

for Federal employees stationed in Alaska and Hawaii;
or

(II) in the case of an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), a comparable percentage of the allowance for the fiscal year, as determined by the Secretary.

(B) LIMITATION.—The total amount of direct reimbursement payments provided by the Secretary under this section shall not exceed \$15,000,000 for a fiscal year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

SEC. 1622. IMPLEMENTATION.

The Secretary shall make available to the Farm Service Agency to carry out this title \$50,000,000.

SEC. 1623. REPEALS.

(a) COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.—Section 1605 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7993) is repealed.

(b) RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.—Section 1617 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8000) is repealed.

TITLE II—CONSERVATION

Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation

SEC. 2001. DEFINITIONS RELATING TO CONSERVATION TITLE OF FOOD SECURITY ACT OF 1985.

(a) BEGINNING FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (6), (7) through (11), (12), (13) through (15), (16), (17), and (18) as paragraphs (3) through (7), (9) through (13), (15), (20) through (22), (24), (26), and (27), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) BEGINNING FARMER OR RANCHER.—The term ‘beginning farmer or rancher’ has the meaning given the term in section 343(a)(8) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(8)).”

(b) FARM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (7), as redesignated by subsection (a)(1), the following new paragraph:

“(8) FARM.—The term ‘farm’ means a farm that—

“(A) is under the general control of one operator;

“(B) has one or more owners;

“(C) consists of one or more tracts of land, whether or not contiguous;

“(D) is located within a county or region, as determined by the Secretary; and

“(E) may contain lands that are incidental to the production of perennial crops, including conserving uses, forestry, and livestock, as determined by the Secretary.”.

(c) INDIAN TRIBE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (13), as redesignated by subsection (a)(1), the following new paragraph:

“(14) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).”.

(d) INTEGRATED PEST MANAGEMENT; LIVESTOCK; NONINDUSTRIAL PRIVATE FOREST LAND; PERSON AND LEGAL ENTITY.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (15), as redesignated by subsection (a)(1), the following new paragraphs:

“(16) INTEGRATED PEST MANAGEMENT.—The term ‘integrated pest management’ means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

“(17) LIVESTOCK.—The term ‘livestock’ means all animals raised on farms, as determined by the Secretary.

“(18) NONINDUSTRIAL PRIVATE FOREST LAND.—The term ‘nonindustrial private forest land’ means rural land, as determined by the Secretary, that—

“(A) has existing tree cover or is suitable for growing trees; and

“(B) is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decisionmaking authority over the land.

“(19) PERSON AND LEGAL ENTITY.—For purposes of applying payment limitations under subtitle D, the terms ‘person’ and ‘legal entity’ have the meanings given those terms in section 1001(a) of this Act (7 U.S.C. 1308(a)).”.

(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (22), as redesignated by subsection (a)(1), the following new paragraph:

“(23) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term ‘socially disadvantaged farmer or rancher’ has the meaning given the term in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)).”.

(f) TECHNICAL ASSISTANCE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (24), as redesignated by subsection (a)(1), the following new paragraph:

“(25) TECHNICAL ASSISTANCE.—The term ‘technical assistance’ means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

“(A) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices.

“(B) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.”.

SEC. 2002. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO HIGHLY ERODIBLE LAND CONSERVATION.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by striking subsection (f) and inserting the following new subsection:

“(f) GRADUATED PENALTIES.—

“(1) INELIGIBILITY.—No person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subtitle.

“(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

“(A) State Executive Director, with the technical concurrence of the State Conservationist; or

“(B) district director, with the technical concurrence of the area conservationist.

“(3) PERIOD FOR IMPLEMENTATION.—A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.

“(4) PENALTIES.—

“(A) APPLICATION.—This paragraph applies if the Secretary determines that—

“(i) a person has failed to comply with section 1211 with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 1211; or

“(ii) the violation—

“(I) is technical and minor in nature; and

“(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.

“(B) REDUCTION.—If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 1211, reduce program benefits described in section 1211 that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.

“(5) SUBSEQUENT CROP YEARS.—Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section

1211 for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary determines that the person is actively applying a conservation plan according to the schedule specified in the plan.”.

SEC. 2003. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO WETLAND CONSERVATION.

Section 1222(h) of the Food Security Act of 1985 (16 U.S.C. 3822(h)) is amended—

- (1) by redesignating paragraph (2) as paragraph (3);
- (2) by inserting after paragraph (1) the following new paragraph:

“(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

“(A) State Executive Director, with the technical concurrence of the State Conservationist; or

“(B) district director, with the technical concurrence of the area conservationist.”; and

- (3) in paragraph (3) (as redesignated by paragraph (1)), by inserting “be” before “actively”.

Subtitle B—Conservation Reserve Program

SEC. 2101. EXTENSION OF CONSERVATION RESERVE PROGRAM.

Section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)) is amended—

- (1) by striking “2007 calendar year” and inserting “2012 fiscal year”; and

- (2) by inserting before the period the following: “and to address issues raised by State, regional, and national conservation initiatives”; and

SEC. 2102. LAND ELIGIBLE FOR ENROLLMENT IN CONSERVATION RESERVE.

Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

- (1) in paragraph (1)(B)—

- (A) by striking “Farm Security and Rural Investment Act of 2002” and inserting “Food, Conservation, and Energy Act of 2008”; and

- (B) by striking the period at the end and inserting a semicolon; and

- (2) in paragraph (4)—

- (A) in subparagraph (C), by striking “; or” and inserting a semicolon;

- (B) in subparagraph (D), by striking “and” at the end and inserting “or”; and

- (C) in subparagraph (E), by inserting “or” after the semicolon at the end.

SEC. 2103. MAXIMUM ENROLLMENT OF ACREAGE IN CONSERVATION RESERVE.

Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

- (1) by striking “2007 calendar years” and inserting “2009 fiscal years”;

(2) by striking “(16 U.S.C.” and inserting “(16 U.S.C.”; and

(3) by adding at the end the following new sentence: “During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.”.

SEC. 2104. DESIGNATION OF CONSERVATION PRIORITY AREAS.

Section 1231(f) of the Food Security Act of 1985 (16 U.S.C. 3831(f)) is amended by striking “the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)” and inserting “the Chesapeake Bay Region”.

SEC. 2105. TREATMENT OF MULTI-YEAR GRASSES AND LEGUMES.

Subsection (g) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended to read as follows:

“(g) MULTI-YEAR GRASSES AND LEGUMES.—

“(1) IN GENERAL.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

“(2) CROPPING HISTORY.—Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.”.

SEC. 2106. REVISED PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.

(a) REVISED PROGRAM.—

(1) IN GENERAL.—Title XII of the Food Security Act of 1985 is amended by inserting after section 1231 (16 U.S.C. 3831) the following new section:

“SEC. 1231B. PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.

“(a) PROGRAM REQUIRED.—

“(1) IN GENERAL.—During the 2008 through 2012 fiscal years, the Secretary shall carry out a program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

“(2) PARTICIPATION AMONG STATES.—The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the program established under this section.

“(b) ELIGIBLE ACREAGE.—

“(1) WETLAND AND RELATED LAND.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

“(A) that is wetland (including a converted wetland described in section 1222(b)(1)(A)) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

“(B) on which a constructed wetland is to be developed that will receive flow from a row crop agriculture drainage

system and is designed to provide nitrogen removal in addition to other wetland functions;

“(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

“(D) that, after January 1, 1990, and before December 31, 2002, was—

“(i) cropped during at least 3 of 10 crop years; and

“(ii) subject to the natural overflow of a prairie wetland.

“(2) BUFFER ACREAGE.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

“(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

“(i) is contiguous to such land

“(ii) is used to protect such land; and

“(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

“(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

“(c) PROGRAM LIMITATIONS.—

“(1) ACREAGE LIMITATION.—The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

“(A) 100,000 acres in any State; and

“(B) a total of 1,000,000 acres.

“(2) RELATIONSHIP TO MAXIMUM ENROLLMENT.—Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

“(3) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

“(A) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

“(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

“(4) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).

“(d) OWNER OR OPERATOR ENROLLMENT LIMITATIONS.—

“(1) WETLAND AND RELATED LAND.—

“(A) WETLANDS AND CONSTRUCTED WETLANDS.—The maximum size of any land described in subparagraph (A) or (B) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.

“(B) FLOODED FARMLAND.—The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.

“(C) COVERAGE.—All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.

“(2) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.

“(3) TRACTS.—Except for land described in subsection (b)(1)(C) and buffer acreage related to such land, the maximum size of any eligible acreage described in subsection (b)(1) in a tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.

“(e) DUTIES OF OWNERS AND OPERATORS.—During the term of a contract entered into under the program established under this section, an owner or operator shall agree—

“(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

“(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;

“(3) to a general prohibition of commercial use of the enrolled land; and

“(4) to carry out other duties described in section 1232.

“(f) DUTIES OF THE SECRETARY.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—

“(A) make payments to the owner or operator based on rental rates for cropland; and

“(B) provide assistance to the owner or operator in accordance with sections 1233 and 1234.

“(2) CONTRACT OFFERS AND PAYMENTS.—The Secretary shall use the method of determination described in section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this section.

“(3) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.”

(2) REPEAL OF SUPERCEDED PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(b) CONFORMING CHANGES TO EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—Subsection (k) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by striking “(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—” and inserting the following:

“SEC. 1231A. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.”;

(2) by striking “subsection” each place it appears (other than paragraph (3)(C)(ii)) and inserting “section”;

(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively;

(4) in subsection (a), as so redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(5) in subsection (c), as so redesignated—

(A) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;

(B) in paragraph (1), as so redesignated, by striking “subparagraph (B)” and “subparagraph (G)” and inserting “paragraph (2)” and “paragraph (7)”, respectively;

(C) in paragraph (3), as so redesignated—

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

(ii) by striking “subsection (d)” and inserting “section 1231(d)”;

(D) in paragraph (4), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(E) in paragraph (5), as so redesignated—

(i) by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively, and subclauses (I) and (II) as clauses (i) and (ii), respectively;

(ii) in subparagraph (B), as so redesignated, by striking “clause (i)(I)” and inserting “subparagraph (A)(i)”;

(iii) in subparagraph (C), as so redesignated, by striking “clause (i)(II)” and inserting “subparagraph (A)(ii)”;

(F) in paragraph (9), as so redesignated, by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively, and subclauses (I) through (III) as clauses (i) through (iii), respectively.

SEC. 2107. ADDITIONAL DUTY OF PARTICIPANTS UNDER CONSERVATION RESERVE CONTRACTS.

Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;”.

SEC. 2108. MANAGED HAYING, GRAZING, OR OTHER COMMERCIAL USE OF FORAGE ON ENROLLED LAND AND INSTALLATION OF WIND TURBINES.

(a) **GENERAL PROHIBITION; EXCEPTIONS.**—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended by striking paragraph (8), as redesignated by section 2107, and inserting the following new paragraph:

“(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

“(A) managed harvesting (including the managed harvesting of biomass), except that in permitting managed harvesting, the Secretary, in coordination with the State technical committee—

“(i) shall develop appropriate vegetation management requirements; and

“(ii) shall identify periods during which managed harvesting may be conducted;

“(B) harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency;

“(C) routine grazing or prescribed grazing for the control of invasive species, except that in permitting such routine grazing or prescribed grazing, the Secretary, in coordination with the State technical committee—

“(i) shall develop appropriate vegetation management requirements and stocking rates for the land that are suitable for continued routine grazing; and

“(ii) shall establish the frequency during which routine grazing may be conducted, taking into consideration regional differences such as—

“(I) climate, soil type, and natural resources;

“(II) the number of years that should be required between routine grazing activities; and

“(III) how often during a year in which routine grazing is permitted that routine grazing should be allowed to occur; and

“(D) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

“(i) the location, size, and other physical characteristics of the land;

“(ii) the extent to which the land contains wildlife and wildlife habitat; and

“(iii) the purposes of the conservation reserve program under this subchapter.”

(b) **RENTAL PAYMENT REDUCTION.**—Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended by adding at the end the following new subsection:

“(d) **RENTAL PAYMENT REDUCTION FOR CERTAIN AUTHORIZED USES OF ENROLLED LAND.**—In the case of an authorized activity

under subsection (a)(8) on land that is subject to a contract under this subchapter, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.”.

SEC. 2109. COST SHARING PAYMENTS RELATING TO TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.

Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) is amended by striking paragraph (3) and inserting the following new paragraph:

“(3) TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—

“(A) APPLICABILITY.—This paragraph applies to—

“(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990;

“(ii) land converted to such production under section 1235A; and

“(iii) land on which an owner or operator agrees to conduct thinning authorized by section 1232(a)(9), if the thinning is necessary to improve the condition of resources on the land.

“(B) PAYMENTS.—

“(i) PERCENTAGE.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator) or thinning.

“(ii) DURATION.—The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

“(I) the planting of the trees or shrubs; or

“(II) the thinning of existing stands to improve the condition of resources on the land.”.

SEC. 2110. EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS, ANNUAL RENTAL PAYMENTS, AND PAYMENT LIMITATIONS.

(a) EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

“(3) ACCEPTANCE OF CONTRACT OFFERS.—

“(A) EVALUATION OF OFFERS.—In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

“(B) ESTABLISHMENT OF DIFFERENT CRITERIA IN VARIOUS STATES AND REGIONS.—The Secretary may establish

different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wild-life habitat may be improved or erosion may be abated.

“(C) LOCAL PREFERENCE.—In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.”.

(b) ANNUAL SURVEY OF DRYLAND AND IRRIGATED CASH RENTAL RATES.—

(1) ANNUAL ESTIMATES REQUIRED.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end the following new paragraph:

“(5) RENTAL RATES.—

“(A) ANNUAL ESTIMATES.—The Secretary (acting through the National Agricultural Statistics Service) shall conduct an annual survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland.

“(B) PUBLIC AVAILABILITY OF ESTIMATES.—The estimates derived from the annual survey conducted under subparagraph (A) shall be maintained on a website of the Department of Agriculture for use by the general public.”.

(2) FIRST SURVEY.—The first survey required by paragraph (5) of section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act.

(c) PAYMENT LIMITATIONS.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended—

(1) in paragraph (1), by striking “made to a person” and inserting “received by a person or legal entity, directly or indirectly,”;

(2) by striking paragraph (2); and

(3) in paragraph (4), by striking “any person” and inserting “any person or legal entity”.

SEC. 2111. CONSERVATION RESERVE PROGRAM TRANSITION INCENTIVES FOR BEGINNING FARMERS OR RANCHERS AND SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.

(a) CONTRACT MODIFICATION AUTHORITY.—Section 1235(c)(1)(B) of the Food Security Act of 1985 (16 U.S.C. 3835(c)(1)(B)) is amended—

(1) in clause (ii), by striking “or” at the end;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

“(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or”.

(b) TRANSITION OPTION.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following new subsection:

“(f) TRANSITION OPTION FOR CERTAIN FARMERS OR RANCHERS.—

“(1) DUTIES OF THE SECRETARY.—In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or socially disadvantaged farmer or rancher (in this subsection referred to as a ‘covered farmer or rancher’), the Secretary shall—

“(A) beginning on the date that is 1 year before the date of termination of the contract—

“(i) allow the covered farmer or rancher, in conjunction with the retired or retiring owner or operator, to make conservation and land improvements; and

“(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

“(B) beginning on the date of termination of the contract, require the retired or retiring owner or operator to sell or lease (under a long-term lease or a lease with an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

“(C) require the covered farmer or rancher to develop and implement a conservation plan;

“(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the farmer or rancher takes possession of the land through ownership or lease; and

“(E) continue to make annual payments to the retired or retiring owner or operator for not more than an additional 2 years after the date of termination of the contract, if the retired or retiring owner or operator is not a family member (as defined in section 1001A(b)(3)(B) of this Act) of the covered farmer or rancher.

“(2) REENROLLMENT.—The Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

“(A) is eligible for enrollment under the continuous signup requirement of section 1231(h)(4)(B); and

“(B) is part of an approved conservation plan.”.

Subtitle C—Wetlands Reserve Program

SEC. 2201. ESTABLISHMENT AND PURPOSE OF WETLANDS RESERVE PROGRAM.

Subsection (a) of section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended to read as follows:

“(a) ESTABLISHMENT AND PURPOSES.—

“(1) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

“(2) PURPOSES.—The purposes of the wetlands reserve program are to restore, protect, or enhance wetlands on private or tribal lands that are eligible under subsections (c) and (d).”.

SEC. 2202. MAXIMUM ENROLLMENT AND ENROLLMENT METHODS.

Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

“(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 3,041,200 acres.”;

(2) in paragraph (2), by striking “The Secretary” and inserting “Subject to paragraph (3), the Secretary”; and

(3) by adding at the end the following new paragraph:

“(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary shall enroll acreage into the wetlands reserve program through the use of—

“(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

“(B) restoration cost-share agreements; or

“(C) any combination of the options described in subparagraphs (A) and (B).”.

SEC. 2203. DURATION OF WETLANDS RESERVE PROGRAM AND LANDS ELIGIBLE FOR ENROLLMENT.

(a) IN GENERAL.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “2007 calendar” and inserting “2012 fiscal”; and

(B) by inserting “private or tribal” before “land” the second place it appears;

(2) by striking paragraph (2) and inserting the following new paragraph:

“(2) such land is—

“(A) farmed wetland or converted wetland, together with the adjacent land that is functionally dependent on the wetlands, except that converted wetland with respect to which the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; or

“(B) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole, as determined by the Secretary, together (where practicable) with the adjacent land that is functionally dependent on the cropland or grassland; and”.

(b) CHANGE OF OWNERSHIP.—Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking “in the preceding 12 months” and inserting “during the preceding 7-year period”.

(c) ANNUAL SURVEY AND REALLOCATION.—Section 1237F of the Food Security Act of 1985 (16 U.S.C. 3837f) is amended by adding at the end the following new subsection:

“(c) PRAIRIE POTHOLE REGION SURVEY AND REALLOCATION.—

“(1) SURVEY.—The Secretary shall conduct a survey during fiscal year 2008 and each subsequent fiscal year for the purpose of determining interest and allocations for the Prairie Pothole Region to enroll eligible land described in section 1237(c)(2)(B).

“(2) ANNUAL ADJUSTMENT.—The Secretary shall make an adjustment to the allocation for an interested State for a fiscal year, based on the results of the survey conducted under paragraph (1) for the State during the previous fiscal year.”.

SEC. 2204. TERMS OF WETLANDS RESERVE PROGRAM EASEMENTS.

Section 1237A(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3837a(b)(2)(B)) is amended—

- (1) in clause (i), by striking “or” at the end;
 - (2) in clause (ii), by striking “; and” and inserting “; or”;
- and
- (3) by adding at the end the following new clause:
“(iii) to meet habitat needs of specific wildlife species; and”.

SEC. 2205. COMPENSATION FOR EASEMENTS UNDER WETLANDS RESERVE PROGRAM.

Subsection (f) of section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended to read as follows:

“(f) COMPENSATION.—

“(1) DETERMINATION.—Effective on the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall pay as compensation for a conservation easement acquired under this subchapter the lowest of—

“(A) the fair market value of the land, as determined by the Secretary, using the Uniform Standards of Professional Appraisal Practices or an area-wide market analysis or survey;

“(B) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

“(C) the offer made by the landowner.

“(2) FORM OF PAYMENT.—Compensation for an easement shall be provided by the Secretary in the form of a cash payment, in an amount determined under paragraph (1) and specified in the easement agreement.

“(3) PAYMENT SCHEDULE FOR EASEMENTS.—

“(A) EASEMENTS VALUED AT \$500,000 OR LESS.—For easements valued at \$500,000 or less, the Secretary may provide easement payments in not more than 30 annual payments.

“(B) EASEMENTS IN EXCESS OF \$500,000.—For easements valued at more than \$500,000, the Secretary may provide easement payments in at least 5, but not more than 30 annual payments, except that, if the Secretary determines it would further the purposes of the program, the Secretary may make a lump sum payment for such an easement.

“(4) RESTORATION AGREEMENT PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, pursuant to a restoration cost-share agreement under this subchapter may not exceed, in the aggregate, \$50,000 per year.

“(5) ENROLLMENT PROCEDURE.—Lands may be enrolled under this subchapter through the submission of bids under a procedure established by the Secretary.”.

SEC. 2206. WETLANDS RESERVE ENHANCEMENT PROGRAM AND RESERVED RIGHTS PILOT PROGRAM.

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by adding at the end the following new subsection:

“(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—

“(1) PROGRAM AUTHORIZED.—The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetlands reserve enhancement program that the Secretary determines would advance the purposes of this subchapter.

“(2) RESERVED RIGHTS PILOT PROGRAM.—

“(A) RESERVATION OF GRAZING RIGHTS.—As part of the wetlands reserve enhancement program, the Secretary shall carry out a pilot program for land in which a landowner may reserve grazing rights in the warranty easement deed restriction if the Secretary determines that the reservation and use of the grazing rights—

“(i) is compatible with the land subject to the easement;

“(ii) is consistent with the long-term wetland protection and enhancement goals for which the easement was established; and

“(iii) complies with a conservation plan.

“(B) DURATION.—The pilot program established under this paragraph shall terminate on September 30, 2012.”.

SEC. 2207. DUTIES OF SECRETARY OF AGRICULTURE UNDER WETLANDS RESERVE PROGRAM.

Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended—

(1) in subsection (a)(1), by inserting “including necessary maintenance activities,” after “values,”; and

(2) by striking subsection (c) and inserting the following new subsection:

“(c) RANKING OF OFFERS.—

“(1) CONSERVATION BENEFITS AND FUNDING CONSIDERATIONS.—When evaluating offers from landowners, the Secretary may consider—

“(A) the conservation benefits of obtaining an easement or other interest in the land;

“(B) the cost-effectiveness of each easement or other interest in eligible land, so as to maximize the environmental benefits per dollar expended; and

“(C) whether the landowner or another person is offering to contribute financially to the cost of the easement or other interest in the land to leverage Federal funds.

“(2) ADDITIONAL CONSIDERATIONS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

“(A) the extent to which the purposes of the easement program would be achieved on the land;

“(B) the productivity of the land; and

“(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.”.

SEC. 2208. PAYMENT LIMITATIONS UNDER WETLANDS RESERVE CONTRACTS AND AGREEMENTS.

Section 1237D(c)(1) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)(1)) is amended—

(1) by striking “The total amount of easement payments made to a person” and inserting “The total amount of payments that a person or legal entity may receive, directly or indirectly,”; and

(2) by inserting “or under 30-year contracts” before the period at the end.

SEC. 2209. REPEAL OF PAYMENT LIMITATIONS EXCEPTION FOR STATE AGREEMENTS FOR WETLANDS RESERVE ENHANCEMENT.

Section 1237D(c) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)) is amended by striking paragraph (4).

SEC. 2210. REPORT ON IMPLICATIONS OF LONG-TERM NATURE OF CONSERVATION EASEMENTS.

(a) **REPORT REQUIRED.**—Not later than January 1, 2010, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the implications of the long-term nature of conservation easements granted under section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) on resources of the Department of Agriculture.

(b) **INCLUSIONS.**—The report required by subsection (a) shall include the following:

(1) Data relating to the number and location of conservation easements granted under that section that the Secretary holds or has a significant role in monitoring or managing.

(2) An assessment of the extent to which the oversight of the conservation easement agreements impacts the availability of resources, including technical assistance.

(3) An assessment of the uses and value of agreements with partner organizations.

(4) Any other relevant information relating to costs or other effects that would be helpful to the Committees referred to in subsection (a).

Subtitle D—Conservation Stewardship Program

SEC. 2301. CONSERVATION STEWARDSHIP PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 is amended—

(1) by redesignating subchapters B (farmland protection program) and C (grassland reserve program) as subchapters C and D, respectively; and

(2) by inserting after subchapter A the following new subchapter:

“Subchapter B—Conservation Stewardship Program

“SEC. 1238D. DEFINITIONS.

“In this subchapter:

“(1) CONSERVATION ACTIVITIES.—

“(A) IN GENERAL.—The term ‘conservation activities’ means conservation systems, practices, or management measures that are designed to address a resource concern.

“(B) INCLUSIONS.—The term ‘conservation activities’ includes—

“(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary; and

“(ii) planning needed to address a resource concern.

“(2) CONSERVATION MEASUREMENT TOOLS.—The term ‘conservation measurement tools’ means procedures to estimate the level of environmental benefit to be achieved by a producer in implementing conservation activities, including indices or other measures developed by the Secretary.

“(3) CONSERVATION STEWARDSHIP PLAN.—The term ‘conservation stewardship plan’ means a plan that—

“(A) identifies and inventories resource concerns;

“(B) establishes benchmark data and conservation objectives;

“(C) describes conservation activities to be implemented, managed, or improved; and

“(D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.

“(4) PRIORITY RESOURCE CONCERN.—The term ‘priority resource concern’ means a resource concern that is identified at the State level, in consultation with the State Technical Committee, as a priority for a particular watershed or area of the State.

“(5) PROGRAM.—The term ‘program’ means the conservation stewardship program established by this subchapter.

“(6) RESOURCE CONCERN.—The term ‘resource concern’ means a specific natural resource impairment or problem, as determined by the Secretary, that—

“(A) represents a significant concern in a State or region; and

“(B) is likely to be addressed successfully through the implementation of conservation activities by producers on land eligible for enrollment in the program.

“(7) STEWARDSHIP THRESHOLD.—The term ‘stewardship threshold’ means the level of natural resource conservation and environmental management required, as determined by the Secretary using conservation measurement tools, to improve and conserve the quality and condition of a resource concern.

“SEC. 1238E. CONSERVATION STEWARDSHIP PROGRAM.

“(a) ESTABLISHMENT AND PURPOSE.—During each of fiscal years 2009 through 2012, the Secretary shall carry out a conservation stewardship program to encourage producers to address resource concerns in a comprehensive manner—

“(1) by undertaking additional conservation activities; and

“(2) by improving, maintaining and managing existing conservation activities.

“(b) ELIGIBLE LAND.—

“(1) IN GENERAL.—Except as provided in subsection (c), the following land is eligible for enrollment in the program:

“(A) Private agricultural land (including cropland, grassland, prairie land, improved pastureland, rangeland, and land used for agro-forestry).

“(B) Agricultural land under the jurisdiction of an Indian tribe.

“(C) Forested land that is an incidental part of an agricultural operation.

“(D) Other private agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed by enrolling the land in the program, as determined by the Secretary.

“(2) SPECIAL RULE FOR NONINDUSTRIAL PRIVATE FOREST LAND.—Nonindustrial private forest land is eligible for enrollment in the program, except that not more than 10 percent of the annual acres enrolled nationally in any fiscal year may be nonindustrial private forest land.

“(3) AGRICULTURAL OPERATION.—Eligible land shall include all acres of an agricultural operation of a producer, whether or not contiguous, that are under the effective control of the producer at the time the producer enters into a stewardship contract, and is operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

“(c) EXCLUSIONS.—

“(1) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—Subject to paragraph (2), the following land is not be eligible for enrollment in the program:

“(A) Land enrolled in the conservation reserve program.

“(B) Land enrolled in the wetlands reserve program.

“(C) Land enrolled in the grassland reserve program.

“(2) CONVERSION TO CROPLAND.—Land used for crop production after the date of enactment of the Food, Conservation, and Energy Act of 2008 that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet the requirement because—

“(A) the land had previously been enrolled in the conservation reserve program;

“(B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or

“(C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

“SEC. 1238F. STEWARDSHIP CONTRACTS.

“(a) SUBMISSION OF CONTRACT OFFERS.—To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary for approval a contract offer that—

“(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, is meeting

the stewardship threshold for at least one resource concern; and

“(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 priority resource concern by the end of the stewardship contract by—

“(A) installing and adopting additional conservation activities; and

“(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

“(b) EVALUATION OF CONTRACT OFFERS.—

“(1) RANKING OF APPLICATIONS.—In evaluating contract offers made by producers to enter into contracts under the program, the Secretary shall rank applications based on—

“(A) the level of conservation treatment on all applicable priority resource concerns at the time of application, based to the maximum extent practicable on conservation measurement tools;

“(B) the degree to which the proposed conservation treatment on applicable priority resource concerns effectively increases conservation performance, based to the maximum extent possible on conservation measurement tools;

“(C) the number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract;

“(D) the extent to which other resource concerns, in addition to priority resource concerns, will be addressed to meet or exceed the stewardship threshold by the end of the contract period; and

“(E) the extent to which the actual and anticipated environmental benefits from the contract are provided at the least cost relative to other similarly beneficial contract offers.

“(2) PROHIBITION.—The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

“(3) ADDITIONAL CRITERIA.—The Secretary may develop and use such additional criteria for evaluating applications to enroll in the program that the Secretary determines are necessary to ensure that national, State, and local conservation priorities are effectively addressed.

“(c) ENTERING INTO CONTRACTS.—After a determination that a producer is eligible for the program under subsection (a), and a determination that the contract offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract with the producer to enroll the land to be covered by the contract.

“(d) CONTRACT PROVISIONS.—

“(1) TERM.—A conservation stewardship contract shall be for a term of 5 years.

“(2) PROVISIONS.—The conservation stewardship contract of a producer shall—

“(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 1238G(e);

“(B) require the producer—

“(i) to implement during the term of the conservation stewardship contract the conservation stewardship plan approved by the Secretary;

“(ii) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation stewardship contract; and

“(iii) not to engage in any activity during the term of the conservation stewardship contract on the eligible land covered by the contract that would interfere with the purposes of the conservation stewardship contract;

“(C) permit all economic uses of the land that—

“(i) maintain the agricultural nature of the land; and

“(ii) are consistent with the conservation purposes of the conservation stewardship contract;

“(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary; and

“(E) include such other provisions as the Secretary determines necessary to ensure the purposes of the program are achieved.

“(e) CONTRACT RENEWAL.—At the end of an initial conservation stewardship contract of a producer, the Secretary may allow the producer to renew the contract for one additional five-year period if the producer—

“(1) demonstrates compliance with the terms of the existing contract; and

“(2) agrees to adopt new conservation activities, as determined by the Secretary.

“(f) MODIFICATION.—The Secretary may allow a producer to modify a stewardship contract if the Secretary determines that the modification is consistent with achieving the purposes of the program.

“(g) CONTRACT TERMINATION.—

“(1) VOLUNTARY TERMINATION.—A producer may terminate a conservation stewardship contract if the Secretary determines that termination would not defeat the purposes of the program.

“(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this subchapter if the Secretary determines that the producer violated the contract.

“(3) REPAYMENT.—If a contract is terminated, the Secretary may, consistent with the purposes of the program—

“(A) allow the producer to retain payments already received under the contract; or

“(B) require repayment, in whole or in part, of payments already received and assess liquidated damages.

“(4) CHANGE OF INTEREST IN LAND SUBJECT TO A CONTRACT.—

“(A) IN GENERAL.—Except as provided in paragraph (B), a change in the interest of a producer in land covered by a contract under this chapter shall result in the termination of the contract with regard to that land.

“(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if—

“(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee; and

“(ii) the transferee meets the eligibility requirements of the program.

“(h) COORDINATION WITH ORGANIC CERTIFICATION.—The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.) while participating in a contract under this subchapter.

“(i) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—The Secretary may approve a contract offer under this subchapter that includes—

“(1) on-farm conservation research and demonstration activities; and

“(2) pilot testing of new technologies or innovative conservation practices.

“SEC. 1238G. DUTIES OF THE SECRETARY.

“(a) IN GENERAL.—To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

“(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, one of which shall occur in the first quarter of each fiscal year;

“(2) identify not less than 3 nor more than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

“(3) develop reliable conservation measurement tools for purposes of carrying out the program.

“(b) ALLOCATION TO STATES.—The Secretary shall allocate acres to States for enrollment, based—

“(1) primarily on each State’s proportion of eligible acres under section 1238E(b)(1) to the total number of eligible acres in all States; and

“(2) also on consideration of—

“(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

“(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

“(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

“(c) SPECIALTY CROP AND ORGANIC PRODUCERS.—The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

“(d) ACREAGE ENROLLMENT LIMITATION.—During the period beginning on October 1, 2008, and ending on September 30, 2017, the Secretary shall, to the maximum extent practicable—

“(1) enroll in the program an additional 12,769,000 acres for each fiscal year; and

“(2) manage the program to achieve a national average rate of \$18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.

“(e) CONSERVATION STEWARDSHIP PAYMENTS.—

“(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide a payment under the program to compensate the producer for—

“(A) installing and adopting additional conservation activities; and

“(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

“(2) PAYMENT AMOUNT.—The amount of the conservation stewardship payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

“(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

“(B) Income forgone by the producer.

“(C) Expected environmental benefits as determined by conservation measurement tools.

“(3) EXCLUSIONS.—A payment to a producer under this subsection shall not be provided for—

“(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

“(B) conservation activities for which there is no cost incurred or income forgone to the producer.

“(4) TIMING OF PAYMENTS.—

“(A) IN GENERAL.—The Secretary shall make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

“(B) ADDITIONAL ACTIVITIES.—The Secretary shall make payments to compensate producers for installation of additional practices at the time at which the practices are installed and adopted.

“(f) SUPPLEMENTAL PAYMENTS FOR RESOURCE-CONSERVING CROP ROTATIONS.—

“(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the land of the producers.

“(2) BENEFICIAL CROP ROTATIONS.—The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1), based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.

“(3) ELIGIBILITY.—To be eligible to receive a payment described in paragraph (1), a producer shall agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract.

“(4) RESOURCE-CONSERVING CROP ROTATION.—In this subsection, the term ‘resource-conserving crop rotation’ means a crop rotation that—

“(A) includes at least 1 resource conserving crop (as defined by the Secretary);

“(B) reduces erosion;

“(C) improves soil fertility and tilth;

“(D) interrupts pest cycles; and

“(E) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

“(g) PAYMENT LIMITATIONS.—A person or legal entity may not receive, directly or indirectly, payments under this subchapter that, in the aggregate, exceed \$200,000 for all contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the program by the person or entity.

“(h) REGULATIONS.—The Secretary shall promulgate regulations that—

“(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (g); and

“(2) otherwise enable the Secretary to carry out the program.

“(i) DATA.—The Secretary shall maintain detailed and segmented data on contracts and payments under the program to allow for quantification of the amount of payments made for—

“(1) the installation and adoption of additional conservation activities and improvements to conservation activities in place on the operation of a producer at the time the conservation stewardship offer is accepted by the Secretary;

“(2) participation in research, demonstration, and pilot projects; and

“(3) the development and periodic assessment and evaluation of conservation plans developed under this subchapter.”.

(b) TERMINATION OF CONSERVATION SECURITY PROGRAM AUTHORITY; EFFECT ON EXISTING CONTRACTS.—Section 1238A of the Food Security Act of 1985 (16 U.S.C. 3838a) is amended by adding at the end the following new subsection:

“(g) PROHIBITION ON CONSERVATION SECURITY PROGRAM CONTRACTS; EFFECT ON EXISTING CONTRACTS.—

“(1) PROHIBITION.—A conservation security contract may not be entered into or renewed under this subchapter after September 30, 2008.

“(2) EXCEPTION.—This subchapter, and the terms and conditions of the conservation security program, shall continue to apply to—

“(A) conservation security contracts entered into on or before September 30, 2008; and

“(B) any conservation security contract entered into after that date, but for which the application for the contract was received during the 2008 sign-up period.

“(3) EFFECT ON PAYMENTS.—The Secretary shall make payments under this subchapter with respect to conservation security contracts described in paragraph (2) during the remaining term of the contracts.

“(4) REGULATIONS.—A contract described in paragraph (2) may not be administered under the regulations issued to carry out the conservation stewardship program.”

(c) REFERENCE TO REDESIGNATED SUBCHAPTER.—Section 1238A(b)(3)(C) of title XII of the Food Security Act of 1985 (16 U.S.C. 3838a(b)(3)(C)) is amended by striking “subchapter C” and inserting “subchapter D”.

Subtitle E—Farmland Protection and Grassland Reserve

SEC. 2401. FARMLAND PROTECTION PROGRAM.

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

(1) by striking paragraph (1) and inserting the following new paragraph:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

“(B) any organization that—

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

“(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

“(iii) is—

“(I) described in paragraph (1) or (2) of section 509(a) of that Code; or

“(II) described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code.”; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “that—” and inserting “that is subject to a pending offer for purchase from an eligible entity and—”; and

(ii) by striking clauses (i) and (ii) and inserting the following new clauses:

“(i) has prime, unique, or other productive soil;

“(ii) contains historical or archaeological resources;

or

“(iii) the protection of which will further a State or local policy consistent with the purposes of the program.”; and

(B) in subparagraph (B)—

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

(ii) by striking clause (v) and inserting the following new clauses:

“(v) forest land that—

“(I) contributes to the economic viability of an agricultural operation; or

“(II) serves as a buffer to protect an agricultural operation from development; and

“(vi) land that is incidental to land described in clauses (i) through (v), if such land is necessary for the efficient administration of a conservation easement, as determined by the Secretary.”.

(b) FARMLAND PROTECTION.—Section 1238I of the Food Security Act of 1985 (16 U.S.C. 3838i) is amended to read as follows:

“SEC. 1238I. FARMLAND PROTECTION PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall establish and carry out a farmland protection program under which the Secretary shall facilitate and provide funding for the purchase of conservation easements or other interests in eligible land.

“(b) PURPOSE.—The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.

“(c) COST-SHARE ASSISTANCE.—

“(1) PROVISION OF ASSISTANCE.—The Secretary shall provide cost-share assistance to eligible entities for purchasing a conservation easement or other interest in eligible land.

“(2) FEDERAL SHARE.—The share of the cost provided by the Secretary for purchasing a conservation easement or other interest in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

“(3) NON-FEDERAL SHARE.—

“(A) SHARE PROVIDED BY ELIGIBLE ENTITY.—The eligible entity shall provide a share of the cost of purchasing a conservation easement or other interest in eligible land in an amount that is not less than 25 percent of the acquisition purchase price.

“(B) LANDOWNER CONTRIBUTION.—As part of the non-Federal share of the cost of purchasing a conservation easement or other interest in eligible land, an eligible entity may include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the private landowner from which the conservation easement or other interest in land will be purchased.

“(d) DETERMINATION OF FAIR MARKET VALUE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, the fair market value of the conservation easement or other interest in eligible land shall be determined on the basis of an appraisal using an industry approved method, selected by the eligible entity and approved by the Secretary.

“(e) BIDDING DOWN PROHIBITED.—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 1 of those applications solely on the basis of lesser cost to the program.

“(f) CONDITION ON ASSISTANCE.—

“(1) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased using cost-share assistance provided under the program shall be subject to a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

“(2) CONTINGENT RIGHT OF ENFORCEMENT.—The Secretary shall require the inclusion of a contingent right of enforcement for the Secretary in the terms of a conservation easement or other interest in eligible land that is purchased using cost-share assistance provided under the program.

“(g) AGREEMENTS WITH ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under subsection (c).

“(2) LENGTH OF AGREEMENTS.—An agreement under this subsection shall be for a term that is—

“(A) in the case of an eligible entity certified under the process described in subsection (h), a minimum of five years; and

“(B) for all other eligible entities, at least three, but not more than five years.

“(3) SUBSTITUTION OF QUALIFIED PROJECTS.—An agreement shall allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of the proposed substitution.

“(4) MINIMUM REQUIREMENTS.—An eligible entity shall be authorized to use its own terms and conditions, as approved by the Secretary, for conservation easements and other purchases of interests in land, so long as such terms and conditions—

“(A) are consistent with the purposes of the program;

“(B) permit effective enforcement of the conservation purposes of such easements or other interests; and

“(C) include a limit on the impervious surfaces to be allowed that is consistent with the agricultural activities to be conducted.

“(5) EFFECT OF VIOLATION.—If a violation occurs of a term or condition of an agreement entered into under this subsection—

“(A) the agreement shall remain in force; and

“(B) the Secretary may require the eligible entity to refund all or part of any payments received by the entity under the program, with interest on the payments as determined appropriate by the Secretary.

“(h) CERTIFICATION OF ELIGIBLE ENTITIES.—

“(1) CERTIFICATION PROCESS.—The Secretary shall establish a process under which the Secretary may—

“(A) directly certify eligible entities that meet established criteria;

“(B) enter into long-term agreements with certified entities, as authorized by subsection (g)(2)(A); and

“(C) accept proposals for cost-share assistance to certified entities for the purchase of conservation easements or other interests in eligible land throughout the duration of such agreements.

“(2) CERTIFICATION CRITERIA.—In order to be certified, an eligible entity shall demonstrate to the Secretary that the entity will maintain, at a minimum, for the duration of the agreement—

“(A) a plan for administering easements that is consistent with the purpose of this subchapter;

“(B) the capacity and resources to monitor and enforce conservation easements or other interests in land; and

“(C) policies and procedures to ensure—

“(i) the long-term integrity of conservation easements or other interests in eligible land;

“(ii) timely completion of acquisitions of easements or other interests in eligible land; and

“(iii) timely and complete evaluation and reporting to the Secretary on the use of funds provided by the Secretary under the program.

“(3) REVIEW AND REVISION.—

“(A) REVIEW.—The Secretary shall conduct a review of eligible entities certified under paragraph (1) every three years to ensure that such entities are meeting the criteria established under paragraph (2).

“(B) REVOCATION.—If the Secretary finds that the certified entity no longer meets the criteria established under paragraph (2), the Secretary may—

“(i) allow the certified entity a specified period of time, at a minimum 180 days, in which to take such actions as may be necessary to meet the criteria; and

“(ii) revoke the certification of the entity, if after the specified period of time, the certified entity does not meet the criteria established in paragraph (2).”.

SEC. 2402. FARM VIABILITY PROGRAM.

Section 1238J(b) of the Food Security Act of 1985 (16 U.S.C. 3838j(b)) is amended by striking “2007” and inserting “2012”.

SEC. 2403. GRASSLAND RESERVE PROGRAM.

Subchapter D of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.), as redesignated by section 2301(a)(1), is amended to read as follows:

“Subchapter D—Grassland Reserve Program

“SEC. 1238N. GRASSLAND RESERVE PROGRAM.

“(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the ‘program’) for the purpose of assisting owners and operators in protecting grazing uses and related conservation values by restoring and conserving eligible land through rental contracts, easements, and restoration agreements.

“(b) ENROLLMENT OF ACREAGE.—

“(1) ACREAGE ENROLLED.—The Secretary shall enroll an additional 1,220,000 acres of eligible land in the program during fiscal years 2009 through 2012.

“(2) METHODS OF ENROLLMENT.—The Secretary shall enroll eligible land in the program through the use of;

“(A) a 10-year, 15-year, or 20-year rental contract;

“(B) a permanent easement; or

“(C) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under the law of that State.

“(3) LIMITATION.—Of the total amount of funds expended under the program to acquire rental contracts and easements described in paragraph (2), the Secretary shall use, to the extent practicable—

“(A) 40 percent for rental contracts; and

“(B) 60 percent for easements.

“(4) ENROLLMENT OF CONSERVATION RESERVE LAND.—

“(A) PRIORITY.—Upon expiration of a contract under subchapter B of chapter 1 of this subtitle, the Secretary shall give priority for enrollment in the program to land previously enrolled in the conservation reserve program if—

“(i) the land is eligible land, as defined in subsection (c); and

“(ii) the Secretary determines that the land is of high ecological value and under significant threat of conversion to uses other than grazing.

“(B) MAXIMUM ENROLLMENT.—The number of acres of land enrolled under the priority described in subparagraph (A) in a calendar year shall not exceed 10 percent of the total number of acres enrolled in the program in that calendar year.

“(c) ELIGIBLE LAND DEFINED.—For purposes of the program, the term ‘eligible land’ means private or tribal land that—

“(1) is grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

“(2) is located in an area that has been historically dominated by grassland, forbs, or shrubland, and the land—

“(A) could provide habitat for animal or plant populations of significant ecological value if the land—

“(i) is retained in its current use; or

“(ii) is restored to a natural condition;

“(B) contains historical or archaeological resources; or

“(C) would address issues raised by State, regional, and national conservation priorities; or

“(3) is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of a rental contract or easement under the program.

“SEC. 12380. DUTIES OF OWNERS AND OPERATORS.

“(a) RENTAL CONTRACTS.—To be eligible to enroll eligible land in the program under a rental contract, the owner or operator of the land shall agree—

“(1) to comply with the terms of the contract and, when applicable, a restoration agreement;

“(2) to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary; and

“(3) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties.

“(b) EASEMENTS.—To be eligible to enroll eligible land in the program through an easement, the owner of the land shall agree—

“(1) to grant an easement to the Secretary or to an eligible entity described in section 1238Q;

“(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

“(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

“(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement;

“(5) to comply with the terms of the easement and, when applicable, a restoration agreement;

“(6) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties; and

“(7) to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

“(c) RESTORATION AGREEMENTS.—

“(1) WHEN APPLICABLE.—To be eligible for cost-share assistance to restore eligible land subject to a rental contract or an easement under the program, the owner or operator of the land shall agree to comply with the terms of a restoration agreement.

“(2) TERMS AND CONDITIONS.—The Secretary shall prescribe the terms and conditions of a restoration agreement by which eligible land that is subject to a rental contract or easement under the program shall be restored.

“(3) DUTIES.—The restoration agreement shall describe the respective duties of the owner or operator and the Secretary, including the Federal share of restoration payments and technical assistance.

“(d) TERMS AND CONDITIONS APPLICABLE TO RENTAL CONTRACTS AND EASEMENTS.—

“(1) PERMISSIBLE ACTIVITIES.—The terms and conditions of a rental contract or easement under the program shall permit—

“(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality;

“(B) haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the State Conservationist;

“(C) fire suppression, rehabilitation, and construction of fire breaks; and

“(D) grazing related activities, such as fencing and livestock watering.

“(2) PROHIBITIONS.—The terms and conditions of a rental contract or easement under the program shall prohibit—

“(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that is inconsistent with maintaining grazing land; and

“(B) except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing land enrolled in the program.

“(3) ADDITIONAL TERMS AND CONDITIONS.—A rental contract or easement under the program shall include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the purposes and administration of the program.

“(e) VIOLATIONS.—On a violation of the terms or conditions of a rental contract, easement, or restoration agreement entered into under this section—

“(1) the contract or easement shall remain in force; and

“(2) the Secretary may require the owner or operator to refund all or part of any payments received under the program, with interest on the payments as determined appropriate by the Secretary.

“SEC. 1238P. DUTIES OF SECRETARY.

“(a) EVALUATION AND RANKING OF APPLICATIONS.—

“(1) CRITERIA.—The Secretary shall establish criteria to evaluate and rank applications for rental contracts and easements under the program .

“(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

“(A) grazing operations;

“(B) plant and animal biodiversity; and

“(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion to uses other than grazing.

“(b) PAYMENTS.—

“(1) IN GENERAL.—In return for the execution of a rental contract or the granting of an easement by an owner or operator under the program, the Secretary shall—

“(A) make rental contract or easement payments to the owner or operator in accordance with paragraphs (2) and (3); and

“(B) make payments to the owner or operator under a restoration agreement for the Federal share of the cost of restoration in accordance with paragraph (4).

“(2) RENTAL CONTRACT PAYMENTS.—

“(A) PERCENTAGE OF GRAZING VALUE OF LAND.—In return for the execution of a rental contract by an owner or operator under the program, the Secretary shall make annual payments during the term of the contract in an amount, subject to subparagraph (B), that is not more than 75 percent of the grazing value of the land covered by the contract.

“(B) PAYMENT LIMITATION.—Payments made under 1 or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, \$50,000 per year.

“(3) EASEMENT PAYMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), in return for the granting of an easement by an owner under the program, the Secretary shall make easement payments in an amount not to exceed the fair market value of the

land less the grazing value of the land encumbered by the easement.

“(B) METHOD FOR DETERMINATION OF COMPENSATION.—In making a determination under subparagraph (A), the Secretary shall pay as compensation for a easement acquired under the program the lowest of—

“(i) the fair market value of the land encumbered by the easement, as determined by the Secretary, using—

“(I) the Uniform Standards of Professional Appraisal Practices; or

“(II) an area-wide market analysis or survey;

“(ii) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

“(iii) the offer made by the landowner.

“(C) SCHEDULE.—Easement payments may be provided in up to 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

“(4) RESTORATION AGREEMENT PAYMENTS.—

“(A) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner or operator under a restoration agreement of not more than 50 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land.

“(B) PAYMENT LIMITATION.—Payments made under 1 or more restoration agreements to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, \$50,000 per year.

“(5) PAYMENTS TO OTHERS.—If an owner or operator who is entitled to a payment under the program dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

“SEC. 1238Q. DELEGATION OF DUTY.

“(a) AUTHORITY TO DELEGATE.—The Secretary may delegate a duty under the program—

“(1) by transferring title of ownership to an easement to an eligible entity to hold and enforce; or

“(2) by entering into a cooperative agreement with an eligible entity for the eligible entity to own, write, and enforce an easement.

“(b) ELIGIBLE ENTITY DEFINED.—In this section, the term ‘eligible entity’ means—

“(1) an agency of State or local government or an Indian tribe; or

“(2) an organization that—

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

“(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

“(C) is described in—

“(i) paragraph (1) or (2) of section 509(a) of that Code; or

“(ii) in section 509(a)(3) of that Code, and is controlled by an organization described in section 509(a)(2) of that Code.

“(c) TRANSFER OF TITLE OF OWNERSHIP.—

“(1) TRANSFER.—The Secretary may transfer title of ownership to an easement to an eligible entity to hold and enforce, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

“(A) the Secretary determines that the transfer will promote protection of grassland, land that contains forbs, or shrubland;

“(B) the owner authorizes the eligible entity to hold or enforce the easement; and

“(C) the eligible entity agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity.

“(2) APPLICATION.—An eligible entity that seeks to hold and enforce an easement shall apply to the Secretary for approval.

“(3) APPROVAL BY SECRETARY.—The Secretary may approve an application described in paragraph (2) if the eligible entity—

“(A) has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland;

“(B) has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

“(C) has the resources necessary to effectuate the purposes of the charter.

“(d) COOPERATIVE AGREEMENTS.—

“(1) AUTHORIZED; TERMS AND CONDITIONS.—The Secretary shall establish the terms and conditions of a cooperative agreement under which an eligible entity shall use funds provided by the Secretary to own, write, and enforce an easement, in lieu of the Secretary.

“(2) MINIMUM REQUIREMENTS.—At a minimum, the cooperative agreement shall—

“(A) specify the qualification of the eligible entity to carry out the entity’s responsibilities under the program, including acquisition, monitoring, enforcement, and implementation of management policies and procedures that ensure the long-term integrity of the easement protections;

“(B) require the eligible entity to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity;

“(C) specify the right of the Secretary to conduct periodic inspections to verify the eligible entity’s enforcement of the easement;

“(D) subject to subparagraph (E), identify a specific project or a range of projects to be funded under the agreement;

“(E) allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of substitution;

“(F) specify the manner in which the eligible entity will evaluate and report the use of funds to the Secretary;

“(G) allow the eligible entity flexibility to develop and use terms and conditions for easements, if the Secretary finds the terms and conditions consistent with the purposes of the program and adequate to enable effective enforcement of the easements;

“(H) if applicable, allow an eligible entity to include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the landowner from which the easement will be purchased as part of the entity’s share of the cost to purchase an easement; and

“(I) provide for a schedule of payments to an eligible entity, as agreed to by the Secretary and the eligible entity.

“(3) COST SHARING.—

“(A) IN GENERAL.—As part of a cooperative agreement with an eligible entity under this subsection, the Secretary may provide a share of the purchase price of an easement under the program.

“(B) MINIMUM SHARE BY ELIGIBLE ENTITY.—The eligible entity shall be required to provide a share of the purchase price at least equivalent to that provided by the Secretary.

“(C) PRIORITY.—The Secretary may accord a higher priority to proposals from eligible entities that leverage a greater share of the purchase price of the easement.

“(4) VIOLATION.—If an eligible entity violates the terms or conditions of a cooperative agreement entered into under this subsection—

“(A) the cooperative agreement shall remain in force;

and

“(B) the Secretary may require the eligible entity to refund all or part of any payments received by the eligible entity under the program, with interest on the payments as determined appropriate by the Secretary.

“(e) PROTECTION OF FEDERAL INVESTMENT.—When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department.”.

Subtitle F—Environmental Quality Incentives Program

SEC. 2501. PURPOSES OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) REVISED PURPOSES.—Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended—

(1) in the matter preceding paragraph (1), by inserting “, forest management,” after “agricultural production”; and

(2) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

“(3) providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while—

“(A) enhancing soil, water, and related natural resources, including grazing land, forestland, wetland, and wildlife; and

“(B) conserving energy;

“(4) assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production), grazing management, fuels management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and”.

(b) TECHNICAL CORRECTION.—The Food Security Act of 1985 is amended by inserting immediately before section 1240 (16 U.S.C. 3839aa) the following:

“CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM”.

SEC. 2502. DEFINITIONS.

Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa–1) is amended to read as follows:

“SEC. 1240A. DEFINITIONS.

“In this chapter:

“(1) ELIGIBLE LAND.—

“(A) IN GENERAL.—The term ‘eligible land’ means land on which agricultural commodities, livestock, or forest-related products are produced.

“(B) INCLUSIONS.—The term ‘eligible land’ includes the following:

“(i) Cropland.

“(ii) Grassland.

“(iii) Rangeland.

“(iv) Pasture land.

“(v) Nonindustrial private forest land.

“(vi) Other agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

“(2) NATIONAL ORGANIC PROGRAM.—The term ‘national organic program’ means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et. seq.).

“(3) ORGANIC SYSTEM PLAN.—The term ‘organic system plan’ means an organic plan approved under the national organic program.

“(4) PAYMENT.—The term ‘payment’ means financial assistance provided to a producer for performing practices under this chapter, including compensation for—

“(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

“(B) income forgone by the producer.

“(5) PRACTICE.—The term ‘practice’ means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this chapter, as determined by the Secretary, including—

“(A) improvements to eligible land of the producer, including—

“(i) structural practices;

“(ii) land management practices;

“(iii) vegetative practices;

“(iv) forest management; and

“(v) other practices that the Secretary determines would further the purposes of the program; and

“(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

“(i) comprehensive nutrient management planning; and

“(ii) other plans that the Secretary determines would further the purposes of the program under this chapter.

“(6) PROGRAM.—The term ‘program’ means the environmental quality incentives program established by this chapter.”.

SEC. 2503. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended to read as follows:

“SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION.

“(a) ESTABLISHMENT.—During each of the 2002 through 2012 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

“(b) PRACTICES AND TERM.—

“(1) PRACTICES.—A contract under the program may apply to the performance of one or more practices.

“(2) TERM.—A contract under the program shall have a term that—

“(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

“(B) not to exceed 10 years.

“(c) BIDDING DOWN.—If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

“(d) PAYMENTS.—

“(1) AVAILABILITY OF PAYMENTS.—Payments are provided to a producer to implement one or more practices under the program.

“(2) LIMITATION ON PAYMENT AMOUNTS.—A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

“(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

“(B) 100 percent of income foregone by the producer; or

“(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

“(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

“(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

“(3) SPECIAL RULE INVOLVING PAYMENTS FOR FOREGONE INCOME.—In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—

“(A) residue management;

“(B) nutrient management;

“(C) air quality management;

“(D) invasive species management;

“(E) pollinator habitat;

“(F) animal carcass management technology; or

“(G) pest management.

“(4) INCREASED PAYMENTS FOR CERTAIN PRODUCERS.—

“(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—

“(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

“(ii) to not less than 25 percent above the otherwise applicable rate.

“(B) ADVANCE PAYMENTS.—Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.

“(5) FINANCIAL ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.

“(6) OTHER PAYMENTS.—A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subtitle.

“(e) MODIFICATION OR TERMINATION OF CONTRACTS.—

“(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under the program if—

“(A) the producer agrees to the modification or termination; and

“(B) the Secretary determines that the modification or termination is in the public interest.

“(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under the program if the Secretary determines that the producer violated the contract.

“(f) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to live-stock production.

“(g) FUNDING FOR FEDERALLY RECOGNIZED NATIVE AMERICAN INDIAN TRIBES AND ALASKA NATIVE CORPORATIONS.—The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.

“(h) WATER CONSERVATION OR IRRIGATION EFFICIENCY PRACTICE.—

“(1) AVAILABILITY OF PAYMENTS.—The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice.

“(2) PRIORITY.—In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—

“(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or

“(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.

“(i) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ORGANIC PRODUCTION.—

“(1) PAYMENTS AUTHORIZED.—The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—

“(A) to organic production; and

“(B) to the transition to organic production.

“(2) ELIGIBILITY REQUIREMENTS.—As a condition for receiving payments under this subsection, a producer shall agree—

“(A) to develop and carry out an organic system plan;

or

“(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this chapter.

“(3) PAYMENT LIMITATIONS.—Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, \$20,000 per year or \$80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.

“(4) EXCLUSION OF CERTAIN ORGANIC CERTIFICATION COSTS.—Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523).

“(5) TERMINATION OF CONTRACTS.—The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—

“(A) is not pursuing organic certification; or

“(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq).”.

SEC. 2504. EVALUATION OF APPLICATIONS.

Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa-3) is amended to read as follows:

“SEC. 1240C. EVALUATION OF APPLICATIONS.

“(a) EVALUATION CRITERIA.—The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.

“(b) PRIORITIZATION OF APPLICATIONS.—In evaluating applications under this chapter, the Secretary shall prioritize applications—

“(1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated environmental benefits of the project;

“(2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;

“(3) that best fulfill the purpose of the environmental quality incentives program specified in section 1240(1); and

“(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.

“(c) GROUPING OF APPLICATIONS.—To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.”.

SEC. 2505. DUTIES OF PRODUCERS UNDER ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Section 1240D of the Food Security Act of 1985 (16 U.S.C. 3839aa-4) is amended—

(1) in the matter preceding paragraph (1), by striking “technical assistance, cost-share payments, or incentive”;

(2) in paragraph (2), by striking “farm or ranch” and inserting “farm, ranch, or forest land”; and

(3) in paragraph (4), by striking “cost-share payments and incentive”.

SEC. 2506. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

(a) **PLAN OF OPERATIONS.**—Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended—

(1) in the subsection heading, by striking “IN GENERAL” and inserting “PLAN OF OPERATIONS”;

(2) in matter preceding paragraph (1), by striking “cost-share payments or incentive”;

(3) in paragraph (2), by striking “and” after the semicolon at the end;

(4) in paragraph (3), by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following new paragraph:
“(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

“(A) a forest stewardship plan described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a);

“(B) another practice plan approved by the State forester; or

“(C) another plan determined appropriate by the Secretary.”.

(b) **AVOIDANCE OF DUPLICATION.**—Subsection (b) of section 1240E of the Food Security Act of 1985 (16 U.S.C. 3839aa–5) is amended to read as follows:

“(b) **AVOIDANCE OF DUPLICATION.**—The Secretary shall—

“(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

“(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.”.

SEC. 2507. DUTIES OF THE SECRETARY.

Section 1240F(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(1)) is amended by striking “cost-share payments or incentive”.

SEC. 2508. LIMITATION ON ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PAYMENTS.

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended—

(1) by striking “An individual or entity” and inserting “(a) **LIMITATION.**—Subject to subsection (b), a person or legal entity”;

(2) by striking “\$450,000” and inserting “\$300,000”;

(3) by striking “the individual” both places it appears and inserting “the person”; and

(4) by adding at the end the following new subsection:

“(b) **WAIVER AUTHORITY.**—In the case of contracts under this chapter for projects of special environmental significance (including projects involving methane digesters), as determined by the Secretary, the Secretary may—

“(1) waive the limitation otherwise applicable under subsection (a); and

“(2) raise the limitation to not more than \$450,000 during any six-year period.”.

SEC. 2509. CONSERVATION INNOVATION GRANTS AND PAYMENTS.

Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended to read as follows:

“SEC. 1240H. CONSERVATION INNOVATION GRANTS AND PAYMENTS.

“(a) COMPETITIVE GRANTS FOR INNOVATIVE CONSERVATION APPROACHES.—

“(1) GRANTS.—Out of the funds made available to carry out this chapter, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

“(2) USE.—The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

“(A) involve producers who are eligible for payments or technical assistance under the program;

“(B) leverage Federal funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

“(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

“(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

“(b) AIR QUALITY CONCERNS FROM AGRICULTURAL OPERATIONS.—

“(1) IMPLEMENTATION ASSISTANCE.—The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

“(2) FUNDING.—Of the funds made available to carry out this chapter, the Secretary shall carry out this subsection using \$37,500,000 for each of fiscal years 2009 through 2012.”.

SEC. 2510. AGRICULTURAL WATER ENHANCEMENT PROGRAM.

Section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) is amended to read as follows:

“SEC. 1240I. AGRICULTURAL WATER ENHANCEMENT PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) AGRICULTURAL WATER ENHANCEMENT ACTIVITY.—The term ‘agricultural water enhancement activity’ includes the following activities carried out with respect to agricultural land:

“(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

“(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

“(C) Water quality or quantity restoration or enhancement projects.

“(D) Irrigation system improvement and irrigation efficiency enhancement.

“(E) Activities designed to mitigate the effects of drought.

“(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

“(2) PARTNER.—The term ‘partner’ means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

“(A) an agricultural or silvicultural producer association or other group of such producers;

“(B) a State or unit of local government; or

“(C) a federally recognized Indian tribe.

“(3) PARTNERSHIP AGREEMENT.—The term ‘partnership agreement’ means an agreement between the Secretary and a partner.

“(4) PROGRAM.—The term ‘program’ means the agricultural water enhancement program established under subsection (b).

“(b) ESTABLISHMENT OF PROGRAM.—Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to promote ground and surface water conservation and improve water quality on agricultural lands—

“(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

“(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

“(c) PARTNERSHIP AGREEMENTS.—

“(1) AGREEMENTS AUTHORIZED.—The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

“(2) APPLICATIONS.—An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

“(A) A description of the geographical area to be covered by the partnership agreement.

“(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

“(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

“(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

“(E) A description of the program resources, including payments the Secretary is requested to make.

“(F) Such other such elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

“(3) DUTIES OF PARTNERS.—A partner under a partnership agreement shall—

“(A) identify producers participating in the project and act on their behalf in applying for the program;

“(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

“(C) conduct monitoring and evaluation of project effects; and

“(D) at the conclusion of the project, report to the Secretary on project results.

“(d) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PRODUCERS.—The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

“(e) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PARTNERS.—

“(1) COMPETITIVE PROCESS.—The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

“(2) AUTHORITY TO GIVE PRIORITY TO CERTAIN PROPOSALS.—The Secretary may give a higher priority to proposals from partners that—

“(A) include high percentages of agricultural land and producers in a region or other appropriate area;

“(B) result in high levels of applied agricultural water quality and water conservation activities;

“(C) significantly enhance agricultural activity;

“(D) allow for monitoring and evaluation; and

“(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer’s operation.

“(3) PRIORITY TO PROPOSALS FROM STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall give a higher priority to proposals from partners that—

“(A) include the conversion of agricultural land from irrigated farming to dryland farming;

“(B) leverage Federal funds provided under the program with funds provided by partners; and

“(C) assist producers in States with water quantity concerns, as determined by the Secretary.

“(4) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

“(A) accept qualified applications—

“(i) directly from partners applying on behalf of producers; or

“(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

“(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

“(f) AREAS EXPERIENCING EXCEPTIONAL DROUGHT.—Notwithstanding the purposes described in section 1240, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

“(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

“(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

“(g) WAIVER AUTHORITY.—To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1001D(b)(2)(B) of this Act for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

“(h) PAYMENTS UNDER PROGRAM.—

“(1) IN GENERAL.—The Secretary shall provide appropriate payments to producers participating in agricultural water enhancement activities in an amount determined by the secretary to be necessary to achieve the purposes of the program described in subsection (b).

“(2) PAYMENTS TO PRODUCERS IN STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

“(i) CONSISTENCY WITH STATE LAW.—Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

“(j) FUNDING.—

“(1) AVAILABILITY OF FUNDS.—In addition to funds made available to carry out this chapter under section 1241(a), the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

“(A) \$73,000,000 for each of fiscal years 2009 and 2010;

“(B) \$74,000,000 for fiscal year 2011; and

“(C) \$60,000,000 for fiscal year 2012 and each fiscal year thereafter.

“(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.”.

Subtitle G—Other Conservation Programs of the Food Security Act of 1985

SEC. 2601. CONSERVATION OF PRIVATE GRAZING LAND.

Section 1240M(e) of the Food Security Act of 1985 (16 U.S.C. 3839bb(e)) is amended by striking “2007” and inserting “2012”.

SEC. 2602. WILDLIFE HABITAT INCENTIVE PROGRAM.

(a) ELIGIBILITY.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended—

(1) in subsection (a), by inserting before the period at the end the following: “for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands”.

(2) in subsection (b)(1), by striking “landowners” and inserting “owners of lands referred to in subsection (a)”.

(b) INCLUSION OF PIVOT CORNERS AND IRREGULAR AREAS.—Section 1240N(b)(1)(E) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(1)(E)) is amended by inserting before the period at the end the following: “, including habitat developed on pivot corners and irregular areas”.

(c) COST SHARE FOR LONG-TERM AGREEMENTS.—Section 1240N(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(2)(B)) is amended by striking “15 percent” and inserting “25 percent”.

(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES; PAYMENT LIMITATION.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended by adding at the end the following new subsections:

“(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES.—In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

“(e) PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, under the program may not exceed, in the aggregate, \$50,000 per year.”.

SEC. 2603. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

Section 1240O(b) of the Food Security Act of 1985 (16 U.S.C. 3839bb–2(b)) is amended by striking “\$5,000,000 for each of fiscal years 2002 through 2007” and inserting “\$20,000,000 for each of fiscal years 2008 through 2012”.

SEC. 2604. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

Section 1240P of the Food Security Act of 1985 (16 U.S.C. 3839bb–3) is amended to read as follows:

“SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

“(a) PROGRAM AUTHORIZED.—The Secretary may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the ‘program’), including providing assistance to implement the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.

“(b) CONSULTATION AND COOPERATION.—The Secretary shall carry out the program in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army.

“(c) ASSISTANCE.—In carrying out the program, the Secretary may—

“(1) provide project demonstration grants, provide technical assistance, and carry out information and educational programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

“(2) establish a priority for projects and activities that—
“(A) directly reduce soil erosion or improve sediment control;

“(B) reduce soil loss in degraded rural watersheds;

or

“(C) improve water quality for downstream watersheds.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program \$5,000,000 for each of fiscal years 2008 through 2012.”.

SEC. 2605. CHESAPEAKE BAY WATERSHED PROGRAM.

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1240P (16 U.S.C. 3839bb-3) the following new section:

“SEC. 1240Q. CHESAPEAKE BAY WATERSHED.

“(a) CHESAPEAKE BAY WATERSHED DEFINED.—In this section, the term ‘Chesapeake Bay watershed’ means all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay.

“(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

“(1) improving water quality and quantity in the Chesapeake Bay watershed; and

“(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed.

“(c) CONSERVATION ACTIVITIES.—The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subtitle to assist producers in enhancing land and water resources—

“(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

“(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the lands are—

“(A) retained in their current use; or

“(B) restored to their natural condition.

“(d) AGREEMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) enter into agreements with producers to carry out the purposes of this section; and

“(B) use the funds made available to carry out this section to cover the costs of the program involved with each agreement.

“(2) SPECIAL CONSIDERATIONS.—In entering into agreements under this subsection, the Secretary shall give special

consideration to, and begin evaluating, applications with producers in the following river basins:

“(A) The Susquehanna River.

“(B) The Shenandoah River.

“(C) The Potomac River (including North and South Potomac).

“(D) The Patuxent River.

“(e) DUTIES OF THE SECRETARY.—In carrying out the purposes in this section, the Secretary shall—

“(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

“(2) proceed expeditiously with the implementation of any agreement with a producer that is consistent with State strategies for the restoration of the Chesapeake Bay watershed.

“(f) CONSULTATION.—The Secretary, in consultation with appropriate Federal agencies, shall ensure conservation activities carried out under this section complement Federal and State programs, including programs that address water quality, in the Chesapeake Bay watershed.

“(g) SENSE OF CONGRESS REGARDING CHESAPEAKE BAY EXECUTIVE COUNCIL.—It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).

“(h) FUNDING.—

“(1) AVAILABILITY.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable—

“(A) \$23,000,000 for fiscal year 2009;

“(B) \$43,000,000 for fiscal year 2010;

“(C) \$72,000,000 for fiscal year 2011; and

“(D) \$50,000,000 for fiscal year 2012.

“(2) DURATION OF AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.”

SEC. 2606. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by inserting after section 1240Q, as added by section 2605, the following new section:

“SEC. 1240R. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall establish a voluntary public access program under which States and tribal governments may apply for grants to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting or fishing under programs administered by the States and tribal governments.

“(b) APPLICATIONS.—In submitting applications for a grant under the program, a State or tribal government shall describe—

“(1) the benefits that the State or tribal government intends to achieve by encouraging public access to private farm and ranch land for—

“(A) hunting and fishing; and

“(B) to the maximum extent practicable, other recreational purposes; and

“(2) the methods that will be used to achieve those benefits.

“(c) PRIORITY.—In approving applications and awarding grants under the program, the Secretary shall give priority to States and tribal governments that propose—

“(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

“(2) to ensure that land enrolled under the State or tribal government program has appropriate wildlife habitat;

“(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in section 1234(f)(4) by providing incentives to increase public hunting and other recreational access on that land;

“(4) to use additional Federal, State, tribal government, or private resources in carrying out the program; and

“(5) to make available to the public the location of land enrolled.

“(d) RELATIONSHIP TO OTHER LAWS.—

“(1) NO PREEMPTION.—Nothing in this section preempts a State or tribal government law, including any State or tribal government liability law.

“(2) EFFECT OF INCONSISTENT OPENING DATES FOR MIGRATORY BIRD HUNTING.—The Secretary shall reduce by 25 percent the amount of a grant otherwise determined for a State under the program if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents.

“(e) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

“(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable, \$50,000,000 for the period of fiscal years 2009 through 2012.”.

Subtitle H—Funding and Administration of Conservation Programs

SEC. 2701. FUNDING OF CONSERVATION PROGRAMS UNDER FOOD SECURITY ACT OF 1985.

(a) IN GENERAL.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended in the matter preceding paragraph (1), by striking “2007” and inserting “2012”.

(b) CONSERVATION RESERVE PROGRAM.—Paragraph (1) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking the period at the end and inserting the following: “, including to the maximum extent practicable—

“(A) \$100,000,000 for the period of fiscal years 2009 through 2012 to provide cost share payments under paragraph (3) of section 1234(b) in connection with thinning activities conducted on land described in subparagraph (A)(iii) of such paragraph; and

“(B) \$25,000,000 for the period of fiscal years 2009 through 2012 to carry out section 1235(f) to facilitate the transfer of land subject to contracts from retired or retiring

owners and operators to beginning farmers or ranchers and socially disadvantaged farmers or ranchers.”.

(c) CONSERVATION SECURITY AND CONSERVATION STEWARDSHIP PROGRAMS.—Paragraph (3) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

“(3)(A) CONSERVATION SECURITY PROGRAM.—The conservation security program under subchapter A of chapter 2, using such sums as are necessary to administer contracts entered into before September 30, 2008.

“(B) CONSERVATION STEWARDSHIP PROGRAM.—The conservation stewardship program under subchapter B of chapter 2.”.

(d) FARMLAND PROTECTION PROGRAM.—Paragraph (4) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

“(4) The farmland protection program under subchapter C of chapter 2, using, to the maximum extent practicable—

“(A) \$97,000,000 in fiscal year 2008;

“(B) \$121,000,000 in fiscal year 2009;

“(C) \$150,000,000 in fiscal year 2010;

“(D) \$175,000,000 in fiscal year 2011; and

“(E) \$200,000,000 in fiscal year 2012.”.

(e) GRASSLAND RESERVE PROGRAM.—Paragraph (5) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

“(5) The grassland reserve program under subchapter D of chapter 2.”.

(f) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—Paragraph (6) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

“(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

“(A) \$1,200,000,000 in fiscal year 2008;

“(B) \$1,337,000,000 in fiscal year 2009;

“(C) \$1,450,000,000 in fiscal year 2010;

“(D) \$1,588,000,000 in fiscal year 2011; and

“(E) \$1,750,000,000 in fiscal year 2012.”.

(g) WILDLIFE HABITAT INCENTIVES PROGRAM.—Paragraph (7)(D) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking “2007” and inserting “2012”.

SEC. 2702. AUTHORITY TO ACCEPT CONTRIBUTIONS TO SUPPORT CONSERVATION PROGRAMS.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by adding at the end the following new subsection:

“(e) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

“(1) AUTHORITY TO ESTABLISH CONTRIBUTION ACCOUNTS.—Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subtitle D to accept contributions of non-Federal funds to support the purposes of the program.

“(2) DEPOSIT AND USE OF CONTRIBUTIONS.—Contributions of non-Federal funds received for a conservation program administered by the Secretary under subtitle D shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without further appropriation and until expended, to carry out the program.”.

SEC. 2703. REGIONAL EQUITY AND FLEXIBILITY.

(a) **REGIONAL EQUITY AND FLEXIBILITY.**—Section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)) is amended—

(1) by striking “Before April 1” and inserting the following:
“(1) **PRIORITY FUNDING TO PROMOTE EQUITY.**—Before April 1”;

(2) by striking “\$12,000,000” and inserting “\$15,000,000”;

and

(3) by adding at the end the following new paragraph:

“(2) **SPECIFIC FUNDING ALLOCATIONS.**—In determining the specific funding allocations for States under paragraph (1), the Secretary shall consider the respective demand in each State for each program covered by such paragraph.”.

(b) **ALLOCATIONS REVIEW AND UPDATE.**—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (e), as added by section 2702, the following new subsection:

“(f) **ALLOCATIONS REVIEW AND UPDATE.**—

“(1) **REVIEW.**—Not later than January 1, 2012, the Secretary shall conduct a review of conservation programs and authorities under this title that utilize allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs.

“(2) **UPDATE.**—The Secretary shall improve conservation program allocation formulas as necessary to ensure that the formulas adequately reflect the costs of carrying out the conservation programs.”.

SEC. 2704. ASSISTANCE TO CERTAIN FARMERS AND RANCHERS TO IMPROVE THEIR ACCESS TO CONSERVATION PROGRAMS.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (f), as added by section 2703(b), the following new subsection:

“(g) **ASSISTANCE TO CERTAIN FARMERS OR RANCHERS FOR CONSERVATION ACCESS.**—

“(1) **ASSISTANCE.**—Of the funds made available for each of fiscal years 2009 through 2012 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

“(A) 5 percent to assist beginning farmers or ranchers;

and

“(B) 5 percent to assist socially disadvantaged farmers or ranchers.

“(2) **REPOOLING OF FUNDS.**—In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program.

“(3) **REPOOLING OF ACRES.**—In any fiscal year, acres not obligated under paragraph (1) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.”.

SEC. 2705. REPORT REGARDING ENROLLMENTS AND ASSISTANCE UNDER CONSERVATION PROGRAMS.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (g), as added by section 2704, the following new subsection:

“(h) REPORT ON PROGRAM ENROLLMENTS AND ASSISTANCE.—Beginning in calendar year 2009, and each year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a semiannual report containing statistics by State related to enrollments in conservation programs under this subtitle, as follows:

“(1) Payments made under the wetlands reserve program for easements valued at \$250,000 or greater.

“(2) Payments made under the farmland protection program for easements in which the Federal share is \$250,000 or greater.

“(3) Payments made under the grassland reserve program valued at \$250,000 or greater.

“(4) Payments made under the environmental quality incentives program for land determined to have special environmental significance pursuant to section 1240G(b).

“(5) Payments made under the agricultural water enhancement program subject to the waiver of adjusted gross income limitations pursuant to section 1240I(g).

“(6) Waivers granted by the Secretary under section 1001D(b)(2) of this Act in order to protect environmentally sensitive land of special significance.”.

SEC. 2706. DELIVERY OF CONSERVATION TECHNICAL ASSISTANCE.

Section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842) is amended to read as follows:

“SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.

“(a) DEFINITION OF ELIGIBLE PARTICIPANT.—In this section, the term ‘eligible participant’ means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this title or the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524).

“(b) PURPOSE OF TECHNICAL ASSISTANCE.—The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

“(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance under this title to an eligible participant—

“(1) directly;

“(2) through an agreement with a third-party provider;

or

“(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

“(d) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts

with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this title.

“(e) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

“(1) PURPOSE.—The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

“(2) REGULATIONS.—Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section.

“(3) EXPERTISE.—In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

“(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

“(B) provide national criteria for the certification of third party providers; and

“(C) approve any unique certification standards established at the State level.

“(f) ADMINISTRATION.—

“(1) FUNDING.—Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 1241 shall be available for the provision of technical assistance from third-party providers under this section.

“(2) TERM OF AGREEMENT.—An agreement with a third-party provider under this section shall have a term that—

“(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

“(B) does not exceed 3 years; and

“(C) can be renewed, as determined by the Secretary.

“(3) REVIEW OF CERTIFICATION REQUIREMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall—

“(A) review certification requirements for third-party providers; and

“(B) make any adjustments considered necessary by the Secretary to improve participation.

“(4) ELIGIBLE ACTIVITIES.—

“(A) INCLUSION OF ACTIVITIES.—The Secretary may include as activities eligible for payments to a third party provider—

“(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

“(ii) related technical assistance services that accelerate conservation program delivery.

“(B) EXCLUSIONS.—The Secretary shall not designate as an activity eligible for payments to a third party provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

“(5) PAYMENT AMOUNTS.—The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

“(g) AVAILABILITY OF TECHNICAL SERVICES.—

“(1) IN GENERAL.—In carrying out the programs under this title and the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524), the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

“(2) TECHNICAL SERVICE CONTRACTS.—In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

“(h) REVIEW OF CONSERVATION PRACTICE STANDARDS.—

“(1) REVIEW REQUIRED.—The Secretary shall—

“(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

“(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

“(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

“(2) CONSULTATION.—In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

“(3) EXPEDITED REVISION OF STANDARDS.—If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

“(i) ADDRESSING CONCERNS OF SPECIALITY CROP, ORGANIC, AND PRECISION AGRICULTURE PRODUCERS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

“(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

“(2) AVAILABILITY OF ADEQUATE TECHNICAL ASSISTANCE.—

“(A) IN GENERAL.—The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

“(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall develop—

“(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

“(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.”.

SEC. 2707. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.

(a) TRANSFER OF EXISTING PROVISIONS.—Subsections (a), (c), and (d) of section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) are—

(1) redesignated as subsections (c), (d), and (e), respectively; and

(2) transferred to appear at the end of section 1244 of such Act (16 U.S.C. 3844).

(b) ESTABLISHMENT OF PARTNERSHIP INITIATIVE.—Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843), as amended by subsection (a), is amended to read as follows:

“SEC. 1243. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.

“(a) ESTABLISHMENT OF INITIATIVE.—The Secretary shall establish a cooperative conservation partnership initiative (in this section referred to as the ‘Initiative’) to work with eligible partners to provide assistance to producers enrolled in a program described in subsection (c)(1) that will enhance conservation outcomes on agricultural and nonindustrial private forest land.

“(b) PURPOSES.—The purposes of a partnership entered into under the Initiative shall be—

“(1) to address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level;

“(2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production involving agriculture and nonindustrial private forest land;

“(3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest operations; or

“(4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

“(c) INITIATIVE PROGRAMS.—

“(1) COVERED PROGRAMS.—Except as provided in paragraph (2), the Initiative applies to all conservation programs under subtitle D.

“(2) EXCLUDED PROGRAMS.—The Initiative shall not include the following programs:

“(A) Conservation reserve program.

“(B) Wetlands reserve program.

“(C) Farmland protection program

“(D) Grassland reserve program.

“(d) ELIGIBLE PARTNERS.—The Secretary may enter into a partnership under the Initiative with one or more of the following:

“(1) States and local governments.

“(2) Indian tribes.

“(3) Producer associations.

“(4) Farmer cooperatives.

“(5) Institutions of higher education.

“(6) Nongovernmental organizations with a history of working cooperatively with producers to effectively address conservation priorities related to agricultural production and non-industrial private forest land.

“(e) IMPLEMENTATION AGREEMENTS.—The Secretary shall carry out the Initiative—

“(1) by selecting, through a competitive process, eligible partners from among applications submitted under subsection (f); and

“(2) by entering into multi-year agreements with eligible partners so selected for a period not to exceed 5 years.

“(f) APPLICATIONS.—

“(1) REQUIRED INFORMATION.—An application to enter into a partnership agreement under the Initiative shall include the following:

“(A) A description of the area covered by the agreement, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by agricultural producers and nonindustrial private forest landowners.

“(B) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner.

“(C) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.

“(D) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.

“(E) Such other information that may be required by the Secretary.

“(2) PRIORITIES.—The Secretary shall give priority to applications for agreements that—

“(A) have a high percentage of producers involved and working agricultural or nonindustrial private forest land included in the area covered by the agreement;

“(B) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;

“(C) deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;

“(D) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

“(E) meet other factors, as determined by the Secretary.

“(g) RELATIONSHIP TO COVERED PROGRAMS.—

“(1) COMPLIANCE WITH PROGRAM RULES.—Except as provided in paragraph (2), the Secretary shall ensure that resources made available under the Initiative are delivered in accordance with the applicable rules of programs specified in subsection (c)(1) through normal program mechanisms relating to program functions, including rules governing appeals, payment limitations, and conservation compliance.

“(2) ADJUSTMENT.—The Secretary may adjust the elements of any program specified in subsection (c)(1)—

“(A) to better reflect unique local circumstances and purposes if the Secretary determines such adjustments are necessary to achieve the purposes of the Initiative; and

“(B) to provide preferential enrollment to producers who are eligible for the applicable program and to participate in the Initiative.

“(h) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide appropriate technical and financial assistance to producers participating in the Initiative in an amount determined to be necessary to achieve the purposes of the Initiative.

“(i) FUNDING.—

“(1) RESERVATION.—Of the funds and acres made available for each of fiscal years 2009 through 2012 to implement the programs described in subsection (c)(1), the Secretary shall reserve 6 percent of the funds and acres to ensure an adequate source of funds and acres for the Initiative.

“(2) ALLOCATION REQUIREMENTS.—Of the funds and acres reserved for the Initiative for a fiscal year, the Secretary shall allocate—

“(A) 90 percent of the funds and acres to projects based on the direction of State conservationists, with the advice of State technical committees; and

“(B) 10 percent of the funds and acres to projects based on a national competitive process established by the Secretary.

“(3) UNUSED FUNDING.—Any funds and acres reserved for a fiscal year under paragraph (1) that are not obligated by April 1 of that fiscal year may be used to carry out other activities under the program that is the source of the funds or acres during the remainder of that fiscal year.

“(4) ADMINISTRATIVE COSTS OF PARTNERS.—Overhead or administrative costs of partners may not be covered by funds provided through the Initiative.”

SEC. 2708. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

Section 1244 of the Food Security Act of 1985 (16 U.S.C. 3844), as amended by section 2707, is further amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) INCENTIVES FOR CERTAIN FARMERS AND RANCHERS AND INDIAN TRIBES.—

“(1) INCENTIVES AUTHORIZED.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

“(A) to foster new farming and ranching opportunities;

and

“(B) to enhance long-term environmental goals.

“(2) COVERED PERSONS.—Incentives authorized by paragraph (1) may be provided to the following:

“(A) Beginning farmers or ranchers.

“(B) Socially disadvantaged farmers or ranchers.

“(C) Limited resource farmers or ranchers.

“(D) Indian tribes.”; and

(2) by adding at the end the following new subsections:

“(f) ACREAGE LIMITATIONS.—

“(1) LIMITATIONS.—

“(A) ENROLLMENTS.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under subchapters B and C of chapter 1 of subtitle D.

“(B) EASEMENTS.—Not more than 10 percent of the cropland in a county may be subject to an easement acquired under subchapter C of chapter 1 of subtitle D.

“(2) EXCEPTIONS.—The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

“(A) the action would not adversely affect the local economy of a county; and

“(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

“(3) WAIVER TO EXCLUDE CERTAIN ACREAGE.—The Secretary may grant a waiver to exclude acreage enrolled under subsection (c)(2)(B) or (f)(4) of section 1234 from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

“(4) SHELTERBELTS AND WINDBREAKS.—The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subchapter C of chapter 1 that is used for the establishment of shelterbelts and windbreaks.

“(g) COMPLIANCE AND PERFORMANCE.—For each conservation program under subtitle D, the Secretary shall develop procedures—

“(1) to monitor compliance with program requirements;

“(2) to measure program performance;

“(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

“(4) to track participation by crop and livestock types; and

“(5) to coordinate activities described in this subsection with the national conservation program authorized under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004).

“(h) ENCOURAGEMENT OF POLLINATOR HABITAT DEVELOPMENT AND PROTECTION.—In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

“(1) the development of habitat for native and managed pollinators; and

“(2) the use of conservation practices that benefit native and managed pollinators.

“(i) STREAMLINED APPLICATION PROCESS.—

“(1) IN GENERAL.—In carrying out each conservation program under this title, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

“(2) REVIEW AND STREAMLINING.—

“(A) REVIEW.—The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

“(B) STREAMLINING.—On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

“(i) all required application information is essential for the efficient, effective, and accountable implementation of conservation programs;

“(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

“(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

“(iv) information technology is used effectively to minimize data and information input requirements.

“(3) IMPLEMENTATION AND NOTIFICATION.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.”.

SEC. 2709. ENVIRONMENTAL SERVICES MARKETS.

Subtitle E of title XII of the Food Security Act of 1985 is amended by inserting after section 1244 (16 U.S.C. 3844) the following new section:

“SEC. 1245. ENVIRONMENTAL SERVICES MARKETS.

“(a) TECHNICAL GUIDELINES REQUIRED.—The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

“(b) ESTABLISHMENT.—The Secretary shall establish guidelines under subsection (a) for use in developing the following:

“(1) A procedure to measure environmental services benefits.

“(2) A protocol to report environmental services benefits.

“(3) A registry to collect, record and maintain the benefits measured.

“(c) VERIFICATION REQUIREMENTS.—

“(1) VERIFICATION OF REPORTS.—The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services

benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

“(2) ROLE OF THIRD PARTIES.—In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

“(d) USE OF EXISTING INFORMATION.—In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

“(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the following:

“(1) Federal and State government agencies.

“(2) Nongovernmental interests including—

“(A) farm, ranch, and forestry producers;

“(B) financial institutions involved in environmental services trading;

“(C) institutions of higher education with relevant expertise or experience;

“(D) nongovernmental organizations with relevant expertise or experience; and

“(E) private sector representatives with relevant expertise or experience.

“(3) Other interested persons, as determined by the Secretary.”

SEC. 2710. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.

Subtitle F of title XII of the Food Security Act of 1985 is amended by inserting after section 1251 (16 U.S.C. 2005a) the following new section:

“SEC. 1252. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.

“(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a conservation experienced services program (in this section referred to as the ‘ACES Program’) for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary. Such technical services may include conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices.

“(b) PROGRAM AGREEMENTS.—

“(1) RELATION TO OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.—Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the ACES program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the

ACES program who will provide technical services under the ACES program.

“(2) REQUIRED DETERMINATION.—Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

“(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

“(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or

“(C) affect existing contracts for services.

“(c) FUNDING SOURCE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this title.

“(2) EXCLUSIONS.—Funds made available to carry out the following programs may not be used to carry out the ACES program:

“(A) The conservation reserve program.

“(B) The wetlands reserve program.

“(C) The grassland reserve program.

“(D) The conservation stewardship program.

“(d) LIABILITY.—An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28, United States Code, if the individual—

“(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

“(2) is acting within the scope of the agreement.”.

SEC. 2711. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES AND THEIR RESPONSIBILITIES.

Subtitle G of title XII of the Farm Security Act of 1985 (16 U.S.C. 3861, 3862) is amended to read as follows:

“Subtitle G—State Technical Committees

“SEC. 1261. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES.

“(a) ESTABLISHMENT.—The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this title.

“(b) STANDARDS.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop—

“(1) standard operating procedures to standardize the operations of State technical committees; and

“(2) standards to be used by State technical committees in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

“(c) COMPOSITION.—Each State technical committee shall be composed of agricultural producers and other professionals that

represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

- “(1) The Natural Resources Conservation Service.
- “(2) The Farm Service Agency.
- “(3) The Forest Service.
- “(4) The National Institute of Food and Agriculture.
- “(5) The State fish and wildlife agency.
- “(6) The State forester or equivalent State official.
- “(7) The State water resources agency.
- “(8) The State department of agriculture.
- “(9) The State association of soil and water conservation districts.
- “(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.
- “(11) Owners of nonindustrial private forest land.
- “(12) Nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 with demonstrable conservation expertise and experience working with agriculture producers in the State.
- “(13) Agribusiness.

“SEC. 1262. RESPONSIBILITIES.

“(a) IN GENERAL.—Each State technical committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title.

“(b) PUBLIC NOTICE AND ATTENDANCE.—Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this title.

“(c) ROLE.—

“(1) IN GENERAL.—The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this title.

“(2) ADVISORY ROLE IN ESTABLISHING PROGRAM PRIORITIES AND CRITERIA.—Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this title, including the review of whether local working groups are addressing those priorities.

“(d) FACADE REQUIREMENTS.—

“(1) EXEMPTION.—Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

“(2) LOCAL WORKING GROUPS.—For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subtitle shall be considered to be a subcommittee of the applicable State technical committee.”.

Subtitle I—Conservation Programs Under Other Laws

SEC. 2801. AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.

(a) ELIGIBLE STATES.—Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended by inserting “Hawaii,” after “Delaware,”.

(b) FUNDING.—Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amended—

(1) in clause (i), by striking “Except as provided in clauses (ii) and (iii)” and inserting “Except as provided in clause (ii)”; and

(2) by striking clauses (ii) and (iii) and inserting the following new clause:

“(ii) EXCEPTION FOR FISCAL YEARS 2008 THROUGH 2012.—For each of fiscal years 2008 through 2012, the Commodity Credit Corporation shall make available to carry out this subsection \$15,000,000.”.

(c) CERTAIN USES.—Section 524(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)) is amended by adding at the end the following new subparagraph:

“(C) CERTAIN USES.—Of the amounts made available to carry out this subsection for a fiscal year, the Commodity Credit Corporation shall use not less than—

“(i) 50 percent to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

“(ii) 10 percent to provide organic certification cost share assistance through the Agricultural Marketing Service; and

“(iii) 40 percent to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.”.

SEC. 2802. TECHNICAL ASSISTANCE UNDER SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

(a) PREVENTION OF SOIL EROSION.—

(1) IN GENERAL.—The first section of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a) is amended—

(A) by striking “That it” and inserting the following:

“SECTION 1. PURPOSE.

“It”; and

(B) in the matter preceding paragraph (1), by striking “and thereby to preserve natural resources,” and inserting “to preserve soil, water, and related resources, promote soil and water quality,”.

(2) POLICIES AND PURPOSES.—Section 7(a)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(a)(1)) is amended by striking “fertility” and inserting “and water quality and related resources”.

(b) DEFINITIONS.—Section 10 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590j) is amended to read as follows:

“SEC. 10. DEFINITIONS.

“In this Act:

“(1) **AGRICULTURAL COMMODITY.**—The term ‘agricultural commodity’ means—

“(A) an agricultural commodity; and

“(B) any regional or market classification, type, or grade of an agricultural commodity.

“(2) **TECHNICAL ASSISTANCE.**—

“(A) **IN GENERAL.**—The term ‘technical assistance’ means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses.

“(B) **INCLUSIONS.**—The term ‘technical assistance’ includes—

“(i) technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

“(ii) technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.”.

SEC. 2803. SMALL WATERSHED REHABILITATION PROGRAM.

(a) **AVAILABILITY OF FUNDS.**—Section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended by adding at the end the following new subparagraph:

“(G) \$100,000,000 for fiscal year 2009, to be available until expended.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 14(h)(2)(E) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(2)(E)) is amended by striking “fiscal year 2007” and inserting “each of fiscal years 2008 through 2012”.

SEC. 2804. AMENDMENTS TO SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977.

(a) **CONGRESSIONAL FINDINGS.**—Section 2 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(1) in paragraph (2), by striking “base, of the” and inserting “base of the”; and

(2) in paragraph (3), by striking “(3)” and all that follows through “Since individual” and inserting the following:

“(3) Appraisal and inventory of resources, assessment and inventory of conservation needs, evaluation of the effects of conservation practices, and analyses of alternative approaches to existing conservation programs are basic to effective soil, water, and related natural resource conservation.

“(4) Since individual”.

(b) **CONTINUING APPRAISAL OF SOIL, WATER, AND RELATED RESOURCES.**—Section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(7) data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.”;

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following new subsection:

“(d) EVALUATION OF APPRAISAL.—In conducting the appraisal described in subsection (a), the Secretary shall concurrently solicit and evaluate recommendations for improving the appraisal, including the content, scope, process, participation in, and other elements of the appraisal, as determined by the Secretary.”; and

(4) in subsection (e), as redesignated by paragraph (2), by striking the first sentence and inserting the following: “The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015.”.

(c) SOIL AND WATER CONSERVATION PROGRAM.—Section 6 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2005) is amended—

(1) by redesignating subsection (b) as subsection (d);

(2) by inserting after subsection (a) the following new subsections:

“(b) EVALUATION OF EXISTING CONSERVATION PROGRAMS.—In evaluating existing conservation programs, the Secretary shall emphasize demonstration, innovation, and monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

“(c) IMPROVEMENT TO PROGRAM.—In developing a national soil and water conservation program under subsection (a), the Secretary shall solicit and evaluate recommendations for improving the program, including the content, scope, process, participation in, and other elements of the program, as determined by the Secretary.”; and

(3) in subsection (d), as redesignated by paragraph (1), by striking “December 31, 1979” and all that follows through “December 31, 2007” and inserting “December 31, 2011, and December 31, 2016”.

(d) REPORTS TO CONGRESS.—Section 7 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006) is amended to read as follows:

“SEC. 7. REPORTS TO CONGRESS.

“(a) APPRAISAL.—Not later than the date on which Congress convenes in 2011 and 2016, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the appraisal developed under section 5 and completed before the end of the previous year.

“(b) PROGRAM AND STATEMENT OF POLICY.—Not later than the date on which Congress convenes in 2012 and 2017, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

“(1) the initial program or updated program developed under section 6 and completed before the end of the previous year;

“(2) a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture; and

“(3) a special evaluation of the status, conditions, and trends of soil quality on cropland in the United States that addresses the challenges and opportunities for reducing soil erosion to tolerance levels.

“(c) IMPROVEMENTS TO APPRAISAL AND PROGRAM.—Not later than the date on which Congress convenes in 2012, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the plans of the Department of Agriculture for improving the resource appraisal and national conservation program required under this Act, based on the recommendations received under sections 5(d) and 6(c).”.

(e) TERMINATION OF PROGRAM.—Section 10 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2009) is amended by striking “2008” and inserting “2018”.

SEC. 2805. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

(a) LOCALLY LED PLANNING PROCESS.—Section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “planning process” and inserting “locally led planning process”;

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and moving those paragraphs so as to appear in numerical order;

(3) in paragraph (8) (as so redesignated)—

(A) by striking “**PLANNING PROCESS**” and inserting “**LOCALLY LED PLANNING PROCESS**”; and

(B) by striking “council” and inserting “locally led council”.

(b) AUTHORIZED TECHNICAL ASSISTANCE.—Section 1528(13) of the Agriculture and Food Act of 1981 (16 U.S.C. 3451(13)) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

“(C) providing assistance for the implementation of area plans and projects; and

“(D) providing services that involve the resources of Department of Agriculture programs in a local community, as defined in the locally led planning process.”.

(c) IMPROVED PROVISION OF TECHNICAL ASSISTANCE.—Section 1531 of the Agriculture and Food Act of 1981 (16 U.S.C. 3454) is amended—

(1) by inserting “(a) IN GENERAL.—” before “In carrying”; and

(2) by adding at the end the following new subsection:

“(b) COORDINATOR.—

“(1) IN GENERAL.—To improve the provision of technical assistance to councils under this subtitle, the Secretary shall designate for each council an individual to be the coordinator for the council.

“(2) RESPONSIBILITY.—A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.”.

(d) PROGRAM EVALUATION.—Section 1534 of the Agriculture and Food Act of 1981 (16 U.S.C. 3457) is repealed.

SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM.

(a) IN GENERAL.—Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) is amended by adding at the end the following new paragraph:

“(7) BASIN STATES PROGRAM.—

“(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 205(f).

“(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.

“(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—

“(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;

“(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and

“(iii) studies, planning, and administration of salinity control activities.

“(D) REPORT.—

“(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a planning report that describes the proposed implementation of the program.

“(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—

(A) in subsection (a), in the matter preceding paragraph

(1), by striking “program” and inserting “programs”; and

(B) in subsection (b)(4)—

(i) by striking “program” and inserting “programs”; and

(ii) by striking “and (6)” and inserting “(6), and (7)”.

(2) Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended by striking subsection (f) and inserting the following new subsection:

“(f) UP-FRONT COST SHARE.—

“(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

“(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 202(a)(7).

“(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.”.

SEC. 2807. DESERT TERMINAL LAKES.

Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—

(1) in subsection (a)—

(A) by striking “(a)” and all that follows through “\$200,000,000” and inserting “(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer \$175,000,000”; and

(B) by striking the quotation marks at the beginning of paragraphs (1) and (2); and

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

“(b) PERMITTED USES.—In any case in which there are willing sellers, the funds described in subsection (a) may be used—

“(1) to lease water; or

“(2) to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).”.

Subtitle J—Miscellaneous Conservation Provisions

SEC. 2901. HIGH PLAINS WATER STUDY.

Notwithstanding any other provision of this Act, no person shall become ineligible for any program benefits under this Act or an amendment made by this Act solely as a result of participating in a 1-time study of recharge potential for the Ogallala Aquifer in the High Plains of the State of Texas.

SEC. 2902. NAMING OF NATIONAL PLANT MATERIALS CENTER AT BELTSVILLE, MARYLAND, IN HONOR OF NORMAN A. BERG.

The National Plant Materials Center at Beltsville, Maryland, referenced in section 613.5(a) of title 7, Code of Federal Regulations, shall be known and designated as the “Norman A. Berg National Plant Materials Center”. Any reference in a law, map, regulation, document, paper, or other record of the United States to such National Plant Materials Center shall be deemed to be a reference to the Norman A. Berg National Plant Materials Center.

SEC. 2903. TRANSITION.

(a) CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008.—Except as otherwise provided by an amendment made by this title, the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act and using funds made available under such title for fiscal year 2008 for the program or activity.

(b) GROUND AND SURFACE WATER CONSERVATION PROGRAM.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.

SEC. 2904. REGULATIONS.

(a) ISSUANCE.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

(1) shall be carried out without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(2) may—

(A) be promulgated with an opportunity for notice and comment; or

(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.