

118TH CONGRESS
1ST SESSION

S. 2631

To amend the Food Security Act of 1985 to require the Secretary of Agriculture to establish the forest conservation easement program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mrs. GILLIBRAND (for herself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to require the Secretary of Agriculture to establish the forest conservation easement 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 “Forest Conservation
5 Easement Program Act of 2023”.

6 **SEC. 2. FOREST CONSERVATION EASEMENT PROGRAM.**

7 (a) IN GENERAL.—Title XII of the Food Security
8 Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

1 (1) by redesignating subtitle I (16 U.S.C. 3871
2 et seq.) as subtitle J; and

3 (2) by inserting after subtitle H (16 U.S.C.
4 3865 et seq.) the following:

5 **“Subtitle I—Forest Conservation**
6 **Easement Program**

7 **“SEC. 1267. ESTABLISHMENT AND PURPOSES.**

8 “(a) ESTABLISHMENT.—The Secretary shall estab-
9 lish a forest conservation easement program for the con-
10 servation and restoration of eligible land and natural re-
11 sources through the acquisition of conservation easements
12 or other interests in land.

13 “(b) PURPOSES.—The purposes of the program
14 are—

15 “(1) to protect the viability and sustainability
16 of forest land and related ecological and human con-
17 servation values of eligible land by limiting the nega-
18 tive impacts of non-forest land uses;

19 “(2) to protect and enhance forest ecosystem
20 and landscape functions and values;

21 “(3) to promote the restoration, protection, and
22 improvement of habitat of threatened and endan-
23 gered species and other at-risk species;

24 “(4) to maintain and enhance biodiversity;

25 “(5) to enhance carbon sequestration;

1 “(6) to protect and restore watersheds for
2 water quality and quantity improvements;

3 “(7) to prevent encroachment around military
4 bases and installations; and

5 “(8) to carry out the purposes and functions of
6 the healthy forests reserve program established
7 under title V of the Healthy Forests Restoration Act
8 of 2003 (16 U.S.C. 6571 et seq.), as in effect on the
9 day before the date of enactment of this section.

10 **“SEC. 1267A. DEFINITIONS.**

11 “In this subtitle:

12 “(1) BEGINNING FOREST LANDOWNER.—The
13 term ‘beginning forest landowner’ means a person
14 that—

15 “(A)(i) has not previously owned forest
16 land; or

17 “(ii) has owned forest land for not more
18 than 10 years; and

19 “(B) meets such other criteria as the Sec-
20 retary may establish.

21 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-
22 tity’ means—

23 “(A) an agency of State or local govern-
24 ment or an Indian Tribe (including a land re-
25 source council established under State law); or

1 “(B) an organization that is—

2 “(i) organized for, and at all times
3 since the formation of the organization has
4 been operated principally for, 1 or more of
5 the conservation purposes specified in
6 clause (i), (ii), (iii), or (iv) of section
7 170(h)(4)(A) of the Internal Revenue Code
8 of 1986;

9 “(ii) an organization described in sec-
10 tion 501(c)(3) of that Code that is exempt
11 from taxation under section 501(a) of that
12 Code; or

13 “(iii) described in—

14 “(I) paragraph (1) or (2) of sec-
15 tion 509(a) of that Code; or

16 “(II) section 509(a)(3) of that
17 Code and is controlled by an organiza-
18 tion described in section 509(a)(2) of
19 that Code.

20 “(3) ELIGIBLE LAND.—The term ‘eligible land’
21 means private land (which shall include land owned
22 by any organization described in paragraph (2)(B)
23 and land owned by any other private entity, without
24 any eligibility requirement in addition to the eligi-

1 bility requirements established by this subtitle) or
2 Tribal land—

3 “(A) that is—

4 “(i) forest land; or

5 “(ii) being restored to forest land;

6 “(B) in the case of a forest land ease-
7 ment—

8 “(i) that is subject to a pending offer
9 for purchase of a forest land easement
10 from an eligible entity; and

11 “(ii)(I) the enrollment of which would
12 protect forest uses and related conserva-
13 tion values by conserving land; or

14 “(II) the protection of which will fur-
15 ther a State or local policy consistent with
16 the purposes of the program; and

17 “(C) in the case of a forest reserve ease-
18 ment, the enrollment of which will maintain, re-
19 store, enhance, or otherwise measurably—

20 “(i) increase the likelihood of recovery
21 of a species that is listed as endangered or
22 threatened under section 4 of the Endan-
23 gered Species Act of 1973 (16 U.S.C.
24 1533); or

1 “(ii) improve the well-being of a spe-
2 cies that is—

3 “(I) not listed as endangered or
4 threatened under that section; and

5 “(II)(aa) a candidate for that
6 listing, a State-listed species, or a spe-
7 cial concern species; or

8 “(bb) designated as a species of
9 greatest conservation need by a State
10 wildlife action plan.

11 “(4) FOREST LAND EASEMENT.—The term ‘for-
12 est land easement’ means an easement or other in-
13 terest in eligible land that—

14 “(A) is conveyed to an eligible entity for
15 the purpose of protecting natural resources and
16 the forest nature of the eligible land; and

17 “(B) permits the landowner the right to
18 continue working forest production and related
19 uses.

20 “(5) FOREST RESERVE EASEMENT.—The term
21 ‘forest reserve easement’ means an easement or
22 other interest in eligible land that—

23 “(A) is conveyed to the Secretary for the
24 purpose of protecting natural resources and the
25 forest nature of the eligible land; and

1 “(B) permits the landowner the right to
2 continue working forest production and related
3 uses consistent with the applicable forest re-
4 serve easement plan developed under section
5 1267C(e)(1)(A).

6 “(6) PROGRAM.—The term ‘program’ means
7 the forest conservation easement program estab-
8 lished under this subtitle.

9 “(7) SOCIALLY DISADVANTAGED FOREST LAND-
10 OWNER.—The term ‘socially disadvantaged forest
11 landowner’ means a forest landowner who is a mem-
12 ber of a socially disadvantaged group (as defined in
13 section 2501(a) of the Food, Agriculture, Conserva-
14 tion, and Trade Act of 1990 (7 U.S.C. 2279(a))).

15 “(8) VETERAN FOREST LANDOWNER.—The
16 term ‘veteran forest landowner’ means a forest land-
17 owner who—

18 “(A) has served in the Armed Forces (as
19 defined in section 101 of title 38, United States
20 Code); and

21 “(B)(i) has not previously owned forest
22 land;

23 “(ii) has owned forest land for not more
24 than 10 years; or

1 “(iii) is a veteran (as defined in that sec-
2 tion) who has first obtained status as a veteran
3 (as so defined) during the most recent 10-year
4 period.

5 **“SEC. 1267B. FOREST LAND EASEMENTS.**

6 “(a) AVAILABILITY OF ASSISTANCE.—The Secretary
7 shall facilitate and provide funding for—

8 “(1) the purchase by eligible entities of forest
9 land easements in eligible land;

10 “(2) the development of voluntary forest man-
11 agement plans under subsection (b)(4)(F); and

12 “(3) technical assistance to implement this sec-
13 tion.

14 “(b) COST-SHARE ASSISTANCE.—

15 “(1) IN GENERAL.—The Secretary shall protect
16 the forest use and related conservation values of eli-
17 gible land through cost-share assistance to eligible
18 entities for purchasing forest land easements.

19 “(2) SCOPE OF ASSISTANCE AVAILABLE.—

20 “(A) FEDERAL SHARE.—Except as pro-
21 vided in subparagraph (C), an agreement de-
22 scribed in paragraph (4) shall provide for a
23 Federal share of 50 percent of the fair market
24 value of the forest land easement.

1 “(B) DETERMINATION OF FAIR MARKET
2 VALUE.—The fair market value of a forest land
3 easement shall be determined by the Secretary
4 using—

5 “(i) the Uniform Standards of Profes-
6 sional Appraisal Practice;

7 “(ii) an areawide market analysis or
8 survey; or

9 “(iii) another industry-approved meth-
10 od.

11 “(C) EXCEPTIONS.—The Secretary may
12 provide for a Federal share of not to exceed 75
13 percent of the fair market value of a forest land
14 easement in the case of—

15 “(i) forests of special environmental
16 significance, as determined by the Sec-
17 retary; or

18 “(ii) eligible land owned by—

19 “(I) a beginning forest land-
20 owner;

21 “(II) a socially disadvantaged
22 forest landowner;

23 “(III) a veteran forest landowner;
24 or

1 “(IV) a limited resource forest
2 landowner, as defined by the Sec-
3 retary.

4 “(D) NON-FEDERAL SHARE.—

5 “(i) IN GENERAL.—Under an agree-
6 ment described in paragraph (4), the eligi-
7 ble entity shall provide a share that covers
8 the difference between—

9 “(I) the Federal share that is
10 provided under this paragraph; and

11 “(II) the fair market value of the
12 forest land easement.

13 “(ii) PERMISSIBLE FORMS.—The non-
14 Federal share provided by an eligible entity
15 under this subparagraph may comprise—

16 “(I) cash resources;

17 “(II) a charitable donation or
18 qualified conservation contribution (as
19 defined in section 170(h) of the Inter-
20 nal Revenue Code of 1986) from the
21 private forest landowner from which
22 the forest land easement will be pur-
23 chased;

24 “(III) costs associated with se-
25 curing a deed to the forest land ease-

1 ment, including the cost of appraisal,
2 survey, inspection, and title; and

3 “(IV) other costs, as determined
4 by the Secretary.

5 “(3) EVALUATION AND RANKING OF APPLICA-
6 TIONS.—

7 “(A) CRITERIA.—The Secretary shall es-
8 tablish evaluation and ranking criteria to maxi-
9 mize the benefit of Federal investment under
10 the program.

11 “(B) PRIORITY.—In evaluating applica-
12 tions under the program, the Secretary shall
13 give priority to an application for the purchase
14 of a forest land easement that, as determined
15 by the Secretary—

16 “(i) maintains the viability of working
17 forest land; and

18 “(ii) includes a forest management
19 plan developed for the eligible land, which
20 may comprise a plan described in any of
21 subclauses (I) through (IV) of paragraph
22 (4)(F)(ii).

23 “(C) CONSIDERATIONS.—In establishing
24 the criteria under subparagraph (A), the Sec-
25 retary shall emphasize support for—

1 “(i) protecting forest uses and related
2 conservation values of the eligible land;

3 “(ii) reducing fragmentation; and

4 “(iii) maximizing the areas protected
5 from conversion to non-forest uses.

6 “(D) ACCOUNTING FOR GEOGRAPHIC DIF-
7 FERENCES.—The Secretary may adjust the cri-
8 teria established under subparagraph (A) to ac-
9 count for geographic differences, if the adjust-
10 ments—

11 “(i) meet the purposes of the pro-
12 gram; and

13 “(ii) continue to maximize the benefit
14 of the Federal investment under the pro-
15 gram.

16 “(E) BIDDING DOWN.—If the Secretary
17 determines that 2 or more applications for cost-
18 share assistance are comparable in achieving
19 the purpose of the program, the Secretary shall
20 not assign a higher priority to any of those ap-
21 plications solely on the basis of lesser cost to
22 the program.

23 “(4) AGREEMENTS WITH ELIGIBLE ENTITIES.—

24 “(A) IN GENERAL.—The Secretary shall
25 enter into agreements with eligible entities to

1 stipulate the terms and conditions under which
2 the eligible entity is permitted to use cost-share
3 assistance provided under this section.

4 “(B) LENGTH OF AGREEMENTS.—

5 “(i) IN GENERAL.—An agreement
6 under subparagraph (A) shall be for a
7 term that is—

8 “(I) in the case of an eligible en-
9 tity certified under paragraph (5), not
10 less than 5 years; and

11 “(II) in the case of any other eli-
12 gible entity, not less than 3, but not
13 more than 5, years, unless the Sec-
14 retary determines that an extension of
15 time is justified.

16 “(ii) EXPEDITING CLOSINGS.—The
17 Secretary is encouraged to expedite closing
18 on forest land easements, as practicable.

19 “(C) MINIMUM TERMS AND CONDITIONS.—
20 An eligible entity shall be authorized to use its
21 own terms and conditions for forest land ease-
22 ments so long as the Secretary determines such
23 terms and conditions—

24 “(i) are consistent with—

1 “(I) the purposes of the program;
2 and

3 “(II) the forestry activities to be
4 conducted on the eligible land;

5 “(ii) permit effective enforcement of
6 the conservation purposes of the forest
7 land easements; and

8 “(iii) include a right of enforcement
9 for the Secretary that—

10 “(I) may be used only if the
11 terms and conditions of the forest
12 land easement are not enforced by the
13 eligible entity; and

14 “(II) does not extend to a right
15 of inspection unless—

16 “(aa)(AA) the holder of the
17 forest land easement fails to pro-
18 vide monitoring reports in a
19 timely manner; or

20 “(BB) the Secretary has a
21 reasonable and articulable belief
22 that the terms and conditions of
23 the forest land easement have
24 been violated; and

1 “(bb) prior to the inspection,
2 the Secretary notifies the eligible
3 entity and the landowner of the
4 inspection and provides a reason-
5 able opportunity for the eligible
6 entity and the landowner to par-
7 ticipate in the inspection; and

8 “(iv) include a limit on the impervious
9 surfaces to be allowed that is consistent
10 with the forestry activities to be conducted.

11 “(D) ADDITIONAL PERMITTED TERMS AND
12 CONDITIONS.—An eligible entity may include
13 terms and conditions for a forest land easement
14 that—

15 “(i) are intended to keep the eligible
16 land subject to the forest land easement in
17 active forest management, as determined
18 by the Secretary;

19 “(ii) allow subsurface mineral develop-
20 ment on the eligible land subject to the
21 forest land easement and in accordance
22 with applicable State law if, as determined
23 by the Secretary—

24 “(I) the subsurface mineral de-
25 velopment—

1 “(aa) has a limited and lo-
2 calized impact;

3 “(bb) does not harm the for-
4 est use and conservation values
5 of the eligible land subject to the
6 forest land easement;

7 “(cc) does not materially
8 alter or affect the existing topog-
9 raphy;

10 “(dd) complies with a sub-
11 surface mineral development plan
12 that—

13 “(AA) includes a plan
14 for the remediation of im-
15 pacts to the forest use and
16 conservation values of the el-
17 igible land subject to the
18 forest land easement; and

19 “(BB) is approved by
20 the Secretary prior to the
21 initiation of mineral develop-
22 ment activity;

23 “(ee) is not accomplished by
24 any surface mining method;

1 “(ff) is within the imper-
2 vious surface limits of the forest
3 land easement under subpara-
4 graph (C)(iv); and

5 “(gg) uses practices and
6 technologies that minimize the
7 duration and intensity of impacts
8 to the forest use and conserva-
9 tion values of the eligible land
10 subject to the forest land ease-
11 ment; and

12 “(II) each area impacted by the
13 subsurface mineral development is re-
14 claimed and restored by the holder of
15 the mineral rights at cessation of op-
16 eration; and

17 “(iii) include other relevant activities
18 relating to the forest land easement, as de-
19 termined by the Secretary.

20 “(E) SUBSTITUTION OF QUALIFIED
21 PROJECTS.—An agreement under subparagraph
22 (A) shall allow, upon mutual agreement of the
23 parties, substitution of qualified projects that
24 are identified at the time of the proposed sub-
25 stitution.

1 “(F) VOLUNTARY FOREST MANAGEMENT
2 PLAN.—

3 “(i) IN GENERAL.—If eligible land
4 does not have a forest management plan at
5 the time of application for the program,
6 prior to the acquisition of the forest land
7 easement, the landowner shall develop, in
8 partnership with the eligible entity, a vol-
9 untary forest management plan for the eli-
10 gible land subject to the forest land ease-
11 ment.

12 “(ii) SUFFICIENCY OF OTHER
13 PLANS.—A voluntary forest management
14 plan described in clause (i) may com-
15 prise—

16 “(I) a forest stewardship plan de-
17 scribed in section 5(f) of the Coopera-
18 tive Forestry Assistance Act of 1978
19 (16 U.S.C. 2103a(f));

20 “(II) another plan approved by
21 the applicable State forester or State
22 forestry agency;

23 “(III) a plan developed under a
24 third-party certification system; or

1 “(IV) another plan determined
2 appropriate by the Secretary.

3 “(iii) REIMBURSEMENT.—The Sec-
4 retary may reimburse a landowner for the
5 cost of the development of a voluntary for-
6 est management plan under clause (i).

7 “(G) EFFECT OF VIOLATION.—If a viola-
8 tion of a term or condition of an agreement
9 under subparagraph (A) occurs—

10 “(i) the Secretary may terminate the
11 agreement; and

12 “(ii) the Secretary may require the el-
13 igible entity to refund all or part of any
14 payments received by the eligible entity
15 under the program, with interest on the
16 payments as determined appropriate by the
17 Secretary.

18 “(5) CERTIFICATION OF ELIGIBLE ENTITIES.—

19 “(A) CERTIFICATION PROCESS.—The Sec-
20 retary shall establish a process to create forest
21 land easement acquisition and operational effi-
22 ciencies, under which the Secretary shall—

23 “(i) directly certify eligible entities
24 that meet established criteria;

1 “(ii) enter into long-term agreements
2 with certified eligible entities;

3 “(iii) accept proposals for cost-share
4 assistance for the purchase of forest land
5 easements throughout the duration of such
6 agreements; and

7 “(iv) allow a certified eligible entity to
8 use and modify its own terms and condi-
9 tions, notwithstanding subparagraphs (C)
10 and (D) of paragraph (4).

11 “(B) CERTIFICATION CRITERIA.—To be
12 certified under subparagraph (A)(i), an eligible
13 entity shall demonstrate to the Secretary that
14 the eligible entity—

15 “(i) will maintain, at a minimum, for
16 the duration of an agreement described in
17 subparagraph (A)(ii)—

18 “(I) a plan for administering for-
19 est land easements that is consistent
20 with the purposes of the program;

21 “(II) the capacity and resources
22 to monitor and enforce forest land
23 easements; and

24 “(III) policies and procedures to
25 ensure—

1 “(aa) the long-term integrity
2 of forest land easements;

3 “(bb) timely completion of
4 acquisitions of forest land ease-
5 ments; and

6 “(cc) timely and complete
7 evaluation and reporting to the
8 Secretary on the use of funds
9 provided under the program;

10 “(ii)(I) is an eligible entity that has
11 been accredited by the Land Trust Accred-
12 itation Commission, or by an equivalent ac-
13 crediting body, as determined by the Sec-
14 retary, and has acquired not fewer than 5
15 forest land easements under the program
16 or any other forest easement program;

17 “(II) is a State department of agri-
18 culture or other State agency with statu-
19 tory authority for forest land protection
20 that has acquired not fewer than 5 forest
21 land easements under the program or any
22 other forest easement program; or

23 “(III) is an eligible entity not de-
24 scribed in subclause (I) or (II) that has ac-
25 quired not fewer than 10 forest land ease-

1 ments under the program or any other for-
2 est easement program; and

3 “(iii) has successfully met the respon-
4 sibilities of the eligible entity under the ap-
5 plicable agreements with the Secretary, as
6 determined by the Secretary, relating to
7 forest land easements that the eligible enti-
8 ty has acquired as described in subclause
9 (I), (II), or (III) of clause (ii).

10 “(C) QUALITY ASSURANCE.—The Sec-
11 retary shall establish an annual quality review
12 process—

13 “(i) to review a minimum sample of
14 forest land easements acquired by eligible
15 entities certified under subparagraph
16 (A)(i);

17 “(ii) to ensure the integrity of the for-
18 est land easement acquisition process
19 under subparagraph (A);

20 “(iii) to establish a nonpunitive proc-
21 ess for corrective actions with respect to
22 the processes described in subparagraph
23 (A); and

24 “(iv) to provide for waiver of succes-
25 sive annual reviews based on demonstrated

1 compliance with the requirements under
2 this paragraph.

3 “(c) METHOD OF ENROLLMENT.—The Secretary
4 shall enroll eligible land under this section through the use
5 of—

6 “(1) permanent easements; or

7 “(2) easements for the maximum duration al-
8 lowed under applicable State laws.

9 “(d) TECHNICAL ASSISTANCE.—The Secretary may
10 provide technical assistance, on request, to assist in com-
11 pliance with the terms and conditions of forest land ease-
12 ments.

13 **“SEC. 1267C. FOREST RESERVE EASEMENTS.**

14 “(a) AVAILABILITY OF ASSISTANCE.—The Secretary
15 shall provide assistance to owners of eligible land to re-
16 store, protect, and enhance eligible land through—

17 “(1) forest reserve easements and related forest
18 reserve easement plans; and

19 “(2) technical assistance to implement this sec-
20 tion.

21 “(b) EASEMENTS.—

22 “(1) METHOD OF ENROLLMENT.—

23 “(A) AUTHORIZED METHODS.—The Sec-
24 retary shall enroll eligible land under this sec-
25 tion—

1 “(i) through the use of—
2 “(I) permanent easements;
3 “(II) 30-year easements; and
4 “(III) easements for the max-
5 imum duration allowed under applica-
6 ble State laws; and
7 “(ii) in the case of Indian Tribes, in
8 accordance with subparagraph (B).

9 “(B) ACREAGE OWNED BY INDIAN
10 TRIBES.—

11 “(i) DEFINITION OF ACREAGE OWNED
12 BY AN INDIAN TRIBE.—In this subpara-
13 graph, the term ‘acreage owned by an In-
14 dian Tribe’ means eligible land that is—

15 “(I) land that is held in trust by
16 the United States for Indian Tribes or
17 individual Indians;

18 “(II) land, the title to which is
19 held by Indian Tribes or individual
20 Indians subject to Federal restrictions
21 against alienation or encumbrance;

22 “(III) land that is subject to
23 rights of use, occupancy, and benefit
24 of certain Indian Tribes;

1 “(IV) land that is held in fee title
2 by an Indian Tribe;

3 “(V) land that is owned by a na-
4 tive corporation formed under—

5 “(aa) section 17 of the Act
6 of June 18, 1934 (commonly
7 known as the ‘Indian Reorganiza-
8 tion Act’) (48 Stat. 988, chapter
9 576; 25 U.S.C. 5124); or

10 “(bb) section 8 of the Alas-
11 ka Native Claims Settlement Act
12 (43 U.S.C. 1607); or

13 “(VI) a combination of 1 or more
14 types of land described in subclauses
15 (I) through (V).

16 “(ii) ENROLLMENT OF ACREAGE.—In
17 the case of acreage owned by an Indian
18 Tribe, the Secretary may enroll acreage in
19 a forest reserve easement through the use
20 of—

21 “(I) a 30-year contract (the com-
22 pensation for which shall be equiva-
23 lent to the compensation for a 30-year
24 easement);

25 “(II) a permanent easement; or

1 “(III) any combination of the
2 methods described in subclauses (I)
3 and (II).

4 “(C) LIMITATION.—Not more than 10 per-
5 cent of amounts made available to carry out
6 this section in a fiscal year may be used for 30-
7 year easements under this section.

8 “(2) EVALUATION AND RANKING OF OFFERS.—

9 “(A) CRITERIA.—The Secretary shall es-
10 tablish evaluation and ranking criteria for of-
11 fers from landowners under this section to
12 maximize the environmental benefits per dollar
13 expended under the program.

14 “(B) PRIORITY.—The Secretary shall give
15 priority to the enrollment of eligible land under
16 this section that provides the greatest conserva-
17 tion benefit to—

18 “(i) primarily, species listed as endan-
19 gered or threatened under section 4 of the
20 Endangered Species Act of 1973 (16
21 U.S.C. 1533); and

22 “(ii) secondarily, species that are—

23 “(I) not listed as endangered or
24 threatened under that section; and

1 “(II)(aa) candidates for that list-
2 ing, State-listed species, or special
3 concern species; or

4 “(bb) designated as species of
5 greatest conservation need by a State
6 wildlife action plan.

7 “(C) OTHER CONSIDERATIONS.—The Sec-
8 retary may give additional consideration to eli-
9 gible land the enrollment under this section of
10 which will—

11 “(i) improve biological diversity;

12 “(ii) restore native forest ecosystems;

13 “(iii) conserve forest land that pro-
14 vides habitat for species described in sub-
15 paragraph (B);

16 “(iv) reduce fragmentation; and

17 “(v) increase carbon sequestration.

18 “(3) TERMS AND CONDITIONS OF EASE-
19 MENTS.—

20 “(A) IN GENERAL.—A forest reserve ease-
21 ment shall include terms and conditions that—

22 “(i) are consistent with the purposes
23 of the program and the forestry activities
24 to be conducted on the eligible land;

1 “(ii) are consistent with the manage-
2 ment objectives of the owner of the eligible
3 land, as determined appropriate by the
4 Secretary and identified in the forest re-
5 serve easement plan developed under sub-
6 section (c)(1)(A);

7 “(iii) permit effective enforcement of
8 the conservation purposes of the forest re-
9 serve easements;

10 “(iv) provide for the efficient and ef-
11 fective establishment or enhancement of
12 forest ecosystem functions and values; and

13 “(v) include such additional provisions
14 as the Secretary determines are desirable
15 to carry out the program or facilitate the
16 practical administration of the program.

17 “(B) ADJUSTMENT OF TERMS.—To ensure
18 the terms and conditions of a forest reserve
19 easement are consistent with the management
20 objectives of the owner of the eligible land and
21 the purposes of the program, the Secretary may
22 adjust the standard terms and conditions for
23 any forest reserve easement prior to acquiring
24 the forest reserve easement, as long as the ad-
25 justment does not conflict with this section.

1 “(4) COMPENSATION.—

2 “(A) PERMANENT EASEMENTS.—In the
3 case of eligible land enrolled in a permanent
4 easement under this section, the Secretary shall
5 pay the owner of the eligible land an amount
6 equal to the difference between, as determined
7 by the Secretary—

8 “(i) the fair market value of the eligi-
9 ble land before the enrollment in the per-
10 manent easement; and

11 “(ii) the fair market value of the eligi-
12 ble land as encumbered by the permanent
13 easement.

14 “(B) OTHER.—The Secretary shall pay the
15 owner of eligible land enrolled under this sec-
16 tion in a 30-year contract, a 30-year easement,
17 or an easement for the maximum duration al-
18 lowed under applicable State laws not less than
19 50 percent, and not more than 75 percent, of
20 the compensation that would be paid for a per-
21 manent easement in accordance with subpara-
22 graph (A).

23 “(C) DETERMINATION OF FAIR MARKET
24 VALUE.—The Secretary shall determine the fair
25 market value of eligible land for purposes of

1 this paragraph using the Uniform Standards of
2 Professional Appraisal Practice or another in-
3 dustry-approved method.

4 “(c) EASEMENT RESTORATION AND MANAGE-
5 MENT.—

6 “(1) FOREST RESERVE EASEMENT PLAN.—

7 “(A) IN GENERAL.—Land enrolled in a
8 forest reserve easement shall be subject to a
9 forest reserve easement plan, to be developed
10 jointly by the landowner and the Secretary, that
11 describes the activities to be carried out on the
12 land, as are necessary to restore, maintain, and
13 enhance habitat for species described in sub-
14 section (b)(2)(B), including—

15 “(i) converting or restoring forest
16 land to improve forest ecosystem functions
17 and values;

18 “(ii) enhancing or maintaining exist-
19 ing forest ecosystem functions and values;

20 “(iii) restoring marginal farmland or
21 degraded forest land to improve forest eco-
22 system functions and values;

23 “(iv) the conservation treatments and
24 forest management practices that will
25 achieve the conservation values and goals

1 that are consistent with the program, as
2 determined by the Secretary; or

3 “(v) any combination of the activities
4 described in clauses (i) through (iv).

5 “(B) PRACTICES AND MEASURES.—A for-
6 est reserve easement plan developed under sub-
7 paragraph (A) shall require such practices and
8 measures as are necessary to accomplish the ac-
9 tivities described in subparagraph (A), which
10 may include—

11 “(i) land management and silviculture
12 practices;

13 “(ii) vegetative treatments;

14 “(iii) structural practices and meas-
15 ures;

16 “(iv) practices to increase carbon se-
17 questration;

18 “(v) practices to improve biological di-
19 versity; and

20 “(vi) other practices and measures, as
21 determined by the Secretary.

22 “(2) FINANCIAL ASSISTANCE.—

23 “(A) IN GENERAL.—The Secretary shall
24 provide financial assistance to owners of eligible
25 land to carry out the activities, practices, and

1 measures described in the forest reserve ease-
2 ment plan developed for the eligible land under
3 paragraph (1).

4 “(B) PAYMENTS.—With respect to finan-
5 cial assistance provided under subparagraph
6 (A), the Secretary shall—

7 “(i) in the case of a permanent ease-
8 ment, pay an amount that is not more
9 than 100 percent of the eligible costs de-
10 scribed in subparagraph (C), as deter-
11 mined by the Secretary; and

12 “(ii) in the case of a 30-year contract,
13 a 30-year easement, or an easement for
14 the maximum duration allowed under ap-
15 plicable State laws, pay an amount that is
16 not less than 50 percent, and not more
17 than 75 percent, of the eligible costs de-
18 scribed in subparagraph (C), as deter-
19 mined by the Secretary.

20 “(C) ELIGIBLE COSTS.—Costs eligible for
21 payments under this paragraph are the costs of
22 activities, practices, and measures referred to in
23 subparagraph (A) that are associated with the
24 initial restoration or enhancement of the re-

1 required habitat conditions for the applicable spe-
2 cies.

3 “(D) TIMING OF PAYMENTS.—Payments
4 under this paragraph shall be made—

5 “(i) only on a determination by the
6 Secretary that an activity, practice, or
7 measure described in subparagraph (C)
8 has been established in compliance with
9 appropriate standards and specifications;
10 and

11 “(ii) as soon as practicable after the
12 obligation is incurred.

13 “(E) LIMITATIONS.—Cost-sharing pay-
14 ments made by the Secretary under this para-
15 graph to a person or legal entity may not ex-
16 ceed \$500,000 per easement or contract.

17 “(F) PARTICIPATION IN OTHER PRO-
18 GRAMS.—The Secretary shall not prohibit own-
19 ers of eligible land enrolled in a forest reserve
20 easement from being eligible for any other De-
21 partment of Agriculture or other Federal pro-
22 gram with respect to activities, practices, and
23 measures not funded by payments under this
24 paragraph.

25 “(d) TECHNICAL ASSISTANCE.—

1 “(1) IN GENERAL.—The Secretary shall provide
2 to owners of eligible land technical assistance to as-
3 sist the owners in complying with the terms and con-
4 ditions of a forest reserve easement.

5 “(2) CONTRACTS OR AGREEMENTS.—The Sec-
6 retary may enter into 1 or more contracts with pri-
7 vate entities or agreements with a State, nongovern-
8 mental organization, or Indian Tribe to provide tech-
9 nical assistance with the implementation of this sec-
10 tion, including the enrollment, restoration, enhance-
11 ment, or maintenance of a forest reserve easement,
12 if the Secretary determines that the contract or
13 agreement will advance the purposes of the program.

14 “(e) PROTECTIONS AND MEASURES.—

15 “(1) PROTECTIONS.—In the case of a land-
16 owner that enrolls eligible land in a forest reserve
17 easement, and whose conservation activities result in
18 a net conservation benefit for a species described in
19 subsection (b)(2)(B), the Secretary shall make avail-
20 able to the landowner safe harbor or similar assur-
21 ances and protection under—

22 “(A) section 7(b)(4) of the Endangered
23 Species Act of 1973 (16 U.S.C. 1536(b)(4)); or

24 “(B) section 10(a)(1) of that Act (16
25 U.S.C. 1539(a)(1)).

1 “(2) MEASURES.—If protection under para-
2 graph (1) requires the taking of measures that are
3 in addition to the measures covered by the applicable
4 forest reserve easement plan agreed to under sub-
5 section (c)(1), the cost of the additional measures,
6 and the cost of any permit, shall be considered part
7 of the forest reserve easement plan for purposes of
8 financial assistance under subsection (c)(2).

9 “(f) ADMINISTRATION.—

10 “(1) DELEGATION OF EASEMENT ADMINISTRA-
11 TION.—

12 “(A) FEDERAL AND STATE AGENCIES.—

13 The Secretary may delegate any of the manage-
14 ment, monitoring, and enforcement responsibil-
15 ities of the Secretary under this section to other
16 Federal or State agencies that have the appro-
17 priate authority, expertise, and resources nec-
18 essary to carry out those delegated responsibil-
19 ities.

20 “(B) CONSERVATION ORGANIZATIONS.—

21 The Secretary may delegate any of the manage-
22 ment responsibilities of the Secretary under this
23 section to conservation organizations if the Sec-
24 retary determines the organization has the ap-

1 appropriate expertise and resources necessary to
2 carry out those delegated responsibilities.

3 “(2) INVOLVEMENT BY OTHER AGENCIES AND
4 ORGANIZATIONS.—In carrying out this section, the
5 Secretary may consult with—

6 “(A) private forest landowners;

7 “(B) other Federal agencies;

8 “(C) State forestry agencies;

9 “(D) State fish and wildlife agencies;

10 “(E) State environmental quality agencies;

11 “(F) other State conservation agencies;

12 and

13 “(G) nonprofit conservation organizations.

14 **“SEC. 1267D. ADMINISTRATION.**

15 “(a) SET ASIDE FOR HISTORICALLY UNDERSERVED
16 LANDOWNERS.—

17 “(1) ALLOCATION OF FUNDS.—Of the amounts
18 made available for each of fiscal years 2024 through
19 2028 to carry out the program, the Secretary shall
20 use, to the maximum extent practicable, 10 percent
21 to enroll in the program eligible land owned by—

22 “(A) a beginning forest landowner;

23 “(B) a socially disadvantaged forest land-
24 owner;

25 “(C) a veteran forest landowner; or

1 “(D) a limited resource forest landowner,
2 as defined by the Secretary.

3 “(2) REPOOLING OF FUNDS.—In any fiscal
4 year, amounts not obligated under paragraph (1) by
5 a date determined by the Secretary shall be available
6 for enrollment of any land eligible for enrollment
7 under the program.

8 “(b) INELIGIBLE LAND.—

9 “(1) IN GENERAL.—The Secretary shall not use
10 amounts made available to carry out the program
11 for the purposes of acquiring an easement on—

12 “(A) land owned by a Federal agency,
13 other than acreage owned by an Indian Tribe
14 (as defined in section 1267C(b)(1)(B)(i));

15 “(B) land owned in fee title by a State, in-
16 cluding an agency or a subdivision of a State,
17 or a unit of local government;

18 “(C) land subject to an easement or deed
19 restriction that, as determined by the Secretary,
20 provides similar protection as would be provided
21 by enrollment in the program; or

22 “(D) land the enrollment in the program
23 of which would undermine the purposes of the
24 program due to on-site or off-site conditions,
25 such as risk of hazardous substances, permitted

1 or existing rights of way, infrastructure devel-
 2 opment, or adjacent land uses.

3 “(2) LIMITATION.—The Secretary shall not im-
 4 pose any limitation on the use of amounts made
 5 available to carry out the program for the purposes
 6 of acquiring an easement on any land not described
 7 in any of subparagraphs (A) through (D) of para-
 8 graph (1).

9 “(c) SUBORDINATION, EXCHANGE, MODIFICATION,
 10 AND TERMINATION.—

11 “(1) SUBORDINATION.—The Secretary may
 12 subordinate any interest in eligible land, or portion
 13 of such an interest, administered by the Secretary
 14 (including for the purposes of utilities and energy
 15 transmission services) directly or on behalf of the
 16 Commodity Credit Corporation under the program if
 17 the Secretary determines that the subordination—

18 “(A) increases conservation values or has a
 19 limited negative effect on conservation values;

20 “(B) minimally affects the acreage subject
 21 to the interest in eligible land; and

22 “(C) is in the public interest or furthers
 23 the practical administration of the program.

24 “(2) MODIFICATION AND EXCHANGE.—

1 “(A) AUTHORITY.—The Secretary may ap-
2 prove a modification or exchange of any interest
3 in eligible land, or portion of such an interest,
4 administered by the Secretary, directly or on
5 behalf of the Commodity Credit Corporation
6 under the program if the Secretary determines
7 that—

8 “(i) no reasonable alternative exists
9 and the effect on the interest in eligible
10 land is avoided or minimized to the extent
11 practicable; and

12 “(ii) the modification or exchange—

13 “(I) results in equal or increased
14 conservation values;

15 “(II) results in equal or greater
16 economic value to the United States;

17 “(III) is consistent with the origi-
18 nal intent of the easement;

19 “(IV) is consistent with the pur-
20 poses of the program; and

21 “(V) is in the public interest or
22 furtheres the practical administration
23 of the program.

24 “(B) LIMITATION.—In modifying or ex-
25 changing an interest in eligible land, or portion

1 of such an interest, under this paragraph, the
2 Secretary may not increase any payment to an
3 eligible entity.

4 “(3) TERMINATION.—The Secretary may ap-
5 prove a termination of any interest in eligible land,
6 or portion of such an interest, administered by the
7 Secretary, directly or on behalf of the Commodity
8 Credit Corporation under the program if the Sec-
9 retary determines that—

10 “(A) termination is in the interest of the
11 Federal Government;

12 “(B) the United States will be fully com-
13 pensated for—

14 “(i) the fair market value of the inter-
15 est in eligible land;

16 “(ii) any costs relating to the termi-
17 nation; and

18 “(iii) any damages determined appro-
19 priate by the Secretary; and

20 “(C) the termination will—

21 “(i) address a compelling public need
22 for which there is no practicable alter-
23 native even with avoidance and minimiza-
24 tion; and

1 “(ii) further the practical administra-
2 tion of the program.

3 “(4) CONSENT.—The Secretary shall obtain
4 consent from the landowner and eligible entity, if ap-
5 plicable, for any subordination, exchange, modifica-
6 tion, or termination of an interest in eligible land, or
7 portion of such an interest, under this subsection.

8 “(5) NOTICE.—Not less than 90 days before
9 taking any termination action described in para-
10 graph (3), the Secretary shall provide written notice
11 of that action to the Committee on Agriculture of
12 the House of Representatives and the Committee on
13 Agriculture, Nutrition, and Forestry of the Senate.

14 “(d) LAND ENROLLED IN OTHER PROGRAMS.—In
15 accordance with section 4(b) of the Forest Conservation
16 Easement Program Act of 2023, land enrolled in the
17 healthy forests reserve program established under title V
18 of the Healthy Forests Restoration Act of 2003 (16
19 U.S.C. 6571 et seq.) on the day before the date of enact-
20 ment of this section shall be considered enrolled in the
21 program.

22 “(e) PROGRAM ELIGIBILITY.—Sections 1001 through
23 1001F shall not apply to owners of eligible land for the
24 purposes of determining eligibility for the program.

1 “(f) STREAMLINED ENROLLMENT PROCESS.—The
2 Secretary shall provide for a streamlined application and
3 enrollment process for determining the eligibility of forest
4 landowners for the program.

5 “(g) ENVIRONMENTAL SERVICES MARKET.—The
6 Secretary may not prohibit through a contract, easement,
7 or agreement under the program a participant in the pro-
8 gram from participating in, and receiving compensation
9 from, an environmental services market if 1 of the pur-
10 poses of the environmental services market is the facilita-
11 tion of additional conservation benefits that are consistent
12 with the purposes of the program.

13 **“SEC. 1267E. FUNDING.**

14 “‘There is authorized to be appropriated to carry out
15 this subtitle \$100,000,000 for each of fiscal years 2024
16 through 2028.’”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 1201(a) of the Food Security Act of
19 1985 (16 U.S.C. 3801(a)) is amended, in the matter
20 preceding paragraph (1), by striking “subtitles A
21 through I:” and inserting “subtitles A through J:”.

22 (2) Section 1241(e)(1) of the Food Security Act
23 of 1985 (16 U.S.C. 3841(e)(1)) is amended by strik-
24 ing “subtitle I” and inserting “subtitle J”.

1 (3) Section 1244(d) of the Food Security Act of
2 1985 (16 U.S.C. 3844(d)) is amended by striking
3 “I.” and inserting “J.”.

4 **SEC. 3. HEALTHY FORESTS RESERVE PROGRAM.**

5 (a) REPEAL.—Title V of the Healthy Forests Res-
6 toration Act of 2003 (16 U.S.C. 6571 et seq.) is repealed.

7 (b) TRANSITIONAL PROVISIONS.—

8 (1) EFFECT ON EXISTING CONTRACTS, AGREE-
9 MENTS, AND EASEMENTS.—The repeal made by sub-
10 section (a) shall not affect the validity or terms of
11 any contract, agreement, or easement entered into
12 by the Secretary of Agriculture under title V of the
13 Healthy Forests Restoration Act of 2003 (16 U.S.C.
14 6571 et seq.) before the date of enactment of this
15 Act, or any payments required to be made in connec-
16 tion with the contract, agreement, or easement.

17 (2) FUNDING.—

18 (A) USE OF PRIOR YEAR FUNDS.—Not-
19 withstanding the repeal made by subsection (a),
20 any funds made available from the Commodity
21 Credit Corporation to carry out the healthy for-
22 ests reserve program established under title V
23 of the Healthy Forests Restoration Act of 2003
24 (16 U.S.C. 6571 et seq.) (as in effect on the
25 day before the date of enactment of this Act)

1 shall be made available to carry out contracts,
2 agreements, or easements referred to in para-
3 graph (1) that were entered into prior to the
4 date of enactment of this Act, subject to the
5 condition that no such contract, agreement, or
6 easement may be modified so as to increase the
7 amount of any payment received.

8 (B) OTHER.—The Secretary of Agriculture
9 may use funds made available to carry out the
10 forest conservation easement program estab-
11 lished under subtitle I of the Food Security Act
12 of 1985 to continue to carry out contracts,
13 agreements, or easements referred to in para-
14 graph (1) using the provisions of law (including
15 regulations) applicable to those contracts,
16 agreements, and easements as in existence on
17 the day before the date of enactment of this
18 Act.

19 (c) CONFORMING AMENDMENTS.—

20 (1) The table of contents in section 1(b) of the
21 Healthy Forests Restoration Act of 2003 (Public
22 Law 108–148; 117 Stat. 1887) is amended by strik-
23 ing the items relating to title V.

1 (2) Section 1271A(1) of the Food Security Act
2 of 1985 (16 U.S.C. 3871a(1)) is amended by strik-
3 ing subparagraph (D) and inserting the following:

4 “(D) The forest conservation easement
5 program established under subtitle I.”.

○