



# Information Alert

*State-Federal Relations Division*

## **Congress Approves 2018 Farm Bill**

Dec. 20, 2018

On Dec. 20, President Trump signed the 2018 Farm Bill, [H.R. 2 \(115\)](#) into law, following passage by Congress the previous week; [87-13](#) in the Senate and [369-47](#) in the House. Overall, the bill reauthorizes a host of agriculture and nutrition programs through FY 2023 (Sept. 30, 2023) and has an estimated price tag of \$867 billion over a decade, according to the [Congressional Budget Office](#).

The bill largely resembles the Senate's enacted version from earlier this year which avoids any major changes to existing law, unlike the 2014 Farm Bill which included a number of significant programmatic changes. Further, enactment of the 2018 Farm Bill comes at a precarious time for the agriculture industry with the farm and agricultural economy currently experiencing a significant income decline as production costs (such as for fertilizer, pest and weed control, equipment, fuel, feed and seed) continue to increase.

The House Agriculture Committee noted when it passed its bill earlier in 2018 that average farm income has declined by 52 percent over the past five years and net farm income is at its lowest in 12 years. Additionally, many agricultural producers have been further negatively impacted from the loss of certain export markets because of retaliatory duties imposed by other nations in response to tariffs imposed by President Donald Trump.

The below summary provides an overview on some of the major programs and provisions within the bill. For additional information on the bill or any programs included, please contact NCSL staff members [Ben Husch](#) or [Kristen Hildreth](#).

### **King Amendment**

The bill did not include any version of the Protect Interstate Commerce Act, commonly known as the King Amendment. The act was included within the initial version passed by the House earlier this year, but was not included in the final version after heavy opposition by [NCSL](#) and other state and local [stakeholders](#), as it would have pre-empted [thousands](#) of state laws.

### **Conservation**

Funding for conservation initiatives and programs was roughly held even at around \$60 billion. The biggest change is the diversion of \$800 million over 10 years from the [Conservation Stewardship Program](#) (CSP) into the [Environmental Quality Incentives Program](#) (EQIP), the reauthorization of the [Agricultural Conservation Easement Program](#) (ACEP), and granting mandatory baseline funding for a watershed program

The CSP which focuses on encouraging producers to adopt new conservation techniques while maintaining current conservation practices that are practiced farm wide was folded into EQIP, although the bill does technically keep them as separate programs. EQIP focuses on promoting agricultural production and forest management, while improving environmental quality via cost-share incentives to producers through specific and more targeted projects. It is funded at \$1.75 billion for FY 2019, gradually increasing to \$2.0 billion for FY 2023 while CSP is funded at \$700 million for FY 2019, increasing gradually to \$1.0 billion for FY 2023.

Other changes include allowing farmers who have not planted certain areas in over a decade to enroll in the CSP and be paid \$18 an acre of grassland to leave it undeveloped. Irrigation districts are also now allowed to apply to EQIP. Currently only farmers can apply for the funding, meaning that entities that invested in fixing or upgrading irrigation infrastructure in disrepair could not apply for USDA conservation programs.

The agreement also reauthorizes ACEP through FY 2023, at \$450 million a year, an increase of \$150 million annually. The program aims to protect the agricultural, grazing and conservation values of agricultural land by allowing the program to provide up to 75 percent of the fair market value for land easements. Additionally, The [Conservation Reserve Program](#) (CRP), a voluntary program for agricultural landowners which allows them to enroll in contracts for 10-15 years and receive annual payments and cost-share assistance to establish long-term, resource-conserving vegetative covers on eligible farmland, received an increase in acreage to 27 million acres.

Funding for the [Regional Conservation Partnership Program](#) (RCPP) was increased to \$300 million a year from \$100 million, and language was added to give states more leeway in implementing the program. The program, created within the 2014 Farm Bill by combining the Agricultural Water Enhancement Program, the Chesapeake Bay Watershed Program, the Cooperative Conservation Partnership Initiatives Program and the Great Lakes Basin Program, is aimed at furthering conservation on a regional or watershed scale.

### **Legalizing Industrial Hemp Production**

The bill formally makes [agricultural production of hemp](#) legal in the United States by removing its designation as a drug akin to marijuana under the Controlled Substances Act. It allows states and tribes to apply for primary regulatory authority over the production of hemp in the state or in their tribal territory. Previously, the 2014 farm bill established a pilot program that allowed certain colleges and universities along with state agriculture departments to grow hemp and created a formal definition of industrial hemp. Following the 2014 Farm Bill, Congress blocked the Drug Enforcement Administration and federal law enforcement from interfering with state agencies, hemp growers and agricultural research, and prohibiting USDA from prohibiting the transportation, processing, sale or use of industrial hemp that is grown in accordance with that law.

Specifically, the 2018 Farm Bill requires that states or tribes applying for regulatory authority must demonstrate a procedure for testing Tetrahydrocannabinol (THC) levels as well as the disposal of plants or products where the concentration of THC is too high. The bill also establishes enforcement provisions against states and tribes who are granted regulatory authority and restricts participation of individuals convicted of a felony relating to a controlled substance under state or federal law for 10 years following their conviction. NCSL [strongly supported](#) removing federal obstructions to industrial hemp farming.

### **Supplemental Nutrition Assistance Program**

Overall, the nutrition title, which makes up more than three-quarters of total farm bill spending, is budget-neutral and doesn't reduce SNAP funding in a significant way. Further the House's provisions concerning work requirements were not included. The bill does include provisions that aim to reduce, from 15 percent, to 12 percent, the percentage of a state's SNAP-eligible population that states may exempt from existing SNAP work requirements starting in 2020. For more information on SNAP, contact NCSL's Health and Human Services Committee staff [Haley Nicholson](#).

### **Commodity Payments**

The agreement also reauthorizes a host of commodity programs, including [Price Loss Coverage \(PLC\)](#), [Agriculture Risk Coverage \(ARC\)](#), the [Margin Protection Program \(MPP\) for Dairy](#), and supplemental agricultural disaster assistance programs. Under PLC, farmers receive payment when the national annual average market price of a particular commodity falls below the reference price set in law. Under ARC, they receive payment when a county's average revenue for a crop falls below that county's historical average revenue.

The bill would maintain an income limit on payments of \$125,000 a year for individuals (\$250,000 for married couples). Producers earning more than \$900,000 a year (the current cap) in adjusted gross income are ineligible for such payments. The bill also expands the definition of family members who qualify for payments on family farms to include first cousins, nieces and nephews, as long as they are "actively engaged" in farming, with payments limited to \$125,000 per person per year, equal to the limit for immediate family members. The bill would now make farmland that hasn't been planted with a commodity since 2009 ineligible for ARC and PLC payments. However, as previously mentioned, these lands would be eligible for funding under conservation programs.

As milk prices have declined significantly over the last half-decade due to oversupply, the bill expands federal assistance by reducing costs for smaller dairy farms to both participate in the MPP and purchase higher insurance coverage levels. MPP makes payments to dairy producers when the difference between the price of milk and feed drops below margins that farmers choose to insure.

The bill maintains and expands the [Livestock Indemnity Program](#) to cover a death or sale loss that results from diseases caused or transmitted by a "vector" that cannot be controlled by vaccination or other acceptable management practices. The bill also names tribes and tribal organizations as eligible recipients of supplemental disaster assistance

### **Crop Insurance**

The traditional federal crop insurance program is a permanent program that does not require reauthorization and costs the federal government about \$9 billion annually. It covers about 60 percent of producers' premiums and provides protection against weather-related disasters. Overall, the bill largely maintains current policy although it does make some minor changes to USDA's Risk Management Administration. The bill also raises crop prices guaranteed in USDA [marketing loans](#), which growers often take out at harvest time, allowing farmers to store the crop rather than sell it on the market at harvest, when prices tend to be lower because of the increase in supply. The loans are nonrecourse, meaning that if crop prices drop sharply when it's time for farmers to pay USDA back, they don't have to repay the full amount. Additionally, crop insurance is expanded to hemp producers given its legalization and the Federal Crop Insurance Corporation is directed to research and develop a policy on insuring hops production, as well as with other products like citrus fruits and flowers.

### **Forestry**

The bill establishes a state and private forest landscape-scale restoration competitive grant program aimed at supporting and promoting the restoration and management of state and private forest lands. The program is funded at \$20 million per year through 2023, and funding must be allocated with 50 percent to a national competitive grant process and 50 percent to states. Grantees must match any federal funding provided.

Additionally, in response to requests to make changes to reduce the impact of wildfires, the bill would waive environmental reviews for activities like clearing diseased or insect-infested trees as well as providing a new 4,500-acre categorical exclusion from the [National Environmental Policy Act](#) for forest management in sage grouse and mule deer habitat.

### **Pesticides and Herbicides**

The agreement mandates a survey on pesticide use and establishes a working group to improve the process for pesticide registration and review.

### **Specialty Crop Block Grants**

The [Specialty Crop Block Grant Program](#) is aimed at providing federal funding to enhance the competitiveness of specialty crops by awarding funds to states that support research, product quality enhancement, increased consumption of specialty crops, food safety and other projects. The 2014 farm bill set funding for the program at \$85 million for FY 2018 and thereafter. The agreement extends the authority of the secretary of agriculture to make grants under the program and expands the types of activities for which grants can be used, including to enhance competitiveness, market and promote, fund research and development, expand access, and address challenges of specialty crops.

### **Organic Production**

The bill reauthorizes the [National Organic Program](#) and provides \$16.5 million for FY 2019, gradually increasing to \$24 million in FY 2023. The Agriculture Department is directed to modernize international organic trade tracking and data collection systems,

for which the agreement provides \$5 million in 2019.

### **Farm Credit**

The agreement reauthorizes all [Farm Service Agency](#) loans through FY 2023 while making some changes to the programs with a focus on making it easier for beginning farmers to access credit.

### **Beginning Farmers**

Under current law, farmers and ranchers must have participated in business operations for three years to be eligible for direct loans. The bill, in the case of beginning farmers or ranchers, reduces this requirement to two years if they meet certain conditions or one year if they meet additional conditions.

### **Rural and Broadband**

The bill makes some changes to USDA's broadband program, with a primary focus on addressing coverage and reducing the cost of building in rural areas. Specifically, broadband loan or loan guarantee applicants must demonstrate the ability to furnish or improve service in all or part of an unserved or underserved rural area. In order for a project to be eligible for federal grants, loan/grant combinations, or loans with subsidized interest rates and payment assistance loans, 90 percent of the households in the service area must be unserved. Additionally, only applicants that propose to provide service with at least 10 megabits downstream transmission capacity and 1 megabit upstream transmission capacity would be eligible for technical assistance and training.

The agreement codifies the existing [Community Connect Program](#) and authorizes the program at \$50 million per year through FY 2023. It also authorizes \$350 million a year through FY 2023 for the [Farm Bill Broadband Program](#) and Community Connect projects.

The measure would maintain \$50 million a year in mandatory funding for the Rural Energy for America Program, which provides grants and loan guarantees to producers to install energy-efficient equipment.

### **Urban agriculture:**

The bill creates an Office of Urban Agriculture and Innovative Production at USDA, that will be led by a director of urban agriculture. Additionally, the bill includes provisions that will allow rooftop, indoor and other urban farms to compete for USDA grant funding. The conferees, in the bill's explanatory statement, state that urban agriculture helps to "increase access to food in low-income communities and improve availability of fresh products throughout the entire year."

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