

AMENDMENT NO. _____ Calendar No. _____

Purpose: To authorize modifications to conservation easement programs.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. _____

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2023, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by _____

Viz:

1 At the end of subtitle D of title II, add the following:

2 **SEC. 2423. MODIFICATIONS TO CONSERVATION EASEMENT**
3 **PROGRAMS.**

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

1 **“Subtitle F—Other Conservation**
2 **Provisions**

3 **“SEC. 1251. MODIFICATIONS TO CONSERVATION EASEMENT**
4 **PROGRAMS.**

5 “(a) DEFINITION OF COVERED PROGRAM.—In this
6 section, the term ‘covered program’ means—

7 “(1) the conservation reserve program estab-
8 lished under subchapter B of chapter 1 of subtitle
9 D;

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

12 “(3) the special conservation reserve enhance-
13 ment program described in section 1231A;

14 “(4) the agricultural conservation easement
15 program established under subtitle II;

16 “(5) the healthy forests reserve program estab-
17 lished under section 501 of the Healthy Forests Res-
18 toration Act of 2003 (16 U.S.C. 6571); or

19 “(6) any similar program, as determined by the
20 Secretary, that is established on or after the date of
21 enactment of this section.

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

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

3 “(A) modified for water management, gen-
4 eral maintenance, vegetative cover control, wild-
5 life habitat management, or any other purpose,
6 subject to the condition that the modification
7 shall be approved jointly by—

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

10 “(ii) the technical committee estab-
11 lished under section 1261(a) of the State;
12 or

13 “(B) exchanged for land that has equal or
14 greater conservation, wildlife, ecological, and
15 economic values, as determined by the Sec-
16 retary; and

17 “(2) provide for the modification of an agree-
18 ment, a contract, or an easement under a covered
19 program if the Secretary determines that the modi-
20 fication—

21 “(A) would facilitate the practical adminis-
22 tration and management of the land covered by
23 the agreement, contract, or easement; and

1 “(B) would not adversely affect the func-
2 tions and values for which the agreement, con-
3 tract, or easement was established.

4 “(c) REQUIREMENTS.—

5 “(1) NO EFFECT ON ENROLLED ACREAGE, ECO-
6 LOGICAL FUNCTIONS AND VALUES.—A modification
7 or exchange under subsection (b) shall not—

8 “(A) result in a net loss of acreage en-
9 rolled in the covered program; or

10 “(B) adversely affect any ecological or con-
11 servation function or value for which the appli-
12 cable agreement, contract, or easement was es-
13 tablished.

14 “(2) EXCHANGED ACRES.—Any land for which
15 an exchange is made under subsection (b) shall sat-
16 isfy all requirements for enrollment in the covered
17 program.

18 “(3) RESTRICTION ON PAYMENTS.—In modi-
19 fying any agreement, contract, or easement under a
20 covered program, the Secretary shall not increase
21 any payment to any party to the agreement, con-
22 tract, or easement.

23 “(d) COSTS.—A party to an agreement, a contract,
24 or an easement under a covered program that requests
25 a modification or exchange under subsection (b) shall be

1 responsible for all costs of the modification or exchange,
2 including—

3 “(1) an appraisal to determine whether the eco-
4 nomic value of the land for which an exchange is
5 made under subsection (b) is equal to or greater
6 than the value of the land removed from the covered
7 program;

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

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

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

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

20 In section 12305, strike subsection (b) and insert the
21 following:

22 (b) TECHNICAL AMENDMENT.—Title XII of the Food
23 Security Act of 1985 is amended by moving section 1252

1 (16 U.S.C. 3851) (as amended by subsection (a)) to ap-
2 pear after section 1251 (as added by section 2423).