

107TH CONGRESS
1ST SESSION

S. 1153

To amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2001

Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland.

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 “Grassland Reserve
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) vast grassland once provided critical habitat
2 for complex plant and animal communities through-
3 out much of North America;

4 (2) today, grassland areas have been largely
5 converted to other uses, threatening and eliminating
6 plant and animal communities unique to North
7 America;

8 (3) a significant portion of the remaining grass-
9 land is on working ranches;

10 (4) ranchers have an economic interest in pre-
11 serving the remaining grassland as forage for their
12 livestock;

13 (5) many ranchers are also concerned about los-
14 ing the open spaces and “big sky” central to the
15 ranching way of life;

16 (6) apart from the loss of grassland, ranches
17 themselves have steadily disappeared through the
18 years and are likely to disappear at a faster rate in
19 the immediate decade as a generation of ranchers
20 reach retirement age;

21 (7) ranch land provides important open-space
22 buffers for animal and plant habitat;

23 (8) ranching forms the economic backbone for
24 much of the rural area of the western United States;

1 (9) currently, there are no Federal programs
 2 that protect grassland, ranch land, or other land
 3 with comparable high resource value, other than wet-
 4 land, on a national scale; and

5 (10) a grassland reserve program would provide
 6 important economic assistance to ranchers and other
 7 agricultural producers who may voluntarily decide
 8 that participating in the program would be to their
 9 advantage.

10 **SEC. 3. GRASSLAND RESERVE PROGRAM.**

11 Chapter 1 of subtitle D of title XII of the Food Secu-
 12 rity Act of 1985 (16 U.S.C. 3830 et seq.) is amended by
 13 adding at the end the following:

14 **“Subchapter D—Grassland Reserve Program**

15 **“SEC. 1238. GRASSLAND RESERVE PROGRAM.**

16 “(a) ESTABLISHMENT.—The Secretary, acting
 17 through the Natural Resource Conservation Service, shall
 18 establish a grassland reserve program (referred to in this
 19 subchapter as ‘the program’) to assist owners in restoring
 20 and protecting eligible land described in subsection (c).

21 “(b) ENROLLMENT CONDITIONS.—

22 “(1) IN GENERAL.—The Secretary shall enroll
 23 in the program, from willing owners, not less than—

24 “(A) 100 contiguous acres of land west of
 25 the 90th meridian; or

1 “(B) 50 contiguous acres of land east of
2 the 90th meridian.

3 “(2) MAXIMUM ENROLLMENT.—The total num-
4 ber of acres enrolled in the program shall not exceed
5 1,000,000 acres.

6 “(3) METHODS OF ENROLLMENT.—The Sec-
7 retary shall enroll land in the program through—

8 “(A) permanent easements or 30-year
9 easements;

10 “(B) in a State that imposes a maximum
11 duration for such an easement, an easement for
12 the maximum duration allowed under State law;
13 or

14 “(C) a 30-year rental agreement.

15 “(c) ELIGIBLE LAND.—Land shall be eligible to be
16 enrolled in the program if the Secretary determines that
17 the land is—

18 “(1) natural grassland or shrubland;

19 “(2) land that—

20 “(A) is located in an area that has been
21 historically dominated by natural grassland or
22 shrubland; and

23 “(B) has potential to serve as habitat for
24 animal or plant populations of significant eco-

1 logical value if the land is restored to natural
2 grassland or shrubland; or

3 “(3) land that is incidental to land described in
4 paragraph (1) or (2), if the incidental land is deter-
5 mined by the Secretary to be necessary for the effi-
6 cient administration of the easement.

7 **“SEC. 1238A. EASEMENTS AND AGREEMENTS.**

8 “(a) IN GENERAL.—To be eligible to enroll land in
9 the program, the owner of the land shall enter into an
10 agreement with the Secretary—

11 “(1) to grant an easement that runs with the
12 land to the Secretary;

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

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

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

22 “(5) to comply with the terms of the easement
23 and restoration agreement.

24 “(b) TERMS OF EASEMENT.—An easement under
25 subsection (a) shall—

1 “(1) permit—

2 “(A) grazing on the land in a manner that
3 is consistent with maintaining the viability of
4 natural grass and shrub species indigenous to
5 that locality;

6 “(B) haying (including haying for seed
7 production) or mowing, except during the nest-
8 ing season for birds in the area that are in sig-
9 nificant decline, as determined by the Natural
10 Resources Conservation Service State conserva-
11 tionist, or are protected Federal or State law;
12 and

13 “(C) fire rehabilitation, construction of fire
14 breaks, and fences (including placement of the
15 posts necessary for fences);

16 “(2) prohibit—

17 “(A) the production of row crops, fruit
18 trees, vineyards, or any other agricultural com-
19 modity that requires breaking the soil surface;
20 and

21 “(B) except as permitted under paragraph
22 (1)(C), the conduct of any other activities that
23 would disturb the surface of the land covered by
24 the easement, including—

25 “(i) plowing; and

1 “(ii) disking; and

2 “(3) include such additional provisions as the
3 Secretary determines are appropriate to carry out
4 this subchapter or to facilitate the administration of
5 this subchapter.

6 “(c) EVALUATION AND RANKING OF EASEMENT AP-
7 PPLICATIONS.—

8 “(1) IN GENERAL.—The Secretary, in conjunc-
9 tion with State technical committees, shall establish
10 criteria to evaluate and rank applications for ease-
11 ments under this subchapter.

12 “(2) CRITERIA.—In establishing the criteria,
13 the Secretary shall emphasize support for grazing
14 operations, plant and animal biodiversity, and grass-
15 land and shrubland under the greatest threat of con-
16 version.

17 “(d) RESTORATION AGREEMENTS.—

18 “(1) IN GENERAL.—The Secretary shall pre-
19 scribe the terms by which grassland and shrubland
20 subject to an easement under an agreement entered
21 into under the program shall be restored.

22 “(2) REQUIREMENTS.—The restoration agree-
23 ment shall describe the respective duties of the
24 owner and the Secretary (including paying the Fed-

1 eral share of the cost of restoration and the provi-
2 sion of technical assistance).

3 “(e) VIOLATIONS.—

4 “(1) IN GENERAL.—On the violation of the
5 terms or conditions of an easement or restoration
6 agreement entered into under this section—

7 “(A) the easement shall remain in force;
8 and

9 “(B) the Secretary may require the owner
10 to refund all or part of any payments received
11 by the owner under this subchapter, with inter-
12 est on the payments as determined appropriate
13 by the Secretary.

14 “(2) PERIODIC INSPECTIONS.—

15 “(A) IN GENERAL.—After providing notice
16 to the owner, the Secretary shall conduct peri-
17 odic inspections of land subject to easements
18 under this subchapter to ensure that the terms
19 of the easement and restoration agreement are
20 being met.

21 “(B) LIMITATION.—The Secretary may
22 not prohibit the owner, or a representative of
23 the owner, from being present during a periodic
24 inspection.

1 **“SEC. 1238B. DUTIES OF SECRETARY.**

2 “(a) IN GENERAL.—In return for the granting of an
3 easement by an owner under this subchapter, the Sec-
4 retary shall, in accordance with this section,—

5 “(1) make easement payments;

6 “(2) pay the Federal share of the cost of res-
7 toration; and

8 “(3) provide technical assistance to the owner.

9 “(b) PAYMENT SCHEDULE.—

10 “(1) EASEMENT PAYMENTS.—

11 “(A) AMOUNT.—In return for the granting
12 of an easement by an owner under this sub-
13 chapter, the Secretary shall make easement
14 payments to the owner in an amount equal to—

15 “(i) in the case of a permanent ease-
16 ment, the fair market value of the land
17 less the grazing value of the land encum-
18 bered by the easement; and

19 “(ii) in the case of a 30-year easement
20 or an easement for the maximum duration
21 allowed under applicable State law, 30 per-
22 cent of the fair market value of the land
23 less the grazing value of the land for the
24 period during which the land is encum-
25 bered by the easement.

1 “(B) SCHEDULE.—Easement payments may be
2 provided in not less than 1 payment nor more than
3 10 annual payments of equal or unequal amount, as
4 agreed to by the Secretary and the owner.

5 “(2) RENTAL AGREEMENT PAYMENTS.—

6 “(A) AMOUNT.—If an owner enters into a
7 30-year rental agreement authorized under sec-
8 tion 1238(b)(3)(C), the Secretary shall make 30
9 annual rental payments to the owner in an
10 amount that equals, to the maximum extent
11 practicable, the 30-year easement payment
12 amount under paragraph (1)(A)(ii).

13 “(B) ASSESSMENT.—Not less than once
14 every 5 years throughout the 30-year rental pe-
15 riod, the Secretary shall assess whether the
16 value of the rental payments under subpara-
17 graph (A) equals, to the maximum extent prac-
18 ticable, the 30-year easement payments as of
19 the date of the assessment.

20 “(C) ADJUSTMENT.—If on completion of
21 the assessment under subparagraph (B), the
22 Secretary determines that the rental payments
23 do not equal, to the maximum extent prac-
24 ticable, the value of payments under a 30-year
25 easement, the Secretary shall adjust the

1 amount of the remaining payments to equal, to
2 the maximum extent practicable, the value of
3 a 30-year easement over the entire 30-year
4 rental period.

5 “(c) FEDERAL SHARE OF COST OF RESTORATION.—

6 The Secretary shall make payments to the owner of not
7 more than 75 percent of the cost of carrying out measures
8 and practices necessary to restore grassland and
9 shrubland functions and values.

10 “(d) TECHNICAL ASSISTANCE.—

11 “(1) IN GENERAL.—The Secretary shall provide
12 owners with technical assistance to execute easement
13 documents and restore the grassland and shrubland.

14 “(2) REIMBURSEMENT BY COMMODITY CREDIT
15 CORPORATION.—The Commodity Credit Corporation
16 shall reimburse the Secretary, acting through the
17 Natural Resources Conservation Service, for not
18 more than 10 percent of the cost of acquisition of
19 the easement and the Federal share of the cost of
20 restoration obligated for that fiscal year.

21 “(e) PAYMENTS TO OTHERS.—If an owner that is en-
22 titled to a payment under this subchapter dies, becomes
23 incompetent, is otherwise unable to receive the payment,
24 or is succeeded by another person who renders or com-
25 pletes the required performance, the Secretary shall make

1 the payment, in accordance with regulations promulgated
2 by the Secretary and without regard to any other provision
3 of law, in such manner as the Secretary determines is fair
4 and reasonable in light of all the circumstances.

5 “(f) OTHER PAYMENTS.—Easement payments re-
6 ceived by an owner under this subchapter shall be in addi-
7 tion to, and not affect, the total amount of payments that
8 the owner is otherwise eligible to receive under other Fed-
9 eral laws.

10 **“SEC. 1238C. ADMINISTRATION.**

11 “(a) DELEGATION TO PRIVATE ORGANIZATIONS.—

12 “(1) IN GENERAL.—The Secretary shall permit
13 a private conservation or land trust organization or
14 a State agency to hold and enforce an easement
15 under this subchapter, in lieu of the Secretary, if—

16 “(A) the Secretary determines that grant-
17 ing such permission is likely to promote grass-
18 land and shrubland protection; and

19 “(B) the owner authorizes the private con-
20 servation or land trust or a State agency to
21 hold and enforce the easement.

22 “(2) APPLICATION.—An organization that de-
23 sires to hold an easement under this subchapter
24 shall apply to the Secretary for approval.

1 “(3) APPROVAL BY SECRETARY.—The Sec-
2 retary shall approve an organization under this sub-
3 chapter that is constituted for conservation or
4 ranching purposes and is competent to administer
5 grassland and shrubland easements.

6 “(4) REASSIGNMENT.—If an organization hold-
7 ing an easement on land under this subchapter
8 terminates—

9 “(A) the owner of the land shall reassign
10 the easement to another organization described
11 in paragraph (1) or to the Secretary; and

12 “(B) the owner and the new organization
13 shall notify the Secretary in writing that a reas-
14 signment for termination has been made.

15 “(b) REGULATIONS.—Not later than 180 days after
16 the date of enactment of this subchapter, the Secretary
17 shall issue such regulations as are necessary to carry out
18 this subchapter.”.

19 **SEC. 4. FUNDING.**

20 Section 1241(a)(2) of the Food Security Act of 1985
21 (16 U.S.C. 3841(a)(2)) is amended by striking “sub-
22 chapter C” and inserting “subchapters C and D”.

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