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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. KELLY of Mississippi introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Forest Conservation
5 Easement Program Act of 2023”.

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

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

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

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

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

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

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

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

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

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

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

24 “(4) to maintain and enhance biodiversity;

25 “(5) to enhance carbon sequestration;

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

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

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

10 **“SEC. 1267A. DEFINITIONS.**

11 “In this subtitle:

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

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

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

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

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

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

1 “(B) an organization that is—

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

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

13 “(iii) described in—

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

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

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

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

3 “(A) that is—

4 “(i) forest land; or

5 “(ii) being restored to forest land;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(b) COST-SHARE ASSISTANCE.—

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

19 “(2) SCOPE OF ASSISTANCE AVAILABLE.—

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

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

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

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

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

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

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

18 “(ii) eligible land owned by—

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

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

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

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

4 “(D) NON-FEDERAL SHARE.—

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

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

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

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

16 “(I) cash resources;

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

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

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

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

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

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

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

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

18 “(ii) will, not later than the time of
19 acquisition of the forest land easement, in-
20 clude a forest management plan developed
21 for the eligible land, which may comprise—

22 “(I) a forest stewardship plan de-
23 scribed in section 5(f) of the Coopera-
24 tive Forestry Assistance Act of 1978
25 (16 U.S.C. 2103a(f));

1 “(II) another plan approved by
2 the applicable State forester or State
3 forestry agency;

4 “(III) a plan developed under a
5 third-party certification system; or

6 “(IV) another plan determined
7 appropriate by the Secretary.

8 “(C) CONSIDERATIONS.—In establishing
9 the criteria under subparagraph (A), the Sec-
10 retary shall emphasize support for—

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

13 “(ii) reducing fragmentation; and

14 “(iii) maximizing the areas protected
15 from conversion to non-forest uses; and

16 “(D) ACCOUNTING FOR GEOGRAPHIC DIF-
17 FERENCES.—The Secretary may adjust the cri-
18 teria established under subparagraph (A) to ac-
19 count for geographic differences, if the adjust-
20 ments—

21 “(i) meet the purposes of the pro-
22 gram; and

23 “(ii) continue to maximize the benefit
24 of the Federal investment under the pro-
25 gram.

1 “(E) BIDDING DOWN.—If the Secretary
2 determines that 2 or more applications for cost-
3 share assistance are comparable in achieving
4 the purpose of the program, the Secretary shall
5 not assign a higher priority to any of those ap-
6 plications solely on the basis of lesser cost to
7 the program.

8 “(4) AGREEMENTS WITH ELIGIBLE ENTITIES.—

9 “(A) IN GENERAL.—The Secretary shall
10 enter into agreements with eligible entities to
11 stipulate the terms and conditions under which
12 the eligible entity is permitted to use cost-share
13 assistance provided under this section.

14 “(B) LENGTH OF AGREEMENTS.—

15 “(i) IN GENERAL.—An agreement
16 under subparagraph (A) shall be for a
17 term that is—

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

21 “(II) in the case of any other eli-
22 gible entity, not less than 3, but not
23 more than 5, years, unless the Sec-
24 retary determines that an extension of
25 time is justified.

1 “(ii) EXPEDITING CLOSINGS.—The
2 Secretary is encouraged to expedite closing
3 on forest land easements, as practicable.

4 “(C) MINIMUM TERMS AND CONDITIONS.—
5 An eligible entity shall be authorized to use its
6 own terms and conditions for forest land ease-
7 ments so long as the Secretary determines such
8 terms and conditions—

9 “(i) are consistent with—

10 “(I) the purposes of the program;

11 and

12 “(II) the forestry activities to be
13 conducted on the eligible land;

14 “(ii) permit effective enforcement of
15 the conservation purposes of the forest
16 land easements; and

17 “(iii) include a right of enforcement
18 for the Secretary that—

19 “(I) may be used only if the
20 terms and conditions of the forest
21 land easement are not enforced by the
22 eligible entity; and

23 “(II) does not extend to a right
24 of inspection unless—

1 “(aa)(AA) the holder of the
2 forest land easement fails to pro-
3 vide monitoring reports in a
4 timely manner; or

5 “(BB) the Secretary has a
6 reasonable and articulable belief
7 that the terms and conditions of
8 the forest land easement have
9 been violated; and

10 “(bb) prior to the inspection,
11 the Secretary notifies the eligible
12 entity and the landowner of the
13 inspection and provides a reason-
14 able opportunity for the eligible
15 entity and the landowner to par-
16 ticipate in the inspection; and

17 “(iv) include a limit on the impervious
18 surfaces to be allowed that is consistent
19 with the forestry activities to be conducted.

20 “(D) ADDITIONAL PERMITTED TERMS AND
21 CONDITIONS.—An eligible entity may include
22 terms and conditions for a forest land easement
23 that—

24 “(i) are intended to keep the eligible
25 land subject to the forest land easement in

1 active forest management, as determined
2 by the Secretary;

3 “(ii) allow subsurface mineral develop-
4 ment on the eligible land subject to the
5 forest land easement and in accordance
6 with applicable State law if, as determined
7 by the Secretary—

8 “(I) the subsurface mineral de-
9 velopment—

10 “(aa) has a limited and lo-
11 calized impact;

12 “(bb) does not harm the for-
13 est use and conservation values
14 of the eligible land subject to the
15 forest land easement;

16 “(cc) does not materially
17 alter or affect the existing topog-
18 raphy;

19 “(dd) complies with a sub-
20 surface mineral development plan
21 that—

22 “(AA) includes a plan
23 for the remediation of im-
24 pacts to the forest use and
25 conservation values of the el-

1 eligible land subject to the
2 forest land easement; and

3 “(BB) is approved by
4 the Secretary prior to the
5 initiation of mineral develop-
6 ment activity;

7 “(ee) is not accomplished by
8 any surface mining method;

9 “(ff) is within the imper-
10 vious surface limits of the forest
11 land easement under subpara-
12 graph (C)(iv); and

13 “(gg) uses practices and
14 technologies that minimize the
15 duration and intensity of impacts
16 to the forest use and conserva-
17 tion values of the eligible land
18 subject to the forest land ease-
19 ment; and

20 “(II) each area impacted by the
21 subsurface mineral development is re-
22 claimed and restored by the holder of
23 the mineral rights at cessation of op-
24 eration; and

1 “(iii) include other relevant activities
2 relating to the forest land easement, as de-
3 termined by the Secretary.

4 “(E) SUBSTITUTION OF QUALIFIED
5 PROJECTS.—An agreement under subparagraph
6 (A) shall allow, upon mutual agreement of the
7 parties, substitution of qualified projects that
8 are identified at the time of the proposed sub-
9 stitution.

10 “(F) VOLUNTARY FOREST MANAGEMENT
11 PLAN.—

12 “(i) IN GENERAL.—If the eligible land
13 does not have a forest management plan at
14 the time of application, prior to the acqui-
15 sition of the forest land easement the land-
16 owner shall develop, in partnership with
17 the eligible entity, a voluntary forest man-
18 agement plan for the land subject to the
19 forest land easement.

20 “(ii) VOLUNTARY FOREST MANAGE-
21 MENT PLAN DEFINED.—In this subpara-
22 graph, the term ‘voluntary forest manage-
23 ment plan’ means—

24 “(I) a forest stewardship plan de-
25 scribed in section 5(f) of the Coopera-

1 tive Forestry Assistance Act of 1978
2 (16 U.S.C. 2103a(f));

3 “**(II)** another plan approved by
4 the applicable State forester or State
5 forestry agency;

6 “**(III)** a plan developed under a
7 third-party certification system; or

8 “**(IV)** another plan determined
9 appropriate by the Secretary.

10 “**(iii)** **REIMBURSEMENT.**—The Sec-
11 retary may reimburse the landowner for
12 the cost of the development of the vol-
13 untary forest management plan.

14 “**(G)** **EFFECT OF VIOLATION.**—If a viola-
15 tion of a term or condition of an agreement
16 under subparagraph (A) occurs—

17 “(i) the Secretary may terminate the
18 agreement; and

19 “(ii) the Secretary may require the el-
20 igible entity to refund all or part of any
21 payments received by the eligible entity
22 under the program, with interest on the
23 payments as determined appropriate by the
24 Secretary.

25 “**(5)** **CERTIFICATION OF ELIGIBLE ENTITIES.**—

1 “(A) CERTIFICATION PROCESS.—The Sec-
2 retary shall establish a process to create forest
3 land easement acquisition and operational effi-
4 ciencies, under which the Secretary shall—

5 “(i) directly certify eligible entities
6 that meet established criteria;

7 “(ii) enter into long-term agreements
8 with certified eligible entities;

9 “(iii) accept proposals for cost-share
10 assistance for the purchase of forest land
11 easements throughout the duration of such
12 agreements; and

13 “(iv) allow a certified eligible entity to
14 use and modify its own terms and condi-
15 tions, notwithstanding subparagraphs (C)
16 and (D) of paragraph (4).

17 “(B) CERTIFICATION CRITERIA.—To be
18 certified under subparagraph (A)(i), an eligible
19 entity shall demonstrate to the Secretary that
20 the eligible entity—

21 “(i) will maintain, at a minimum, for
22 the duration of an agreement described in
23 subparagraph (A)(ii)—

1 “(I) a plan for administering for-
2 est land easements that is consistent
3 with the purposes of the program;

4 “(II) the capacity and resources
5 to monitor and enforce forest land
6 easements; and

7 “(III) policies and procedures to
8 ensure—

9 “(aa) the long-term integrity
10 of forest land easements;

11 “(bb) timely completion of
12 acquisitions of forest land ease-
13 ments; and

14 “(cc) timely and complete
15 evaluation and reporting to the
16 Secretary on the use of funds
17 provided under the program;

18 “(ii)(I) is an eligible entity that has
19 been accredited by the Land Trust Accred-
20 itation Commission, or by an equivalent ac-
21 crediting body, as determined by the Sec-
22 retary, and has acquired not fewer than 5
23 forest land easements under the program
24 or any other forest easement program;

1 “(II) is a State department of agri-
2 culture or other State agency with statu-
3 tory authority for forest land protection
4 that has acquired not fewer than 5 forest
5 land easements under the program or any
6 other forest easement program; or

7 “(III) is an eligible entity not de-
8 scribed in subclause (I) or (II) that has ac-
9 quired not fewer than 10 forest land ease-
10 ments under the program or any other for-
11 est easement program; and

12 “(iii) has successfully met the respon-
13 sibilities of the eligible entity under the ap-
14 plicable agreements with the Secretary, as
15 determined by the Secretary, relating to
16 forest land easements that the eligible enti-
17 ty has acquired as described in subclause
18 (I), (II), or (III) of clause (ii).

19 “(C) QUALITY ASSURANCE.—The Sec-
20 retary shall establish an annual quality review
21 process—

22 “(i) to review a minimum sample of
23 forest land easements acquired by eligible
24 entities certified under subparagraph
25 (A)(i);

1 “(ii) to ensure the integrity of the for-
2 est land easement acquisition process
3 under subparagraph (A);

4 “(iii) to establish a nonpunitive proc-
5 ess for corrective actions with respect to
6 the processes described in subparagraph
7 (A); and

8 “(iv) to provide for waiver of succes-
9 sive annual reviews based on demonstrated
10 compliance with the requirements under
11 this paragraph.

12 “(c) **METHOD OF ENROLLMENT.**—The Secretary
13 shall enroll eligible land under this section through the use
14 of—

15 “(1) permanent easements; or

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

18 “(d) **TECHNICAL ASSISTANCE.**—The Secretary may
19 provide technical assistance, on request, to assist in com-
20 pliance with the terms and conditions of forest land ease-
21 ments.

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

23 “(a) **AVAILABILITY OF ASSISTANCE.**—The Secretary
24 shall provide assistance to owners of eligible land to re-
25 store, protect, and enhance eligible land through—

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

3 “(2) technical assistance to implement this sec-
4 tion.

5 “(b) EASEMENTS.—

6 “(1) METHOD OF ENROLLMENT.—

7 “(A) AUTHORIZED METHODS.—The Sec-
8 retary shall enroll eligible land under this sec-
9 tion—

10 “(i) through the use of—

11 “(I) permanent easements;

12 “(II) 30-year easements; and

13 “(III) easements for the max-
14 imum duration allowed under applica-
15 ble State laws; and

16 “(ii) in the case of Indian Tribes, in
17 accordance with subparagraph (B).

18 “(B) ACREAGE OWNED BY INDIAN
19 TRIBES.—

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

1 “(I) land that is held in trust by
2 the United States for Indian Tribes or
3 individual Indians;

4 “(II) land, the title to which is
5 held by Indian Tribes or individual
6 Indians subject to Federal restrictions
7 against alienation or encumbrance;

8 “(III) land that is subject to
9 rights of use, occupancy, and benefit
10 of certain Indian Tribes;

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

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

15 “(aa) section 17 of the Act
16 of June 18, 1934 (commonly
17 known as the ‘Indian Reorganiza-
18 tion Act’) (48 Stat. 988, chapter
19 576; 25 U.S.C. 5124); or

20 “(bb) section 8 of the Alas-
21 ka Native Claims Settlement Act
22 (43 U.S.C. 1607); or

23 “(VI) a combination of 1 or more
24 types of land described in subclauses
25 (I) through (V).

1 “(ii) ENROLLMENT OF ACREAGE.—In
2 the case of acreage owned by an Indian
3 Tribe, the Secretary may enroll acreage in
4 a forest reserve easement through the use
5 of—

6 “(I) a 30-year contract (the com-
7 pensation for which shall be equiva-
8 lent to the compensation for a 30-year
9 easement);

10 “(II) a permanent easement; or

11 “(III) any combination of the
12 methods described in subclauses (I)
13 and (II).

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

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

19 “(A) CRITERIA.—The Secretary shall es-
20 tablish evaluation and ranking criteria for of-
21 fers from landowners under this section to
22 maximize the environmental benefits per dollar
23 expended under the program.

24 “(B) PRIORITY.—The Secretary shall give
25 priority to the enrollment of eligible land under

1 this section that provides the greatest conserva-
2 tion benefit to—

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

7 “(ii) secondarily, species that are—

8 “(I) not listed as endangered or
9 threatened under that section; and

10 “(II)(aa) candidates for that list-
11 ing, State-listed species, or special
12 concern species; or

13 “(bb) designated as species of
14 greatest conservation need by a State
15 wildlife action plan.

16 “(C) OTHER CONSIDERATIONS.—The Sec-
17 retary may give additional consideration to eli-
18 gible land the enrollment under this section of
19 which will—

20 “(i) improve biological diversity;

21 “(ii) restore native forest ecosystems;

22 “(iii) conserve forest land that pro-
23 vides habitat for species described in sub-
24 paragraph (B);

25 “(iv) reduce fragmentation; and

1 “(v) increase carbon sequestration.

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

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

6 “(i) are consistent with the purposes
7 of the program and the forestry activities
8 to be conducted on the eligible land;

9 “(ii) are consistent with the manage-
10 ment objectives of the owner of the eligible
11 land, as determined appropriate by the
12 Secretary and identified in the forest re-
13 serve easement plan developed under sub-
14 section (c)(1)(A);

15 “(iii) permit effective enforcement of
16 the conservation purposes of the forest re-
17 serve easements;

18 “(iv) provide for the efficient and ef-
19 fective establishment or enhancement of
20 forest ecosystem functions and values; and

21 “(v) include such additional provisions
22 as the Secretary determines are desirable
23 to carry out the program or facilitate the
24 practical administration of the program.

1 “(B) ADJUSTMENT OF TERMS.—To ensure
2 the terms and conditions of a forest reserve
3 easement are consistent with the management
4 objectives of the owner of the eligible land and
5 the purposes of the program, the Secretary may
6 adjust the standard terms and conditions for
7 any forest reserve easement prior to acquiring
8 the forest reserve easement, as long as the ad-
9 justment does not conflict with this section.

10 “(4) COMPENSATION.—

11 “(A) PERMANENT EASEMENTS.—In the
12 case of eligible land enrolled in a permanent
13 easement under this section, the Secretary shall
14 pay the owner of the eligible land an amount
15 equal to the difference between, as determined
16 by the Secretary—

17 “(i) the fair market value of the eligi-
18 ble land before the enrollment in the per-
19 manent easement; and

20 “(ii) the fair market value of the eligi-
21 ble land as encumbered by the permanent
22 easement.

23 “(B) OTHER.—The Secretary shall pay the
24 owner of eligible land enrolled under this sec-
25 tion in a 30-year contract, a 30-year easement,

1 or an easement for the maximum duration al-
2 lowed under applicable State laws not less than
3 50 percent, and not more than 75 percent, of
4 the compensation that would be paid for a per-
5 manent easement in accordance with subpara-
6 graph (A).

7 “(C) DETERMINATION OF FAIR MARKET
8 VALUE.—The Secretary shall determine the fair
9 market value of eligible land for purposes of
10 this paragraph using the Uniform Standards of
11 Professional Appraisal Practice or another in-
12 dustry-approved method.

13 “(c) EASEMENT RESTORATION AND MANAGE-
14 MENT.—

15 “(1) FOREST RESERVE EASEMENT PLAN.—

16 “(A) IN GENERAL.—Land enrolled in a
17 forest reserve easement shall be subject to a
18 forest reserve easement plan, to be developed
19 jointly by the landowner and the Secretary, that
20 describes the activities to be carried out on the
21 land, as are necessary to restore, maintain, and
22 enhance habitat for species described in sub-
23 section (b)(2)(B), including—

1 “(i) converting or restoring forest
2 land to improve forest ecosystem functions
3 and values;

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

6 “(iii) restoring marginal farmland or
7 degraded forest land to improve forest eco-
8 system functions and values;

9 “(iv) the conservation treatments and
10 forest management practices that will
11 achieve the conservation values and goals
12 that are consistent with the program, as
13 determined by the Secretary; or

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

16 “(B) PRACTICES AND MEASURES.—A for-
17 est reserve easement plan developed under sub-
18 paragraph (A) shall require such practices and
19 measures as are necessary to accomplish the ac-
20 tivities described in subparagraph (A), which
21 may include—

22 “(i) land management and silviculture
23 practices;

24 “(ii) vegetative treatments;

1 “(iii) structural practices and meas-
2 ures;

3 “(iv) practices to increase carbon se-
4 questration;

5 “(v) practices to improve biological di-
6 versity; and

7 “(vi) other practices and measures, as
8 determined by the Secretary.

9 “(2) FINANCIAL ASSISTANCE.—

10 “(A) IN GENERAL.—The Secretary shall
11 provide financial assistance to owners of eligible
12 land to carry out the activities, practices, and
13 measures described in the forest reserve ease-
14 ment plan developed for the eligible land under
15 paragraph (1).

16 “(B) PAYMENTS.—With respect to finan-
17 cial assistance provided under subparagraph
18 (A), the Secretary shall—

19 “(i) in the case of a permanent ease-
20 ment, pay an amount that is not more
21 than 100 percent of the eligible costs de-
22 scribed in subparagraph (C), as deter-
23 mined by the Secretary; and

24 “(ii) in the case of a 30-year contract,
25 a 30-year easement, or an easement for

1 the maximum duration allowed under ap-
2 plicable State laws, pay an amount that is
3 not less than 50 percent, and not more
4 than 75 percent, of the eligible costs de-
5 scribed in subparagraph (C), as deter-
6 mined by the Secretary.

7 “(C) ELIGIBLE COSTS.—Costs eligible for
8 payments under this paragraph are the costs of
9 activities, practices, and measures referred to in
10 subparagraph (A) that are associated with the
11 initial restoration or enhancement of the re-
12 quired habitat conditions for the applicable spe-
13 cies.

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

16 “(i) only on a determination by the
17 Secretary that an activity, practice, or
18 measure described in subparagraph (C)
19 has been established in compliance with
20 appropriate standards and specifications;
21 and

22 “(ii) as soon as practicable after the
23 obligation is incurred.

24 “(E) LIMITATIONS.—Cost-sharing pay-
25 ments made by the Secretary under this para-

1 graph to a person or legal entity may not ex-
2 ceed \$500,000 per easement or contract.

3 “(F) PARTICIPATION IN OTHER PRO-
4 GRAMS.—The Secretary shall not prohibit own-
5 ers of eligible land enrolled in a forest reserve
6 easement from being eligible for any other De-
7 partment of Agriculture or other Federal pro-
8 gram with respect to activities, practices, and
9 measures not funded by payments under this
10 paragraph.

11 “(d) TECHNICAL ASSISTANCE.—

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

16 “(2) CONTRACTS OR AGREEMENTS.—The Sec-
17 retary may enter into 1 or more contracts with pri-
18 vate entities or agreements with a State, nongovern-
19 mental organization, or Indian Tribe to provide tech-
20 nical assistance with the implementation of this sec-
21 tion, including the enrollment, restoration, enhance-
22 ment, or maintenance of a forest reserve easement,
23 if the Secretary determines that the contract or
24 agreement will advance the purposes of the program.

25 “(e) PROTECTIONS AND MEASURES.—

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

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

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

12 “(2) MEASURES.—If protection under para-
13 graph (1) requires the taking of measures that are
14 in addition to the measures covered by the applicable
15 forest reserve easement plan agreed to under sub-
16 section (c)(1), the cost of the additional measures,
17 and the cost of any permit, shall be considered part
18 of the forest reserve easement plan for purposes of
19 financial assistance under subsection (c)(2).

20 “(f) ADMINISTRATION.—

21 “(1) DELEGATION OF EASEMENT ADMINISTRA-
22 TION.—

23 “(A) FEDERAL AND STATE AGENCIES.—

24 The Secretary may delegate any of the manage-
25 ment, monitoring, and enforcement responsibil-

1 ities of the Secretary under this section to other
2 Federal or State agencies that have the appro-
3 priate authority, expertise, and resources nec-
4 essary to carry out those delegated responsibil-
5 ities.

6 “(B) CONSERVATION ORGANIZATIONS.—
7 The Secretary may delegate any of the manage-
8 ment responsibilities of the Secretary under this
9 section to conservation organizations if the Sec-
10 retary determines the organization has the ap-
11 propriate expertise and resources necessary to
12 carry out those delegated responsibilities.

13 “(2) INVOLVEMENT BY OTHER AGENCIES AND
14 ORGANIZATIONS.—In carrying out this section, the
15 Secretary may consult with—

16 “(A) private forest landowners;

17 “(B) other Federal agencies;

18 “(C) State forestry agencies;

19 “(D) State fish and wildlife agencies;

20 “(E) State environmental quality agencies;

21 “(F) other State conservation agencies;

22 and

23 “(G) nonprofit conservation organizations.

1 **“SEC. 1267D. ADMINISTRATION.**

2 “(a) SET ASIDE FOR HISTORICALLY UNDERSERVED
3 LANDOWNERS.—

4 “(1) ALLOCATION OF FUNDS.—Of the amounts
5 made available for each of fiscal years 2024 through
6 2028 to carry out the program, the Secretary shall
7 use, to the maximum extent practicable, 10 percent
8 to enroll in the program eligible land owned by—

9 “(A) a beginning forest landowner;

10 “(B) a socially disadvantaged forest land-
11 owner;

12 “(C) a veteran forest landowner; or

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

15 “(2) REPOOLING OF FUNDS.—In any fiscal
16 year, amounts not obligated under paragraph (1) by
17 a date determined by the Secretary shall be available
18 for enrollment of any land eligible for enrollment
19 under the program.

20 “(b) INELIGIBLE LAND.—

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

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

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

4 “(C) land subject to an easement or deed
5 restriction that, as determined by the Secretary,
6 provides similar protection as would be provided
7 by enrollment in the program; or

8 “(D) land the enrollment in the program
9 of which would undermine the purposes of the
10 program due to on-site or off-site conditions,
11 such as risk of hazardous substances, permitted
12 or existing rights of way, infrastructure devel-
13 opment, or adjacent land uses.

14 “(2) LIMITATION.—The Secretary shall not im-
15 pose any limitation on the use of amounts made
16 available to carry out the program for the purposes
17 of acquiring an easement on any land not described
18 in any of subparagraphs (A) through (D) of para-
19 graph (1).

20 “(c) SUBORDINATION, EXCHANGE, MODIFICATION,
21 AND TERMINATION.—

22 “(1) SUBORDINATION.—The Secretary may
23 subordinate any interest in eligible land, or portion
24 of such an interest, administered by the Secretary
25 (including for the purposes of utilities and energy

1 transmission services) directly or on behalf of the
2 Commodity Credit Corporation under the program if
3 the Secretary determines that the subordination—

4 “(A) increases conservation values or has a
5 limited negative effect on conservation values;

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

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

10 “(2) MODIFICATION AND EXCHANGE.—

11 “(A) AUTHORITY.—The Secretary may ap-
12 prove a modification or exchange of any interest
13 in eligible land, or portion of such an interest,
14 administered by the Secretary, directly or on
15 behalf of the Commodity Credit Corporation
16 under the program if the Secretary determines
17 that—

18 “(i) no reasonable alternative exists
19 and the effect on the interest in eligible
20 land is avoided or minimized to the extent
21 practicable; and

22 “(ii) the modification or exchange—

23 “(I) results in equal or increased
24 conservation values;

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

3 “(III) is consistent with the origi-
4 nal intent of the easement;

5 “(IV) is consistent with the pur-
6 poses of the program; and

7 “(V) is in the public interest or
8 furthers the practical administration
9 of the program.

10 “(B) LIMITATION.—In modifying or ex-
11 changing an interest in eligible land, or portion
12 of such an interest, under this paragraph, the
13 Secretary may not increase any payment to an
14 eligible entity.

15 “(3) TERMINATION.—The Secretary may ap-
16 prove a termination of any interest in eligible land,
17 or portion of such an interest, administered by the
18 Secretary, directly or on behalf of the Commodity
19 Credit Corporation under the program if the Sec-
20 retary determines that—

21 “(A) termination is in the interest of the
22 Federal Government;

23 “(B) the United States will be fully com-
24 pensated for—

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

3 “(ii) any costs relating to the termi-
4 nation; and

5 “(iii) any damages determined appro-
6 priate by the Secretary; and

7 “(C) the termination will—

8 “(i) address a compelling public need
9 for which there is no practicable alter-
10 native even with avoidance and minimiza-
11 tion; and

12 “(ii) further the practical administra-
13 tion of the program.

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

19 “(5) NOTICE.—Not less than 90 days before
20 taking any termination action described in para-
21 graph (3), the Secretary shall provide written notice
22 of that action to the Committee on Agriculture of
23 the House of Representatives and the Committee on
24 Agriculture, Nutrition, and Forestry of the Senate.

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

9 “(e) PROGRAM ELIGIBILITY.—Sections 1001 through
10 1001F shall not apply to owners of eligible land for the
11 purposes of determining eligibility for the program.

12 “(f) STREAMLINED ENROLLMENT PROCESS.—The
13 Secretary shall provide for a streamlined application and
14 enrollment process for determining the eligibility of forest
15 landowners for the program.

16 “(g) ENVIRONMENTAL SERVICES MARKET.—The
17 Secretary may not prohibit through a contract, easement,
18 or agreement under the program a participant in the pro-
19 gram from participating in, and receiving compensation
20 from, an environmental services market if 1 of the pur-
21 poses of the environmental services market is the facilita-
22 tion of additional conservation benefits that are consistent
23 with the purposes of the program.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1201(a) of the Food Security Act of
2 1985 (16 U.S.C. 3801(a)) is amended, in the matter
3 preceding paragraph (1), by striking “subtitles A
4 through I:” and inserting “subtitles A through J:”.

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

8 (3) Section 1244(d) of the Food Security Act of
9 1985 (16 U.S.C. 3844(d)) is amended by striking
10 “I.” and inserting “J.”.

11 **SEC. 3. FUNDING.**

12 Section 1241 of the Food Security Act of 1985 (16
13 U.S.C. 3841) is amended—

14 (1) in subsection (a)—

15 (A) in the matter preceding paragraph (1),
16 by inserting “and for each of fiscal years 2024
17 through 2028 with respect to paragraph (5),”
18 after “2031,”; and

19 (B) by adding at the end the following:

20 “(5) The forest conservation easement program
21 established under subtitle I, using \$100,000,000 for
22 each of fiscal years 2024 through 2028.”; and

23 (2) in subsection (b), by inserting “, and each
24 of fiscal years 2024 through 2028 with respect to
25 paragraph (5) of that subsection,” after “2031”.

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

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

4 (b) TRANSITIONAL PROVISIONS.—

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

14 (2) FUNDING.—

15 (A) USE OF PRIOR YEAR FUNDS.—Not-
16 withstanding the repeal made by subsection (a),
17 any funds made available from the Commodity
18 Credit Corporation to carry out the healthy for-
19 ests reserve program established under title V
20 of the Healthy Forests Restoration Act of 2003
21 (16 U.S.C. 6571 et seq.) (as in effect on the
22 day before the date of enactment of this Act)
23 shall be made available to carry out contracts,
24 agreements, or easements referred to in para-
25 graph (1) that were entered into prior to the
26 date of enactment of this Act, subject to the

1 condition that no such contract, agreement, or
2 easement may be modified so as to increase the
3 amount of any payment received.

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

15 (c) CONFORMING AMENDMENTS.—

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

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

23 “(D) The forest conservation easement
24 program established under subtitle I.”.

1 **SEC. 5. SENSE OF CONGRESS.**

2 It is the sense of Congress that the costs of carrying
3 out this Act shall be offset.