115TH CONGRESS
1ST SESSION

S. 909

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

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2017

Mr. THUNE 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 extend and improve conservation programs, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Conservation Program Improvement Act of 2017”.

SEC. 2. IMPROVEMENTS TO CONSERVATION RESERVE PRO-
GRAM.

(a) EXTENSION.—Section 1231(a) of the Food Secu-

rity Act of 1985 (16 U.S.C. 3831(a)) is amended by strik-
ing “2018” and inserting “2023”.

(b) Enrollment.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) 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 and inserting “during each of fiscal years 2019 through 2023 not more than 30,000,000 acres, not including any land that is transferred under section 1235(f).”;

(2) by adding at the end the following:

“(3) State target acreage enrollment.—

“(A) In general.—During each of fiscal years 2019 through 2023, to the maximum extent practicable, the Secretary shall carry out this subchapter in such a manner as to enroll and maintain acreage in the conservation reserve in accordance with the target acreage for each State, as determined under subparagraph (B).

“(B) Target acreage.—The target acreage referred to in subparagraph (A) for a State shall be equal to the product obtained by multiplying—

“(i) the quotient (rounded to the eighth decimal point) obtained by dividing—
“(I) the average number of acres of land in the State enrolled in the conservation reserve during each of fiscal years 2007 through 2016; by

“(II) the average number of acres of land enrolled in the conservation reserve nationally during each of fiscal years 2007 through 2016; and

“(ii) 30,000,000.”.

(c) RESTRICTIONS ON LAND PLANTED TO TREES.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end the following:

“(j) RESTRICTIONS ON LAND PLANTED TO TREES.—

“(1) REDUCTION OF BASE ACRES.—In a case in which, as result of a contract under this subchapter, the base acres (as defined in section 1111 of the Agricultural Act of 2014 (7 U.S.C. 9011)) on a farm that are enrolled in the conservation reserve is greater than the acres of available cropland on the farm, the Secretary shall permanently reduce the number of base acres of the farm by the number of acres that are planted to trees under the conservation plan described in section 1232(a)(1).

“(2) RENEWAL.—No contract under this subchapter may be renewed with respect to any acreage
that is planted to trees under the conservation plan described in section 1232(a)(1).”.

(d) HAYING AND GRAZING.—Section 1233(b) of the Food Security Act of 1985 (16 U.S.C. 3833(b)) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(B) in the matter preceding clause (i) (as so designated), by striking “in permitting those activities” and inserting the following: “in permitting—

“(A) those activities”; 

(C) in subparagraph (A)(ii) (as so designated), by adding “and” at the end; and

(D) by adding at the end the following:

“(B) those activities and the activities described in paragraph (4), not more than ⅓ of the acres covered by the contract may be harvested during any year;”;

(2) in paragraph (3)(B), in the matter preceding clause (i), by striking “grazing,” the first place it appears and inserting “grazing outside the normal grazing period described in paragraph (5),”;
(3) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(4) by inserting after paragraph (3) the following:

“(4) mechanical harvesting of vegetative cover, without any restriction on the use of the vegetative cover harvested (except harvesting the vegetative cover for seed), subject to the conditions that—

“(A) the harvesting may not occur more frequently than once every 3 years; and

“(B) the annual rental rate for the acres harvested during a year shall be reduced by 25 percent;

“(5) grazing during the applicable normal grazing period determined under subclause (I) of section 1501(c)(3)(D)(i) of the Agricultural Act of 2014 (7 U.S.C. 9081(c)(3)(D)(i)), without any restriction on grazing during the primary nesting period, subject to the conditions that—

“(A) the grazing shall be at 25 percent of the normal carrying capacity determined under that subclause; and

“(B) the annual rental rate for the acres harvested during a year shall be reduced by 25 percent;”.

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

(1) in paragraph (1), by striking “The total” and inserting “Except as provided in paragraphs (2) and (3), the total”; and

(2) by adding at the end the following:

“(3) Wellhead Protection.—Paragraph (1) shall not apply to rental payments received by a rural water district or association for land that is enrolled under this subchapter for the purpose of protecting a wellhead.”.

(f) Transition Option for Certain Farmers or Ranchers.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended—

(1) in subsection (c)(1)(B)(iii), by striking “a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher” and inserting “an eligible owner or operator to a covered farmer or rancher (as those terms are defined in subsection (f)(1))”; and

(2) in subsection (f)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;
(B) by inserting before paragraph (2) (as so designated) the following:

“(1) DEFINITIONS.—In this subsection:

“(A) COVERED FARMER OR RANCHER.—

The term ‘covered farmer or rancher’ means—

“(i) a beginning farmer or rancher;

“(ii) a veteran farmer or rancher (as defined in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e))); or

“(iii) a socially disadvantaged farmer or rancher.

“(B) ELIGIBLE OWNER OR OPERATOR.—

The term ‘eligible owner or operator’ means a farmer or rancher who is—

“(i) an owner or operator who is retired or retiring; or

“(ii) an owner who is not less than 65 years of age.”;

(C) in paragraph (2) (as designated by subparagraph (A))—

(i) in the matter preceding subparagraph (A), by striking “a retired farmer or rancher” and all that follows through “‘covered farmer or rancher’”) and insert-
ing “an eligible owner or operator to a covered farmer or rancher”;

(ii) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;

(iii) by inserting before subparagraph (B) (as so designated) the following:

“(A) allow, without any penalty, the eligible owner or operator to terminate the contract entered into under this subchapter during the 3-year period ending on the date on which the contract would expire;”;

(iv) by striking “retired or retiring owner or operator” each place it appears and inserting “eligible owner or operator”;

(v) by striking subparagraph (D) (as designated by clause (ii)) and inserting the following:

“(D) require the covered farmer or rancher to develop and implement, and provide to the covered farmer or rancher technical and financial assistance in the development of, a comprehensive conservation plan that addresses any resource concerns and meets such sustainability criteria as the Secretary may establish;”; and
(vi) in subparagraph (E) (as designated by clause (ii)), by striking “by not later than” and all that follows through “ownership or lease” and inserting “at any time during the period beginning on the date that is 1 year before the date of termination of the contract”; and

(D) by adding at the end the following:

“(4) Eligibility.—An eligible owner or operator who may qualify for the option under paragraph (2) shall include an eligible owner or operator who entered into a contract under this subchapter not later than 2 years before the date of enactment of this paragraph.”.

SEC. 3. MODIFICATIONS TO CONSERVATION EASEMENT PROGRAMS.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by inserting after subtitle E the following:

“Subtitle F—Other Conservation Provisions

“SEC. 1251. MODIFICATIONS TO CONSERVATION EASEMENT PROGRAMS.

“(a) Definition of Covered Program.—In this section, the term ‘covered program’ means—

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“(1) the conservation reserve program established under subchapter B of chapter 1 of subtitle D;

“(2) the farmable wetland program carried out under section 1231B;

“(3) the special conservation reserve enhancement program described in section 1234(g)(2);

“(4) the agricultural conservation easement program established under subtitle H;

“(5) the healthy forests reserve program established under section 501 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6571); or

“(6) any similar program, as determined by the Secretary, that is established on or after the date of enactment of the Conservation Program Improvement Act of 2017.

“(b) MODIFICATIONS.—Notwithstanding any other provision of law applicable to a covered program, subject to subsection (c), the Secretary shall—

“(1) allow land enrolled in a covered program to be—

“(A) modified for water management, general maintenance, vegetative cover control, wildlife habitat management, or any other purpose,
subject to the condition that the modification shall be approved jointly by—

“(i) the State department of natural resources (or equivalent State agency); and

“(ii) the technical committee established under section 1261(a) of the State; or

“(B) exchanged for land that has equal or greater conservation, wildlife, ecological, and economic values, as determined by the Secretary; and

“(2) provide for the modification of an agreement, a contract, or an easement under a covered program if the Secretary determines that the modification—

“(A) would facilitate the practical administration and management of the land covered by the agreement, contract, or easement; and

“(B) would not adversely affect the functions and values for which the agreement, contract, or easement was established.

“(c) REQUIREMENTS.—

“(1) ENROLLED ACREAGE.—Any modification or exchange under subsection (b) shall not result in
a net loss of acreage enrolled in the covered pro-
gram.

“(2) Exchanged Acres.—Any land for which
an exchange is made under subsection (b) shall sat-
ify all requirements for enrollment in the covered
program.

“(d) Costs.—A party to an agreement, a contract,
or an easement under a covered program that requests
a modification or exchange under subsection (b) shall be
responsible for all costs of the modification or exchange,
including—

“(1) an appraisal to determine whether the eco-


dic value of the land for which an exchange is
made under subsection (b) is equal to or greater
than the value of the land removed from the covered
program;

“(2) the repayment of the costs paid by the
Secretary for any restoration of land removed from
the covered program;

“(3) if applicable, a survey of property bound-
aries, including review and approval by the applica-
ble agency;

“(4) preparation and recording in accordance
with standard real estate practices of any exchange,
including requirements for title approval by the Sec-
retary, subordination of liens, and amended warranty easement deed recording; and

“(5) any applicable recording and legal fees.”.