers.”; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by inserting “new or improved” after “integrate”; and

(ii) by inserting “demonstrating con-
tinuous improvement during the additional 5-year period,” after “operation,”; and

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking “to meet” and in-
serting “to plan, install, maintain, and actively manage conservation ac-
tivities that allow the producer to meet or exceed”; and
(II) by striking “on the agricul-
tural operation”; and
(ii) in subparagraph (B), by striking “to exceed the stewardship threshold of” and inserting “to adopt or improve con-
servation activities, as determined by the Secretary, to achieve higher levels of per-
formance with respect to not less than”.

(d) DUTIES OF THE SECRETARY.—Section 1238G of the Food Security Act of 1985 (16 U.S.C. 3838g) is amended—
(1) in subsection (c)(2), by striking “all finan-
cial” and all that follows through the period at the end and inserting the following: “all—
“(A) financial assistance, including pay-
ments made under subsections (d)(2)(B), (e), and (f);
“(B) technical assistance; and
“(C) any other expenses associated with enrollment or participation in the program.”;
(2) in subsection (d), by adding at the end the following:
“(5) Payment for cover crop activities.—

The amount of a payment under this subsection for
cover crop activities shall be not less than 125 per-
cent of the annual payment amount determined by
the Secretary under paragraph (2).”;

(3) in subsection (e)—

(A) in the subsection heading, by inserting

“AND MANAGEMENT-INTENSIVE ROTATION
GRAZING” after “ROTATIONS”;

(B) by striking paragraph (2);

(C) by redesigning paragraphs (1) and

(4) as paragraphs (2) and (1), respectively;

(D) by moving paragraph (1) (as so redesign-

ated) so as to appear before paragraph (2)
(as so redesignated);

(E) in paragraph (1) (as so redesign-

inated)—

(i) by redesigning subparagraphs

(A) through (D) and (E) as clauses (i)

through (iv) and (vi), respectively, and in-

denting appropriately;

(ii) by striking the paragraph designa-

tion and all that follows through “the

term” in the matter preceding clause (i)
(as so redesignated) and inserting the fol-
lowing:

“(1) DEFINITIONS.—In this subsection:

“(A) MANAGEMENT-INTENSIVE ROTATIONAL GRAZING.—The term ‘management-intensive rotational grazing’ means a grazing sys-
tem in which animals are regularly and system-
atically moved to fresh pasture in a manner
that—

“(i) maximizes the quantity and qual-
ity of forage growth;

“(ii) improves manure distribution
and nutrient cycling;

“(iii) increases carbon sequestration
from greater forage harvest;

“(iv) improves the quality and quan-
tity of cover for wildlife;

“(v) provides permanent cover to pro-
tect the soil from erosion; and

“(vi) improves water quality.

“(B) RESOURCE-CONSERVING CROP ROTA-
TION.—The term”; and

(iii) in subparagraph (B) (as so des-
ignated)—
(I) in clause (iv) (as so redesignated), by striking “and” at the end; and

(II) by inserting after clause (iv) (as so redesignated) the following:

“(v) builds soil carbon; and”;

(F) in paragraph (2) (as so redesignated), by striking “improve resource-conserving” and all that follows through the period at the end and inserting the following: “improve, manage, and maintain—

“(A) resource-conserving crop rotations; or

“(B) management-intensive rotational grazing.”;

(G) in paragraph (3)—

(i) by striking “paragraph (1)” and inserting “paragraph (2)”; and

(ii) by striking “and maintain” and all that follows through the period at the end and inserting “or improve, manage, and maintain resource-conserving crop rotations or management-intensive rotational grazing for the term of the contract.”; and

(H) by adding at the end the following:
“(4) Minimum Amount of Payment.—An additional payment provided under paragraph (2) shall be in an amount that is not less than $20 per acre.”;

(4) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively;

(5) by inserting after subsection (e) the following:

“(f) Payment for Comprehensive Conservation Plan.—

“(1) Definition of Comprehensive Conservation Plan.—In this subsection, the term ‘comprehensive conservation plan’ means a conservation plan that meets or exceeds the stewardship threshold for each priority resource concern identified by the Secretary under subsection (a)(2).

“(2) Payment for Comprehensive Conservation Plan.—The Secretary shall provide an additional annual payment to a producer that develops and implements a comprehensive conservation plan.

“(3) Amount of Payment.—

“(A) In General.—An additional annual payment under paragraph (2) shall be in an
amount not less than $1,000 and not greater
than $3,000 per year.

“(B) CRITERIA.—The Secretary shall de-
termine the amount of payment under subpara-
graph (A) based on—

“(i) the number of priority resource
concerns addressed in the comprehensive
conservation plan; and

“(ii) the number of types of land uses
included in the comprehensive conservation
plan.”; and

(6) in subsection (j) (as so redesignated), by
striking “subsection (f)” and inserting “subsection
(g)”.

SEC. 4. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) PURPOSES.—Section 1240(4) of the Food Secu-

rity Act of 1985 (16 U.S.C. 3839aa(4)) is amended by
striking “livestock, pest or irrigation management” and
inserting “crops and livestock, pest management, irriga-
tion management”.

(b) ESTABLISHMENT AND ADMINISTRATION.—

(1) IN GENERAL.—Section 1240B of the Food
Security Act of 1985 (16 U.S.C. 3839aa–2) is
amended—
(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

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

“(e) PROGRAM COORDINATION.—The Secretary shall coordinate management of the program and the conservation stewardship program under subchapter B of chapter 2 to facilitate the ability of a participant in the program to enroll in the conservation stewardship program after meeting the stewardship threshold for not less than 2 priority resource concerns.”; and

(C) in paragraph (4)(B) of subsection (e) (as so redesignated)—

(i) in clause (i)—

(I) by striking “Not more than” and inserting “The Secretary shall provide not less than”;

(II) by striking “may be provided”; and

(III) by striking “the purpose of” and inserting “all costs relating to”;

and

(ii) in clause (ii), by striking “90-day” and inserting “180-day”.
(2) Conforming Amendments.—Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended—

(A) in paragraph (2) of subsection (g) (as so redesignated), by striking “subsection (g)” and inserting “subsection (h)”; and

(B) in paragraph (2) of subsection (h) (as so redesignated), by striking “subsection (f)” and inserting “subsection (g)”.

SEC. 5. FUNDING AND ADMINISTRATION.

(a) Commodity Credit Corporation.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “fiscal year 2019” and inserting “each of fiscal years 2019 through 2023”; and

(B) in paragraph (5), by striking “practicable—” in the matter preceding subparagraph (A) and all that follows through the period at the end of subparagraph (E) and inserting “practicable, $1,750,000,000 for each of fiscal years 2019 through 2023, of which not less than $500,000,000 for each fiscal year shall be for management activities that assist
producers that protect sources of drinking water.”;

(2) in subsection (b), by striking “fiscal year 2019” and inserting “each of fiscal years 2019 through 2023”; and

(3) in subsection (h)(1)—

(A) in the matter preceding subparagraph (A), by striking “2018” and inserting “2023”; and

(B) by striking “5 percent” each place it appears and inserting “15 percent”.

(b) ACREAGE LIMITATIONS.—Section 1244(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3844(f)(1)) is amended—

(1) in subparagraph (A)—

(A) in the subparagraph heading, by inserting “CONSERVATION RESERVE PROGRAM” before “ENROLLMENTS”;

(B) by striking “25” and inserting “15”;

and

(C) by striking “and wetland reserve easements under section 1265C” and inserting “, except that any land included in that program in a county greater than 15 percent of the cropland of which is included in that program on
the day before the date of enactment of the Give Our Resources the Opportunity to Work Act of 2018 may continue to be so included until the date on which the contract covering the land expires.”; and

(2) in subparagraph (B), by striking “10” and inserting “15”.

SEC. 6. REPORT ON LAND ACCESS, TENURE, AND TRANSITION.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Chief Economist, shall submit to Congress and make publicly available a report identifying—

(1) the barriers that prevent or hinder the ability of beginning farmers and ranchers and historically underserved producers to acquire or access farmland;

(2) the extent to which Federal programs, including agricultural conservation easement programs, land transition programs, and financing programs, are improving—

(A) farmland access and tenure for beginning farmers and ranchers and historically underserved producers; and
(B) farmland transition and succession;
and
(3) the regulatory, operational, or statutory changes that are necessary to improve—
(A) the ability of beginning farmers and ranchers and historically underserved producers to acquire or access farmland;
(B) farmland tenure for beginning farmers and ranchers and historically underserved producers; and
(C) farmland transition and succession.