

H.R. 5861: The Agriculture Resilience Act

Congresswoman Chellie Pingree

Section-by-Section Summary

TITLE I—ADDRESSING CLIMATE CHANGE AND AGRICULTURE

Sec. 101 - Goals

Establishes a national goal for agriculture sector of net zero emissions by no later than 2040, and additional no later than 2040 goals of –

- quadrupling the total federal funding for food and agriculture research and extension
- restore at least half of lost soil carbon
- maintain year-round cover on at least 75 percent of cropland acres
- eliminate farmland and grassland conversion
- establish advanced grazing management on 100 percent of grazing land
- reduce GHG emissions related to the feeding of ruminants by at least 50 percent
- increase crop-livestock integration by at least 100 percent over 2017 levels
- convert at least two thirds of wet manure handling and storage to alternative management
- implement energy audits on 100 percent of farms
- triple on-farm renewable energy production, and
- reduce food waste by at least 75 percent.

Each goal also includes an interim goal to reach by 2030.

Sec. 102 - Action plan

Directs USDA, working with other federal agencies, to develop a plan for actions to reach the goals in Sec. 101, open the plan to public comment within a year, and begin implementation within 18 months.

TITLE II—RESEARCH

Sec. 201 - Research, extension, and education purposes

Adds a new tenth purpose to the current nine statutory purposes for the federal investment in agriculture research, extension, and education “to accelerate the ability of agriculture and the food system to first achieve net zero carbon emissions and then go further to be carbon positive by removing additional carbon dioxide from the atmosphere.”

Sec. 202 - Regional hubs for risk adaptation and mitigation to climate change

Provides a first ever legislative authorization for the USDA Climate Hubs, administered by ARS and the USFS in coordination with other USDA and federal agencies and in cooperation with educational institutions, NGOs, private entities, and state and local agencies. Requires each regional hub to solicit stakeholder input. Directs the hubs to work with Extension, conservation districts, and NGOs to assist farmers with business and conservation planning that takes climate risk science into account. Directs the hubs to work with RMA to better account for climate risk in RMA's actuarial tables. Establishes an authorization for appropriations of \$50 million a year (compared to current appropriations of approximately \$9 million a year).

Sec. 203 - Sustainable agriculture research and education resilience initiative

Adds climate resilience to the overall purposes of NIFA's Sustainable Agriculture Research and Education (SARE) competitive grants program and establishes a new SARE Agriculture and Food System Resilience Initiative, including research, education, extension, outreach, and farmer and rancher R&D, with \$50 million a year in mandatory funding beginning in FY 2021 and an authorization for appropriations of \$20 million a year.

Sec. 204 - Sustainable agriculture technology development and transfer program

Adds climate change adaptation and mitigation to the list of priorities for the extension, outreach, and professional development portion of NIFA's Sustainable Agriculture Research and Education (SARE) program. Increases the authorization for appropriations for this subcomponent of the overall SARE program from \$20,000,000 to \$30,000,000.

Sec. 205 - Long-term agroecological research (LTAR) network

Provides a first ever legislative authorization for the ARS Long-term Agroecological Research (LTAR) Network. Makes climate change adaptation and mitigation a major purpose. Includes an authorization for appropriations of \$50 million a year with a direction that each site in the network is to be adequately funded (current appropriations are approximately \$20 million and, until this current fiscal year, some sites have not been funded).

Sec. 206 - Public breed and cultivar research

Creates the position of public breed and cultivar research coordinator within the REE mission area and calls for creation of a strategic plan that includes a focus on delivery of resource-efficient, stress-tolerant, regionally adapted livestock breeds and crop cultivars that help build agricultural resilience to climate change and support on-farm carbon sequestration and greenhouse gas mitigation. For NIFA, requires that at least \$50 million (FY 2021) rising in stair steps to \$100 million (FY 2026 and beyond) is spent for public breed and cultivar competitive grants, and for ARS intramural research, at least \$50 million per year.

Sec. 207 - ARS climate scientist career development program

Creates an ARS internship program, with up to \$10 million a year in mandatory funding, for graduate students pursuing a degree or research related to climate change and agriculture.

Sec. 208 - Agricultural climate adaptation and mitigation through AFRI.

Creates a new climate change adaptation and mitigation subprogram within the Agriculture and Food Research Initiative.

Sec. 209 - Specialty crop research initiative

Adds climate change adaptation and mitigation to the list of SCRI research priorities and reduces the SCRI matching requirement from 100% to 25%.

Sec. 210 - Integrated pest management

Creates a priority for grants that prioritize ecologically-based pest management approaches that are effective, affordable, and environmentally-sound, maintain agricultural productivity and healthy communities, and improve climate resilience.

Sec. 211 - National Academy of Sciences study.

Directs USDA and HHS to enter into an agreement with the Academy to analyze current scientific findings to determine links between human health and soil health.

Sec. 212 - Appropriate technology transfer to rural areas (ATTRA)

Adds climate resilience to the statutory list of the ATTRA program's information services.

TITLE III—SOIL HEALTH

Sec. 301 - Crop insurance

Amends the Federal Crop Insurance Act to make the “sodsaver” grasslands protection provision nationwide in scope rather than restricted to just the northern Great Plains, to declare all NRCS conservation practices and conservation enhancements as automatically “good farming practices” for crop insurance indemnity payment purposes, and authorizing RMA to offer performance-based discounts for practices that can be demonstrated to reduce risk, including cover crops, resource-conserving crop rotations, management-intensive rotational grazing, and other risk-reducing, soil health-promoting activities.

Sec. 302 - Environmental quality incentives program

Makes GHG emission reduction and carbon sequestration a purpose of the Environmental Quality Incentives Program (EQIP), adds GHG emission reduction to the list of conservation activity plans, and adds GHG emission reduction and carbon sequestration to the list of top ten practices

that can receive higher payment rates. Targets no less than two-thirds of the 50 percent of EQIP set aside for livestock practices to advanced grazing management. Eliminates the discriminatory separate, lower organic payment limit, and adds language to prevent payment limitation abuse. Makes climate adaptation and mitigation practices eligible for the new EQIP incentives contracts. Mandates that CAFOs receiving EQIP funding must develop and implement GHG emissions reduction plan. Adds GHG emission reduction to the purposes for CIG Air Quality grants and increases CIG Air Quality funding from \$37.5 million a year to \$50 million a year starting in FY 2021. Increases CIG On-Farm Conservation Innovation Trials funding, including the on-farm Soil Health Demonstration Trials, from \$25 million to \$50 million a year (FY 2021-23) to \$100 million (FY 2024 and beyond). Via Section 305 (see below), increases total EQIP funding from \$2.025 billion in FY 2023 to \$3 billion in FY 2024 and beyond.

Sec. 303 - Conservation stewardship program

Adds soil health enhancement and GHG emission reduction to the criteria for ranking proposals for entry into the Conservation Stewardship Program (CSP). Adds climate adaptation and mitigation as a resource concern that may be addressed by the program. Adds language to prevent payment limitation abuse. Creates a new CSP On-Farm Conservation Stewardship Innovation Grant program, patterned after the EQIP CIG On-Farm Trials program, for on-farm R&D and pilot testing of innovative conservation systems and enhancements. Via Section 305 (see below), increases total CSP funding from \$725 million in FY 2020 to \$2 billion in FY 2021 and stair stepping up to \$4 billion in FY 2024 and beyond.

Sec. 304 - State assistance for soil health

Creates new USDA grants to state and tribal governments to improve soil health on agricultural lands, provided the state or tribe has enacted relevant legislation and is currently funding a state or tribal program. Such programs can be any combination of technical assistance, financial assistance, R&D, education and training, and monitoring and evaluation. The federal grant cannot exceed 50 percent of a state or 75 percent of a tribal expenditure and is capped at \$5 million. Applications must include performance measures to be used for evaluation. The new program is funded at \$60 million a year (2021-23), \$80 million (2024-26), and \$100 million (2027 and thereafter).

Sec. 305 – Funding and administration

- **Funding** - Provides for increases in farm conservation program funding as detailed in Sections 302, 303, 406, and 504.
- **Special technical assistance initiative** - Sets aside 1 percent of total farm bill conservation program mandatory funding each year for a major new conservation technical assistance initiative, delivered by NRCS and by third parties, to assist producers in mitigating and adapting to climate change.
- **Beginning and socially disadvantaged farmers and ranchers** - Increases the beginning and socially disadvantaged farmer and rancher set-aside in EQIP and CSP from 5 percent of funding for each to 30 percent of funding combined. Authorizes USDA in carrying out any

and all conservation programs to provide incentives to establish a new generation of farmers and ranchers using the full array of climate-friendly practices from the outset of their farming careers.

- **Advanced Grazing Management** - Prioritizes advanced grazing management, including management-intensive rotational grazing, in the implementation of farm bill conservation programs.
- **Payment schedules** - As part of the mandated annual review of payment schedules, directs USDA to adjust payment rates as necessary to accelerate progress toward meeting the goals established in Section 101.
- **Environmental Services** - Amends the Environmental Services Market authority to direct USDA to establish a soil health and GHG advisory committee and evaluate existing outcomes-based measurement systems, using the recommendations of the advisory committee and information gathered from existing models, remove sensing data and analysis, on-farm demonstration trials, and existing and emerging public and private environmental market measurement protocols. Also creates a USDA soil health and GHG emissions inventory using the best available data and science, and directs the Department to establish criteria for payments, credits, or other forms of incentives to inform policy and markets established to promote soil carbon sequestration and GHG emissions reductions.

Sec. 306 - Soil carbon sequestration tax credit feasibility study

Directs Treasury, working with USDA, to study the feasibility of developing a federal income tax credit to incentivize soil carbon capture on farms and ranches and to report to Congress within a year with detailed recommendations.

Sec. 307 - Conservation compliance

Adds soil health plans to the existing conservation compliance regime and applies that new component to all cropland. Expands the definition of highly erodible land to all cropland eroding at more than twice the soil loss tolerance level, reduces the maximum allowable erosion levels, and requires effective treatment of ephemeral gully erosion. Requires land leaving the Conservation Reserve Program to meet the same erosion standards.

Sec. 308 – Agroforestry Centers

Authorizes three new regional agroforestry centers to complement the national center in Lincoln, Nebraska, adds a new emphasis on soil health and climate change, and increases the authorization for appropriations from \$5 million per year to \$25 million per year (current actual funding is \$1.4 million).

TITLE IV—FARMLAND PRESERVATION AND FARM VIABILITY

Sec. 401 - Local agriculture market program

Supports value-added marketing projects for crops added to rotations for soil health and carbon farming purposes. Creates a new Local Agriculture Marketing Program (LAMP) subprogram for farm viability and local climate resilience centers to enhance farm viability and to develop and expand markets for farm products that significantly improve soil health and carbon sequestration via assistance with business plans, feasibility studies, marketing strategies, enterprise development, financial recordkeeping, and succession planning. Increases total LAMP funding from \$50 million in FY 2020 to \$150 million beginning in FY 2021.

Sec. 402 - Organic certification cost-share program

Increases the maximum annual organic certification cost share payment from \$750 to \$1000 per certification scope.

Sec. 403 - Exclusion of gain from sale of certain conservation easements

Amends the tax code to exclude from gross income the gain, up to \$500,000 (\$1 million for joint returns), from the sale of -

- farm property to beginning, socially disadvantaged, veteran, and young farmers who certify that such property will be used for farming purposes for at least 10 years, with a 10-year recapture provision and material participation requirement; and
- qualified permanent conservation easements to protect natural resources on working farmland.

Sec. 404 - Farmland protection policy act

Strengthens the Farmland Protection Policy Act (FPPA) to minimize the conversion of farm and ranch land by federal agencies or by projects using federal funds to nonagricultural uses, and prohibits the conversion of farm or ranch land that is permanently protected farmland, farmland of national significance, or farmland significant to a State.

Sec. 405 - Agriculture conservation easement program

Requires land receiving Agricultural Land Easement payments to have a conservation plan covering all applicable resource concerns including soil health and GHG emissions reduction, with the option of automatic enrollment in the Conservation Stewardship Program to help cover costs. Increases total ACEP funding from \$450 million to \$700 million beginning in FY 2022.

TITLE V—PASTURE-BASED LIVESTOCK

Sec. 501 - Animal raising claims

Amends the Agricultural Marketing Act of 1946 to create a new subtitle for animal raising label claims for livestock and poultry, directing USDA to establish animal raising claim standards to

govern the labeling of all meat and poultry products, with on-farm and supply chain auditing and verification procedures, including the option of third party certification. Claims include diet claims (e.g., grassfed), living and raising condition claims (e.g., pasture raised), antibiotic and hormone claims, source claims, age claims, animal welfare claims, breed claims, and environmental stewardship claims. Creates civil penalties for the misuse of labels.

Sec. 502 - Very small meat processor federal inspection reimbursement

Amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to create a Very Small Meat Processor Federal Inspection Reimbursement Grant Program to provide reimbursement grants to help cover costs associated with meeting Federal inspection guidelines for entities with fewer than 10 employees or annual sales of less than \$2,500,000. Limits grants to not more than \$50,000 and 50 percent of eligible costs. Provides \$10 million a year in mandatory funding.

Sec. 503 - Conservation of private grazing land

Amends the Grazing Lands Conservation Initiative by including soil health and grazing system resilience, as well as transition from confinement-based systems to grazing, among its purposes and assistance measures. Creates a competitive grant partnership program to support research, demonstration, education, workforce development, and planning and outreach projects. Provides mandatory funding of \$50 million per year beginning in FY 2021. Continues the current authorization for appropriations of \$60 million a year (currently there are no designated appropriations though in the past there has been substantial appropriations).

Sec. 504 - Conservation reserve program - Grasslands 30 pilot program

Increases the Conservation Reserve Program (CRP) acreage cap from 27 to 32 million acres and creates a 5 million-acre pilot program through which grasslands at risk of conversion to cropping or development, grassland exiting the CRP or CRP Grassland Initiative, or grassland of prime ecological/habitat significance may enroll for 30 years and receive annual payments. Includes terms and conditions that promote sustainable grazing management, protect and enhance soil carbon levels, and are compatible with wildlife habitat conservation. Allows for delegation of technical assistance and/or contract administration to other federal, state or local agencies or to conservation organizations.

Sec. 505 - Alternative manure management program

Creates a new Alternative Manure Management Program (AMMP) to support non-digester dairy and livestock methane management strategies to effectively reduce greenhouse gas emissions and to maximize environmental benefits, including conversion of dairy and livestock operations to eliminate or reduce the quantity of manure stored in anaerobic conditions, alternative manure treatment and storage practices, and conversion to solid separation systems. Provides 90 percent cost share (up to 50 percent in advance for needed equipment and materials), up to \$750,000 in any 5-year period, with an option for cluster applications for centralized composting facilities. Provides mandatory funding of \$1 billion a year beginning in FY 2021.

TITLE VI—ON-FARM RENEWABLE ENERGY

Sec. 601 - Rural energy for America program

Establishes the reduction of carbon dioxide and carbon dioxide equivalent emissions as a primary purpose of the Rural Energy for America Program (REAP) and adds those goals to the selection criteria. Adds NGOs and producer co-ops as eligible for grants to do energy audits in addition to agencies, rural utilities, and colleges and universities. Adds agricultural processors to eligibility for energy efficiency grants. Creates a grant priority for projects that would result in the largest net decreases of carbon dioxide and carbon dioxide equivalent emissions. Sets aside 5 percent of funds for on-farm demonstration projects. Increases mandatory funding from \$50 million in FY 2020, in stair steps, to \$400 million in FY 2024 and thereafter.

Sec. 602 - Study on dual-use renewable energy systems

Directs USDA to do a detailed study of dual-use renewable energy and cropping or livestock systems, plus a risk benefit analysis and a 5-year research and extension plan.

Sec. 603 – AgSTAR

Moves the AgSTAR program (anaerobic digestion to reduce methane emissions) from EPA to USDA (NRCS) and includes a \$5 million authorization for appropriations.

TITLE VII—FOOD LOSS AND WASTE

Subtitle A—Food Date Labeling

Sec. 701 – Definitions

Defines discard dates as dates voluntarily printed on food packaging to communicate the estimated last date a product should be consumed by (under specified storage conditions). Defines quality dates as dates voluntarily printed on food packaging to communicate the date after which the product may begin to deteriorate but remains wholesome (as defined by the Child Nutrition Act). Defines food labeler as the producer, manufacturer, distributor, or retailer that places a date label on food packaging.

Sec. 702 - Quality dates and discard dates

Establishes that quality dates should be conveyed with the uniform phrase “BEST If Used By” and discard dates should be conveyed with the uniform phrase “USE By.” It is the food labeler’s decision whether to include a quality date or discard date on the food packaging. Label location and format should be in easy-to-read style; located in a conspicuous place on the package of the food; may be on the label or elsewhere on the package; and stated in terms of day, month, and as appropriate, year. Abbreviations “BB” and “UB” are acceptable only if food packaging is too small for the complete phrase. Freeze By information may be included after the quality or discard date using the phrase “or Freeze By.” Time Temperature Indicator Labels may be used in addition to or in lieu of a uniform quality date label phrase or a uniform discard date label phrase.

Sec. 703 – Misbranding

Amends the Federal Food, Drug, and Cosmetic Act; Poultry Products Inspection Act; Federal Meat Inspection Act; and the Egg Products Inspection Act to reflect these provisions.

Sec. 704 – Regulations

Directs the Secretary of Agriculture and Secretary of Health and Human Services to finalize regulations for carrying out these provisions within two years after enactment.

Sec. 705 - Delayed applicability

Applies these provisions to food labels that are labeled on or after the date that is two years later than the date on which regulations are finalized.

Subtitle B—Other Provisions

Sec. 711 - Composting as conservation practice

Specifies that composting, not just compost facilities, shall be eligible for support under USDA's working lands conservation assistance programs.

Sec. 712 – Amendments to federal food donation act

Requires that all contracts entered into between a food contractor and an executive agency include a clause that requires the donation of excess food and the annual submission of a report that details the weight of food that was donated, composted, and discarded. Provides authorization for appropriations of \$10 million a year beginning in FY 2021.

Sec. 713 - Grants for composting and anaerobic digestion food waste-to-energy projects

Creates a new grant program administered by USDA that supports States and Tribes with the construction of large-scale composting or anaerobic digestion food waste-to-energy projects, if the State or Tribe has a plan to limit the quantity of food waste that may be disposed of in landfills. Provides authorization for appropriations of \$100 million a year.

Sec. 714 - School food waste reduction grant program

Creates a new grant program administered by USDA that supports schools in carrying out food waste measurement and reporting, prevention, education, and reduction projects.