

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve provisions for highly erodible land and wetland conservation for crop insurance, and for other purposes.

**IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.**

**S. 10**

To reauthorize agricultural programs through 2018.

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        In section 1241(c) of the Food Security Act of 1985  
2 (16 U.S.C. 3841(c)) (as amended by section 2602), redес-  
3 ignate paragraph (2) as paragraph (3).

4        In section 1241(c) of the Food Security Act of 1985  
5 (16 U.S.C. 3841(c)) (as amended by section 2602), insert  
6 after paragraph (1) the following:

7           “(2) PRIORITY.—

8           “(A) IN GENERAL.—In the delivery of  
9           technical assistance under the Soil Conservation  
10           and Domestic Allotment Act (16 U.S.C. 590a et  
11           seq.), the Secretary shall give priority to pro-

1           ducers who request technical assistance from  
2           the Secretary in order to comply for the first  
3           time with the requirements of subtitle B and  
4           subtitle C of this title as a result of the amend-  
5           ments made by section 2609 of the Agriculture  
6           Reform, Food, and Jobs Act of 2013.

7           “(B) REPORT.—Not later than 270 days  
8           after the date of enactment of the Agriculture  
9           Reform, Food, and Jobs Act of 2013, the Sec-  
10          retary shall submit to the Committee on Agri-  
11          culture of the House of Representatives and the  
12          Committee on Agriculture, Nutrition, and For-  
13          estry of the Senate a report regarding the ex-  
14          tent to which the conservation compliance re-  
15          quirements contained in the amendments made  
16          by section 2609 of the Agriculture Reform,  
17          Food, and Jobs Act of 2013 apply to and im-  
18          pact specialty crop growers, including national  
19          analysis and surveys to determine the extent of  
20          specialty crop acreage includes highly erodible  
21          land and wetlands.”.

22          Strike section 2609 and insert the following:

1 **SEC. 2609. HIGHLY ERODIBLE LAND AND WETLAND CON-**  
2 **SERVATION FOR CROP INSURANCE.**

3 (a) HIGHLY ERODIBLE LAND PROGRAM INELIGI-  
4 BILITY.—

5 (1) IN GENERAL.—Section 1211(a)(1) of the  
6 Food Security Act of 1985 (16 U.S.C. 3811(a)(1))  
7 is amended—

8 (A) in subparagraph (C), by striking “or”  
9 at the end;

10 (B) in subparagraph (D), by adding “or”  
11 at the end; and

12 (C) by adding at the end the following:

13 “(E) any portion of premium paid by the  
14 Federal Crop Insurance Corporation for a plan  
15 or policy of insurance under the Federal Crop  
16 Insurance Act (7 U.S.C. 1501 et seq.), on the  
17 condition that if a person is determined to have  
18 committed a violation under this subsection  
19 during a crop year, ineligibility under this sub-  
20 paragraph shall—

21 “(i) only apply to reinsurance years  
22 subsequent to the date of final determina-  
23 tion of a violation, including all adminis-  
24 trative appeals; and

1                   “(ii) not apply to the existing reinsur-  
2                   ance year or any reinsurance year prior to  
3                   the date of final determination.”.

4                   (2) EXEMPTIONS.—Section 1212(a)(2) of the  
5                   Food Security Act of 1985 (16 U.S.C. 3812(a)(2))  
6                   is amended—

7                   (A) in the first sentence, by striking “(2)  
8                   If,” and inserting the following:

9                   “(2) ELIGIBILITY BASED ON COMPLIANCE WITH  
10                  CONSERVATION PLAN.—

11                  “(A) IN GENERAL.—If,”;

12                  (B) in the second sentence, by striking “In  
13                  carrying” and inserting the following:

14                  “(B) MINIMIZATION OF DOCUMENTA-  
15                  TION.—In carrying”; and

16                  (C) by adding at the end the following:

17                  “(C) CROP INSURANCE.—Notwithstanding  
18                  section 1211(a)—

19                         “(i) in the case of a person that is  
20                         subject to section 1211 for the first time  
21                         after May 1, 2013, due to the amendment  
22                         made by section 2609(a) of the Agriculture  
23                         Reform, Food, and Jobs Act of 2013, any  
24                         person who produces an agricultural com-  
25                         modity on the land that is the basis of the

1 payments described in section  
2 1211(a)(1)(E) shall have 5 reinsurance  
3 years after the date on which such pay-  
4 ments become subject to section 1211 to  
5 develop and comply with an approved con-  
6 servation plan so as to maintain eligibility  
7 for such payments; and

8 “(ii) in the case of a person that the  
9 Secretary determines would have been in  
10 violation of section 1211(a) if the person  
11 had continued participation in the pro-  
12 grams requiring compliance at any time  
13 after the date of enactment of the Food,  
14 Conservation, and Energy Act of 2008 (7  
15 U.S.C. 8701 et seq.) and is currently in  
16 violation of section 1211(a), the person  
17 shall have 2 reinsurance years after the  
18 date on which the payments described in  
19 section 1211(a)(1)(E) become subject to  
20 section 1211 to develop and comply with  
21 an approved conservation plan, as deter-  
22 mined by the Secretary, so as to maintain  
23 eligibility for such payments.”.

1 (b) WETLAND CONSERVATION PROGRAM INELIGI-  
2 BILITY.—Section 1221 of the Food Security Act of 1985  
3 (16 U.S.C. 3821) is amended—

4 (1) in subsection (b), by adding at the end the  
5 following:

6 “(4) CROP INSURANCE.—

7 “(A) IN GENERAL.—Except as provided in  
8 this paragraph, a person subject to a final de-  
9 termination, including all administrative ap-  
10 peals, of a violation of subsection (c) shall have  
11 1 reinsurance year to initiate a conservation  
12 plan to remedy the violation, as determined by  
13 the Secretary, before becoming ineligible under  
14 that subsection in the following reinsurance  
15 year to receive any payment of any portion of  
16 premium paid by the Federal Crop Insurance  
17 Corporation for a plan or policy of insurance  
18 under the Federal Crop Insurance Act (7  
19 U.S.C. 1501 et seq.).

20 “(B) APPLICABILITY.—In the case of a  
21 person that is subject to this subsection or sub-  
22 section (d) for the first time due to the amend-  
23 ment made by section 2609(b) of the Agri-  
24 culture Reform, Food, and Jobs Act of 2013,  
25 the person shall have 2 reinsurance years after

1 the date of final determination, including all ad-  
2 ministrative appeals, to take such steps as the  
3 Secretary determines appropriate to remedy or  
4 mitigate the violation in accordance with sub-  
5 section (c).

6 “(C) GOOD FAITH.—If the Secretary de-  
7 termines that a person subject to a final deter-  
8 mination, including all administrative appeals,  
9 of a violation of subsection (c) acted in good  
10 faith and without intent to violate this section  
11 as described in section 1222(h), the Secretary  
12 shall give the person 1 reinsurance year to  
13 begin mitigation, restoration, or such other  
14 steps as are determined necessary by the Sec-  
15 retary.

16 “(D) TENANT RELIEF.—

17 “(i) IN GENERAL.—If a tenant is de-  
18 termined to be ineligible for payments and  
19 other benefits under this section, the Sec-  
20 retary may limit the ineligibility only to the  
21 farm that is the basis for the ineligibility  
22 determination if the tenant has estab-  
23 lished, to the satisfaction of the Secretary  
24 that—





1 paragraph, all persons seeking eligibility  
2 for the payment of a portion of the pre-  
3 mium paid by the Federal Crop Insurance  
4 Corporation for a plan or policy of insur-  
5 ance under the Federal Crop Insurance  
6 Act (7 U.S.C. 1501 et seq.) shall provide  
7 certification of compliance with this section  
8 as determined by the Secretary.

9 “(ii) **TIMELY EVALUATION.**—The Sec-  
10 retary shall evaluate the certification in a  
11 timely manner and—

12 “(I) a person who has properly  
13 complied with certification shall be  
14 held harmless with regard to eligibility  
15 during the period of evaluation; and

16 “(II) if the Secretary fails to  
17 evaluate the certification in a timely  
18 manner and the person is subse-  
19 quently found to be in violation of  
20 subsection (c), ineligibility shall not  
21 apply to the person for that violation.

22 “(iii) **EQUITABLE CONTRIBUTION.**—

23 “(I) **IN GENERAL.**—If a person  
24 fails to notify the Secretary as re-  
25 quired and is subsequently found in

1 violation of subsection (c), the Sec-  
2 retary shall determine the amount of  
3 an equitable contribution to conserva-  
4 tion in accordance with section  
5 1241(f) by the person for the viola-  
6 tion.

7 “(II) LIMITATION.—The con-  
8 tribution shall not exceed the total of  
9 the portion of premium paid by the  
10 Federal Crop Insurance Corporation  
11 for a plan or policy of insurance for  
12 all years the person is determined to  
13 have been in violation subsequent to  
14 the date on which certification was  
15 first required under this subpara-  
16 graph.”;

17 (2) by redesignating subsections (c), (d), and  
18 (e) as subsections (d), (e), and (f), respectively; and

19 (3) by inserting after subsection (b) the fol-  
20 lowing:

21 “(c) INELIGIBILITY FOR CROP INSURANCE PREMIUM  
22 ASSISTANCE.—

23 “(1) IN GENERAL.—If a person is determined  
24 to have committed a violation under subsection (a)  
25 or (d) during a crop year, the person shall be ineli-

1       gible to receive any payment of any portion of pre-  
2       mium paid by the Federal Crop Insurance Corpora-  
3       tion for a plan or policy of insurance under the Fed-  
4       eral Crop Insurance Act (7 U.S.C. 1501 et seq.).

5               “(2) APPLICABILITY.—Ineligibility under this  
6       subsection shall—

7                       “(A) only apply to reinsurance years subse-  
8       quent to the date of final determination of a  
9       violation, including all administrative appeals;  
10       and

11                       “(B) not apply to—

12                               “(i) the existing reinsurance year; or

13                               “(ii) any reinsurance year prior to the  
14       date of final determination.

15               “(3) DATE OF CONVERSION.—Notwithstanding  
16       subsection (d), ineligibility for crop insurance pre-  
17       mium assistance shall apply as follows:

18                       “(A) In the case of wetland that the Sec-  
19       retary determines was converted after the date  
20       of enactment of the Food, Conservation and  
21       Energy Act of 2008 (7 U.S.C. 8701 et seq.) but  
22       on or before May 1, 2013, and continues to be  
23       in violation, the person shall have 2 reinsurance  
24       years after the date on which this subsection

1 applies, to begin the mitigation process, as de-  
2 termined by the Secretary.

3 “(B) In the case of wetland that the Sec-  
4 retary determines was converted after May 1,  
5 2013—

6 “(i) subject to clause (ii), the person  
7 shall be ineligible to receive crop insurance  
8 premium subsidies in subsequent reinsur-  
9 ance years unless section 1222(b)(3) ap-  
10 plies; and

11 “(ii) for any violation that the Sec-  
12 retary determines impacts less than 5  
13 acres of the entire farm, the person may  
14 pay a contribution in accordance with sec-  
15 tion 1241(f) in an amount equal to 150  
16 percent of the cost of mitigation, as deter-  
17 mined by the Secretary, for wetland res-  
18 toration in lieu of ineligibility to receive  
19 crop insurance premium assistance.

20 “(C) In the case of a wetland that the Sec-  
21 retary determines was converted prior to the  
22 date of enactment of the Food, Conservation,  
23 and Energy Act of 2008 (7 U.S.C. 8701 et  
24 seq.), ineligibility under this subsection shall  
25 not apply.

1           “(D) In the case of an agricultural com-  
2           modity for which an individual policy or plan of  
3           insurance is available for the first time to the  
4           person after the date of enactment of the Agri-  
5           culture Reform, Food, and Jobs Act of 2013—

6                   “(i) ineligibility shall apply only to  
7                   conversions that take place after the date  
8                   on which the policy or plan of insurance  
9                   first becomes available to the person; and

10                   “(ii) the person shall take such steps  
11                   as the Secretary determines appropriate to  
12                   mitigate any prior conversion in a timely  
13                   manner but not to exceed 2 calendar years.

14           “(4) CERTIFICATION.—

15                   “(A) IN GENERAL.—In enforcing eligibility  
16                   under this subsection, the Secretary shall use  
17                   existing processes and procedures for certifying  
18                   compliance.

19                   “(B) RESPONSIBILITY.—The Secretary,  
20                   acting through the agencies of the Department  
21                   of Agriculture, shall be solely responsible for de-  
22                   termining whether a producer is eligible to re-  
23                   ceive crop insurance premium subsidies in ac-  
24                   cordance with this subsection.

1           “(C) LIMITATION.—The Secretary shall  
2           ensure that no agent, approved insurance pro-  
3           vider, or employee or contractor of an agency or  
4           approved insurance provider, bears responsi-  
5           bility or liability for the eligibility of an insured  
6           producer under this subsection, other than in  
7           cases of misrepresentation, fraud, or scheme  
8           and devise.”.