



## **FOREST CONSERVATION EASEMENT PROGRAM ACT OF 2025: LEGISLATIVE SUMMARY**

### **Meeting a critical need at a critical time**

The **Forest Conservation Easement Program Act of 2025 (S. 1050/H.R. 3476)** would replace, rename and expand upon the Healthy Forests Reserve Program (HFRP) by creating the **Forest Conservation Easement Program (FCEP)** under the conservation title of the farm bill. FCEP's purpose is to keep private and tribal forest land in forest use through conservation easements that purchase development rights from willing landowners to prevent conversion to non-forest uses while maintaining working forests that can continue timber production. It accomplishes this via two program components: Forest Land Easements (modeled after Agricultural Land Easements under the Agricultural Conservation Easement Program) and Forest Reserve Easements (as the successor to HFRP and modeled after HFRP).

#### **PURPOSE OF FCEP:**

- protect the viability and sustainability of working forest land and conservation values of eligible land
- protect and enhance forest and ecosystem and landscape functions and values
- promote the restoration, protection, and improvement of habitat of species that are threatened, endangered, or otherwise at risk
- carry out the purpose and functions of the Healthy Forests Reserve Program
- maintain and enhance biodiversity *[only in H.R. 3476]*
- enhance carbon sequestration *[only in H.R. 3476]*
- protect and restore watersheds for water quality and quantity improvements *[only in H.R. 3476]*
- prevent encroachment around military installations *[only in H.R. 3476]*

#### **DEFINITIONS:**

##### **Acres Owned by an Indian Tribe** *[only in S. 1050]* –

- land held in trust by the U.S. for Indian Tribes or individual Indians;
- land held by Indian Tribes or individual Indians subject to Federal restrictions against alienation or encumbrance;
- land subject to rights of use, occupancy, and benefit of certain Indian Tribes;
- land held in fee by an Indian Tribe;
- land owned by a native corporation formed under the Indian Reorganization Act or Alaska Native Claims Settlement Act; and
- a combination of 1 or more types of land described above.

##### **Beginning Forest Landowner** *[only in H.R. 3476]* –

- has not previously owned forest land or has not owned forest land for more than 10 years

##### **Eligible Entity** –

- state or local government or an Indian Tribe; or

- an organization that is:
  - organized and principally operated for one of the following conservation purposes:
    - the preservation of land areas for outdoor recreation by, or the education of, the general public;
    - the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
    - the preservation of open space (including farmland and forest land) where such preservation is either for the scenic enjoyment of the general public, or is pursuant to a clearly delineated Federal, State, or local governmental conservation policy and will yield a significant public benefit; or
    - the preservation of an historically important land area or a certified historic structure.
  - A 501(c)(3) tax exempt organization; or
  - A private foundation described in 26 U.S.C. § 509(a)(1) or (2), or in 26 U.S.C. § 509(a)(3) if controlled by an organization described in 509(a)(2).

**Eligible Land** – Private land or acreage owned by an Indian Tribe that is forest land or being restored to forest land; and

- For Forest Land Easements – will protect working forests and related conservation values, or will further a State or local policy consistent with FCEP.
- For Forest Reserve Easements – will maintain, enhance, or otherwise measurably: increase likelihood of recovery of a species that is listed as endangered or threatened under the ESA; or improve the wellbeing of a species that is a candidate for ESA listing, a state-listed species, a special concern species, or designated as a species of greatest conservation need by a State Wildlife Action Plan.

**Forest Land Easement** – An easement or other interest in eligible land that:

- Is conveyed to an eligible entity for purposes of protecting natural resources and the forest nature of the eligible land; and
- Permits the landowner the right to continue working forest production and related uses, in accordance with an applicable forest management plan.

**Forest Management Plan** *[only in S. 1050]* –

- A Forest Stewardship Plan;
- Another plan approved by the applicable State forester or State forestry agency;
- A plan developed under a third-party certification system; or
- Another plan determined appropriate by the Secretary.

**Forest Reserve Easement** – An easement or other interest in eligible land that:

- Is conveyed to the Secretary for the purpose of protecting natural resources and the forest nature of the eligible land; and
- Permits the landowner the right to continue working forest production and related uses consistent with the applicable forest reserve easement plan.

**Program** – means Forest Conservation Easement Program.

**Socially Disadvantaged Forest Landowner** – A forest landowner who is a member of a socially disadvantaged group, which is a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. USDA’s list of socially disadvantaged groups is: African Americans, American Indians or Alaskan natives, Hispanics, and Asians or Pacific Islanders.

**Veteran Forest Landowner** *[only in H.R. 3476]* –

- Has served in the Armed Forces and hasn’t owned forest land for more than 10 years

## **FOREST LAND EASEMENTS (FLE):**

**Authorization (S. 1050) / Availability of Assistance (H.R. 3476)** – FLE provides funding for: eligible entities to purchase forest land easements (FLE) on eligible land; development of a forest management plan; and technical assistance.

**Federal Share** –

- 50% of fair market value (FMV) of the easement; or
- 75% of FMV of the easement for a forest of special environmental significance or owned by a:
  - socially disadvantaged forest landowner
  - beginning forest landowner *[only in H.R. 3476]*
  - veteran forest landowner *[only in H.R. 3476]*
  - limited resource forest landowner *[only in H.R. 3476]*

**Non-Federal Share** – equivalent to the remainder of the FMV of the easement not provided by the Secretary.

- **Permissible Forms** – cash, charitable donation or qualified conservation contribution from the landowner, costs associated with securing a deed to the FLE, including costs of appraisal, survey, inspection, and title, and other costs determined by the Secretary.

**Determination of Fair Market Value** – FMV shall be determined using: the Uniformed Standards of Professional Appraisal Practice, an areawide market analysis or survey, or another industry-approved method.

**Applications** –

- **Criteria** – Evaluation and ranking criteria shall maximize the benefit of federal investment.
- **Priority** – shall be given to FLE applications that maintain the viability of a working forest, and on land that has a forest management plan developed at the time of application. *[H.R. 3476 lists the types of eligible forest management plans in this section, rather than in the “Definitions” section, like in S. 1050, but the list of eligible plans in H.R. 3467 is the same as the above definition from S. 1050.]*
- **Considerations** – The Secretary shall emphasize support for applications that: protect working forests and related conservation values; reduce fragmentation of forestland; and maximize the areas protected from conversion to non-forest uses.
- **Treatment** *[only in S. 1050]* – The Secretary may evaluate and rank FLE applications for the purchase of easements from socially disadvantaged forest landowners separately from other applications.
- **Accounting for Geographic Differences** *[only in H.R. 3476]* – The Secretary may adjust criteria based on geographic differences.

- **Bidding Down** *[only in H.R. 3476]* – If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any of those applications solely on the basis of lesser cost to the program.

#### **Agreements –**

- **Duration** – Agreements will range in length from 3-5 years, unless the Secretary determines a longer time is justified.
- **Minimum Terms and Conditions** – An eligible entity shall be authorized to use its own terms and conditions, as long as those:
  - Are consistent with purposes of FCEP and the forestry activities to be conducted on the land;
  - Permit effective enforcement of the FLE;
  - Include a requirement to implement a forest management plan, but the forest management plan shall not be incorporated in, or attached to, the deed for the forest land easement *[only in S. 1050]*;
  - Include a limit on impervious surfaces consistent with forestry activities to be conducted;
  - Include a right of enforcement for the Secretary that may be used only if the terms and conditions of the FLE aren't enforced by the eligible entity, but only extends a right of inspection if the holder of the FLE doesn't provide monitoring reports, the terms and conditions of the FLE have been violated, and the Secretary has notified the landowner and eligible entity of inspection.
- **Additional Terms and Conditions** – Allows an eligible entity to include terms and conditions for the FLE that:
  - Are intended to keep the land in active forest management;
  - Allow subsurface mineral development, if certain conditions are met; and
  - Include other relevant activities, as determined by the Secretary.
- **Substitution of Qualified Projects** – Upon mutual agreement of the parties, allows for substitution of qualified projects that are identified at the time of the proposed substitution.
- **Effect of Violation** – If a term or condition is violated, the Secretary may terminate the agreement and may require the eligible entity to refund all or a part of any payments received, with interest.
- **Certification of Eligible Entities** *[only in H.R. 3476]* – Directs Secretary to establish a process to create Forest Land Easement efficiencies for “certified” eligible entities who meet specified criteria.

**Forest Management Plan** – If the eligible land does not have a forest management plan in place at the time of application, the landowner and eligible entity shall jointly develop a forest management plan prior to the acquisition of the FLE. The Secretary may reimburse the landowner for the cost of developing the forest management plan. *[H.R. 3476 lists the types of eligible forest management plans in this section, rather than in the “Definitions” section, like in S. 1050, but the list of eligible plans in H.R. 3467 is the same as the above definition from S. 1050.]*

**Method of Enrollment** – FLE easements will be permanent, or for the maximum duration allowed under state law.

**Technical Assistance** – The Secretary may provide technical assistance, on request, to assist in compliance with the terms and conditions of FLE.

## **FOREST RESERVE EASEMENTS (FRE):**

**Authorization (S. 1050) / Availability of Assistance (H.R. 3476)** – Provides funding for: forest reserve easements and related forest reserve easement plans; and technical assistance.

### **Method of Enrollment –**

- The Secretary shall enroll land in FRE:
  - via easements that are permanent, 30-year easements, or for the maximum duration allowed under state law; and
  - for acreage owned by an Indian Tribe, via 30-year contracts, or permanent easements. *[H.R. 3476 defines Acreage Owned by an Indian Tribe in this section, rather than in the “Definitions” section like S. 1050, but the definition in H.R. 3467 is the same as the above definition from S. 1050.]*
- **Limitation** – No more than 10% of amounts made available to carry out FRE may be used for 30-year easements.

### **Evaluation and Ranking of Offers –**

- **Criteria** – The Secretary shall establish evaluation and ranking criteria for offers from landowners for FRE.
- **Priority** – shall be given for enrollment of eligible land that provides the greatest conservation benefit to:
  - Primarily, threatened and endangered species under the ESA; and
  - Secondly, ESA candidates, state-listed species, special concern species, or species of greatest conservation need in a State Wildlife Action Plan.
- **Other Considerations** – The Secretary may give additional consideration to enrolling eligible land that will: improve biological diversity; restore native forest ecosystems; conserve forest land that provides habitat for at-risk species; reduce fragmentation of forestland; or increase carbon sequestration.

**Treatment [only in S. 1050]** – The Secretary may evaluate and rank FRE applications for the purchase of easements from socially disadvantaged forest landowners separately from other applications.

### **Terms and Conditions of Easements –**

- **In General** – FRE shall include terms and conditions that:
  - Are consistent with the purposes of the program and forestry activities to be conducted;
  - Are consistent with the management objectives of the landowner and the implementation of the forest reserve easement plan;
  - Permit effective enforcement of the conservation purposes of the FRE;
  - Provide for the efficient and effective establishment or enhancement of forest ecosystem functions and values; and
  - Include such additional provisions as the Secretary determines are desirable to carry out or facilitate practical administration of the program.
- **Requested Terms and Conditions (S. 1050) / Adjustment of Terms (H.R. 3476)** – An owner of eligible land may request, and the Secretary may include in the FRE, a term or condition if: it is

consistent with the management objectives of the landowner and implementation of the forest reserve easement plan; and it doesn't conflict with any required terms or conditions.

**Compensation –**

- **Permanent Easements** – The Secretary shall pay the owner of eligible land being enrolled in FRE an amount equal to the difference between the fair market value (FMV) of the eligible land before the enrollment in the permanent easement and the FMV of the eligible land as encumbered by the permanent easement.
- **Other** – The Secretary shall pay the owner of eligible land being enrolled in FRE via a 30-year contract, a 30-year easement, or an easement for the maximum duration allowed under state law 50%-75% of the compensation that would be paid for a permanent easement.
- **Determination of Fair Market Value** – FMV shall be determined using: the Uniformed Standards of Professional Appraisal Practice or another industry-approved method.

**Forest Reserve Easement Plan** – Land enrolled in FRE shall be subject to a forest reserve easement plan, to be developed jointly by the landowner and the Secretary, that describes activities to be carried out on the land that are necessary to restore, maintain, and enhance habitat for relevant species.

- **Practices and Measures** – The forest reserve easement plan shall require implementation of such practices and measures necessary to accomplish the activities described in the plan, which may include: vegetative management and silviculture practices; structural practices and measures; practices to increase carbon sequestration; practices to improve biological diversity; and other practices and measures determined by the Secretary.

**Financial Assistance** – The Secretary shall provide financial assistance for landowners to implement their forest reserve easement plan.

- **Payments** – The Secretary shall pay:
  - Up to 100% of eligible costs for land enrolled in a permanent easement; and
  - 50%-75% of eligible costs for land enrolled in a 30-year contract, 30-year easement, or an easement for the maximum duration under state law.
- **Eligible Costs** – are the costs of activities, practices, and measures associated with the restoration or enhancement of the habitat conditions specified for the applicable species in the forest reserve easement plan.
- **Timing of Payments** – Payments shall be made as soon as possible after the Secretary determines that an activity, practice, or measure has been established in compliance with appropriate standards and specifications.
- **Limitations** – Financial assistance provided for implementation of forest reserve easement plan may not exceed \$500,000 per easement or contract.

**Technical Assistance** – The Secretary shall provide owners of eligible land technical assistance to assist in developing and implementing a forest reserve easement plan and complying with the terms and conditions of a forest reserve easement.

- **Contracts or Agreements** – The Secretary may enter into 1 or more contracts with private entities or agreements with a state, nongovernmental organization, or Indian Tribe to provide technical assistance.

**Protections** – If a landowner who enrolls land in FRE completes conservation activities under the forest reserve easement plan that result in a net conservation benefit for an at-risk species, the Secretary shall provide the landowner safe harbor or similar assurances and protection under the ESA.

**Measures** – If protection requires taking of measures that are in addition to the measures covered by a forest reserve easement plan, the cost of the additional measures and the cost of any permit, shall be considered costs eligible for financial assistance payments by the Secretary.

**Delegation of Easement Administration** –

- **Federal and State Agencies** – The Secretary may delegate management, monitoring, and enforcement responsibilities for FRE to other federal or state agencies.
- **Conservation Organizations** – The Secretary may delegate management responsibilities for FRE to nonprofit conservation organizations.

**Involvement by Other Agencies and Organizations** – To carry out FRE, the Secretary may consult with private forest landowners, other federal agencies, state forestry agencies, state fish and wildlife agencies, other state conservation agencies, and nonprofit conservation organizations.

**ADMINISTRATION:**

**Set Aside for Historically Underserved Landowners** *[only in H.R. 3476]* – 10% of FCEP funding shall be used, to the maximum extent practicable, on land owned by a beginning forest landowner, socially disadvantaged forest landowner, veteran forest landowner, or limited resource forest landowner. Any funds in a relevant fiscal year not ultimately used for this purpose shall be available for enrollment of any eligible land.

**Ineligible Land** –

- The Secretary shall not use FCEP funding to acquire an easement on:
  - Land owned by a federal agency, other than such land that is owned by an Indian Tribe;
  - Land owned in fee title by a state or local government;
  - Land subject to an easement or deed restriction that, as determined by the Secretary, provides similar protects as would be provided via FCEP; or
  - Land that would undermine the purposes of the program due to on-site conditions, such as risk of hazardous substances, permitted or existing rights of way, infrastructure development, or adjacent land uses.
- **Limitation** –
  - The Secretary shall not limit land eligibility based on acreage size, the type of private forest owner or the size of their ownership, or the presence of severed mineral rights *[only in S. 1050]*.
  - The Secretary shall not impose any limitation on land eligibility beyond what is described in statute *[only in H.R. 3476]*.

**Subordination** – The Secretary may subordinate any interest in eligible land, or a portion of such an interest, if the Secretary determines that the subordination:

- increases conservation values or has a limited negative effect on conservation values;
- minimally affects the acreage subject to the interest in eligible land; and
- is in the public interest or furthers the practical administration of the program.

### **Modification –**

- The Secretary may approve a modification of any interest in land, or portion of such an interest, if the Secretary determines that:
  - no reasonable alternative exists and the effect on the interest in land is avoided or minimized to the extent practicable [*only in H.R. 3476*], and the modification:
    - supports the viability and sustainability of working forests and the conservation values of the applicable easement [*only in S. 1050*];
    - results in equal or increased conservation values;
    - results in equal or greater economic value to the United States [*only in H.R. 3467*];
    - is consistent with the original intent of the easement;
    - is consistent with the purposes of the program; and
    - is in the public interest or furthers the practical administration of the program, including correcting errors and exercising reserved rights.
- **Limitation** – In modifying an interest in land, or portion of such interest, the Secretary may not increase any payment to an eligible entity, except in the case of a modification that includes a change to an easement to add acreage [*this “except in the case of” clause is only in S. 1050*].

### **Exchange –**

- The Secretary may approve an exchange of any interest in land, or portion of such an interest, if the Secretary determines that:
  - no reasonable alternative exists and the effect on the interest in land is avoided or minimized to the extent practicable, and the exchange:
    - results in equal or increased conservation values;
    - results in equal or greater economic value to the United States;
    - is consistent with the original intent of the easement;
    - is consistent with the purposes of the program; and
    - is in the public interest or furthers the practical administration of the program.
- **Limitation** – In exchanging an interest in land, or portion of such an interest, the Secretary may not increase any payment to an eligible entity.

**Termination** – The Secretary may approve a termination of any interest in eligible land, or portion of such an interest, if the Secretary determines that –

- termination is in the interest of the Federal Government;
- the United States will be fully compensated for—
  - the value of the interest in the land, as determined by the Secretary;
  - any costs relating to the termination; and
  - any damages determined appropriate by the Secretary; and
- the termination will—
  - address a compelling public need for which there is no practicable alternative even with avoidance and minimization; and
  - further the practical administration of the program.

**Consent** – The Secretary shall obtain consent from the landowner and eligible entity, if applicable, for any subordination, exchange, modification, or termination of an interest in eligible land, or portion of such an interest.

**Notice** – At least 90 days before taking any termination action, the Secretary shall provide written notice of that action to the House and Senate Agriculture Committees.

**Land Enrolled in Other Programs** – Land previously enrolled in the Healthy Forests Reserve Program shall be considered enrolled in FCEP.

**Payment Limitations Exception** *[only in S. 1050]* – The attribution of payments limitation described in 7 U.S.C. § 1308(e) and the adjusted gross income limitation described in 7 U.S.C. § 1308-3a(b)(1) shall not apply to any payment or other assistance under FCEP.

**Program Eligibility** *[only in H.R. 3476]* – Sections 1001 (7 U.S.C. § 1308) through 1001F (7 U.S.C. § 1308-5) of the Food Security Act of 1985 (related to payment limitations) shall not apply to owners of eligible land for the purposes of determining eligibility for the program.

**Streamlined Enrollment Process** *[only in H.R. 3476]* – The Secretary shall provide for a streamlined application and enrollment process.

**Environmental Services Market** – The Secretary may not prohibit through a contract, easement, or agreement under the program a participant in the program from participating in, and receiving compensation from, an environmental services market if 1 of the purposes of the environmental services market is the facilitation of additional conservation benefits that are consistent with the purposes of the program.

## **FUNDING:**

- S. 1050: Authorizes \$100,000,000 in discretionary funds annually from FY2025-FY2029.
- H.R. 3476:
  - Authorizes \$100,000,000 in mandatory funds annually from FY2026-FY2030.
  - Includes a “Sense of Congress” that the costs of carrying out this Act shall be offset.

## **TECHNICAL AND CONFORMING AMENDMENTS:**

- Multiple references in U.S. Code are updated to reflect that FCEP has been added to the U.S. Code (placed in U.S. Code between the Agricultural Conservation Easement Program and the Regional Conservation Partnership Program).
- The “covered program” definition in the Regional Conservation Partnership Program statute is updated to replace “Healthy Forests Reserve Program” with “Forest Conservation Easement Program”.
- Capitalizes Indian “Tribe” in multiple locations within U.S. Code and makes other technical corrections in U.S. Code related to “Indian Tribe” definitions *[only in S. 1050]*.

## **HEALTHY FORESTS RESERVE PROGRAM:**

- The Healthy Forests Reserve Program (HFRP) statute (16 U.S.C. 6571 et seq.) is repealed.
- The HFRP repeal shall not affect the validity of existing contracts, agreements, or easements entered into under HFRP authority, or any payments or technical assistance required to be made in connection with HFRP contracts, agreements, or easements.
- Any funds made available via the Commodity Credit Corporation to carry out HFRP shall be made available to carry out existing HFRP contracts, agreements, or easements, but none of those contracts, agreements, or easements may be modified to increase the amount of

payment received. *[S. 1050 limits this provision specifically to funds made available to carry out HFRP from FY2019-FY2024.]*

- The Secretary may use FCEP funding to carry out existing HFRP contracts, agreements, or easements.