2023 Federal Forecast – Agriculture

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The principal legislative focus for the agriculture sector in 2023 will be the new Farm Bill, which sets the policies for most of the country’s agriculture programs, authorizing mandatory and discretionary spending for assistance related to food and farms. Passed roughly every five years, the current Farm Bill expires at the end of September 2023.

It is expected that, as has been the case in recent years with other “must pass” legislation, Congress will not meet its deadline and instead will pass temporary extensions while the members continue to negotiate. Drafting for the new bill has not yet begun because members of the US House and Senate Agriculture Committees were waiting until after the elections to see which party would drive the agenda by virtue of having the majority.

The Farm Bill is unique on Capitol Hill because the issues involved sometimes lead to the development of regional alliances, as opposed to straight party alliances, and House and Senate Agriculture Committee members often tout their bipartisan successes.

Changes in Key Congressional Leadership

Since the Democrats retained – and actually added – one seat to their Senate majority, Senator Debbie Stabenow (D-MI) will continue to Chair the Senate Agriculture Committee, while Republican Senator John Boozman of Arkansas will remain Ranking Member.

Senator Tammy Baldwin (D-WI) will keep the gavel in the Senate Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, and Senator John Hoeven (R-ND) should carry on as Ranking Member.

With the Republicans having gained the majority in the House for the 118th Congress, Republican Glenn (GT) Thompson, who comes from a dairy farming family in rural central Pennsylvania, will take over as Chair of the Agriculture Committee. Nine-term Georgia Representative David Scott will move to the Ranking Member’s chair.

Andy Harris (R-MD) has been named Chair of the House Appropriations Subcommittee on
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies. Sanford Bishop, Jr. (D-GA) is taking the Ranking Member’s seat.

The Expected Policy Agenda

Something to watch this year is how the “four corners” (the House and Senate Chairs and Ranking Members of the Agriculture Committees) will work together. Three of the four are new to the Farm Bill process — only Senator Stabenow has experience leading a committee through the drafting, negotiating, and passage of a Farm Bill.

Getting out in front of the House, Senator Stabenow has announced her committee’s first Farm Bill hearing this Congress for February 1, and she has invited Agriculture Secretary Tom Vilsack to testify on February 16.

A potential stumbling block to the Farm Bill’s passage involves the federal nutrition programs, which account for over 75% of the bill’s spending. In 2018, some Republicans sought to separate the nutrition programs from the bill or, in the alternative, to make significant fundamental reforms to those programs. The effort failed after meeting with strong resistance from Democrats. As former Senate Agriculture Committee Chairman Pat Roberts (R-KS) made clear in a recent speech, “You’re not going to pass a Farm Bill without an appropriate Food Stamp Program.” In short, if House Republicans mount a similar effort next year, they will run into stiff opposition from the Democratically controlled Senate.

After nutrition, the other three major issues addressed in the Farm Bill are conservation, commodities, and crop insurance.

Conservation

The passage of the Inflation Reduction Act (IRA) in August 2022, with $19.5 billion for climate programs, may take some pressure off Democrats to add more funding in these areas in the next Farm Bill. Republicans have signaled their opposition to more funding for climate and conservation-related programs. Senator Boozman was highly critical of the IRA for addressing issues that traditionally are part of the Farm Bill process, objecting, “We haven’t had a single hearing on this bill, yet its agriculture title spends $40 billion — a huge amount allocated with no input from stakeholders, Republicans and, quite frankly, most Democrats.” GT Thompson also made his views on the climate programs very clear, saying recently, “Quite frankly, give me an opportunity to lead the agriculture committee and I will ensure that the farm bill doesn’t become a climate bill and we’re not going to have climate titles.”

Senator Boozman’s objection raises an important, but as yet unanswered, accounting question about the IRA: how will the Congressional Budget Office view the IRA money in relation to the Farm Bill’s baseline? The 2018 Farm Bill was projected to spend $428 billion over five years, according to the Congressional Budget Office. The current baseline for farm bill programs for the next five years is $648 billion, according to the Congressional Budget Office’s May 2022 estimates, but a new estimate in spring 2023 will set the budget for the coming Farm Bill.

In the meantime, the US Department of Agriculture (USDA) is, or will be, seeking comment and hosting listening sessions related to the IRA’s agricultural provisions. These present opportunities for interested parties to offer suggestions and potentially influence the implementation of the agriculture sections of the IRA.
**Commodities and Crop Insurance**

This year, external pressures on farm operations — extremely high input costs including fuel, feed, and fertilizer, and the mounting challenges from drought, severe weather, and climate change — will drive more conversations about strengthening risk management programs that provide producers with added protection against weather events and falling prices. Both the House and Senate Agriculture Committees conducted several Farm Bill-related hearings in 2022, and members of both parties have expressed concern for the challenges facing American farmers. Incoming House Agriculture Committee Chair GT Thompson has said he would like to find a way to improve the crop insurance program and title one reference prices so as to avoid the need for repeated disaster aid to farmers. He has also expressed openness to considering margin coverage for crop producers, similar to the Dairy Margin Coverage program.

House Agriculture Committee Ranking Member David Scott agrees that farmers need more support, especially those at the lower end of the production scale. “What has been missing from the conversation is help for the very beginning of our food supply chain, which is our nation’s small family farmers and ranchers. And, helping our nation’s small family farmers is one of my top priorities,” he said recently.

Senator Boozman also believes a better safety net for crops is a top priority. “They spend all the money to get it planted, and maybe they have crop failure because of drought,” he said. “We’ve experienced so much throughout the country.” Senator Stabenow agreed, “We need the safety net for farmers. We need the safety net for families … And in my book, we don’t do a farm bill unless we are strengthening both.”

**Other Farm Bill Issues**

Another Farm Bill objective with bipartisan support is expanding markets for US agricultural products, especially overseas. Acknowledging the difficulties facing American farmers today, Senator Boozman said, “How do we help our producers overcome these difficult times? A top priority must be to open more markets in which they can sell their commodities. When it comes to agriculture, for every five customers we have in the US, 95 customers exist outside our country. We have to give our farmers and ranchers the opportunity to reach them.”

“Opening and growing new markets for American-made products is critical to building our agricultural economy. Food is a global security issue, and we must do all we can to reverse disruptions in trade and grow new partnerships that help deliver American products around the world,” said Rep. Jim Costa (D-CA-21)

Support for the development and marketing of new farming technologies also enjoys bipartisan interest. For example, in May of this year, Reps. Jimmy Panetta (D-CA) and Jim Baird (R-IN) introduced the Plant Biostimulant Act to help provide growers access to innovative sustainability management technologies. “As firms in all corners of the agriculture industry continue to bring innovative new solutions to market that give farmers and ranchers the tools needed to improve efficiency, productivity, and the sustainability of American agriculture, we need to make sure that we are also working towards innovative regulatory processes that provide these products a pathway to market without sacrificing safety or efficacy,” said Rep. Baird. We expect this bill to be reintroduced in the new Congress as a step toward inclusion in the Farm Bill.

In addition to research and development support for new farming technologies, we expect to see a
push for more incentives for farmers to implement these new solutions. As Senator Stabenow has said, “The science tells us we have to rapidly scale up regenerative agriculture and climate-smart practices, like cover crops . . . [but] in order to engage farmers and ranchers in meaningful ways, we need proposals that pair sustainability with profitability.”

Her Republican counterpart, Senator Boozman, has also pointed to the promise of “exciting new opportunities to compensate farmers and foresters for these environmental gains,” but he cautioned that, “For this new opportunity to be viable for producers and forest owners, the benefits must outweigh the risks and costs they take on.” In his view, agriculture sector climate change policies pursued by Congress must not be mandatory, overly burdensome, or cost prohibitive.

Rep. Thompson has indicated that his HR 8069, Reducing Farm Input Costs and Barriers to Domestic Production Act will be the first bill to get a hearing in 2023. Broadly, Thompson describes HR 8069 as intended to reduce barriers to farm inputs and domestic agricultural protection. A more comprehensive rural broadband program, revisiting the Pesticide Registration Improvement Act, and reauthorizing the Commodity Futures Trading Commission (CFTC) are also on Thompson’s agenda for the next Congress.

In hearings and public statements this year, Republican members have mentioned a number of other issues they are interested in addressing in the next Farm Bill, including helping farmers manage farm debt, incentivizing efficiency and productivity, addressing supply chain weaknesses and transportation backlogs, increasing domestic energy production to drive down fuel costs, improving rural broadband, foreign investment in US farmland, workforce shortages, the need for more protein processors, wildlife habitat, and support for research.

In addition to the resilience, conservation, and rural development programs Democrats supported in the IRA, Democrats have raised other issues of concern, such as helping farmers deal with per- and polyfluoroalkyl substances (PFAS) contamination, continuing to provide robust international food assistance, and halting the precipitous decline in the number of US cattle ranchers.

Given the incoming divided Congress, the differences between the parties’ priorities, and the political strategies that will be at play moving into a presidential election cycle, we expect the Farm Bill negotiations to be lengthy and arduous, but in the end, we believe the bill will differ in degree rather than in kind from its predecessors.

**Federal Agency Action**

Both the IRA and the Infrastructure Investment and Jobs Act included measures aimed at some of the Biden Administration’s agriculture policy goals, such as support for biofuels, expanding rural broadband, support for family, small, and medium-sized farms, carbon sequestration in farms and forests, and addressing racial inequities in farming. It is up to the USDA and other federal agencies to implement the legislative programs and to measure and demonstrate their impacts.

Released on September 12, 2022, President Biden’s Executive Order (EO) 14081 established a National Biotechnology and Biomanufacturing Initiative, a package of targeted investments in biotech research, increased funding for biotech workforce development, expanded support for biomanufacturing, and streamlined regulations to reduce barriers for the biotechnology sector. Also as part of the Initiative, the USDA is tasked with developing new regulatory processes. Implementation of the EO will provide opportunities for developers to engage with federal regulators on issues of importance to the AgTech sector writ large, and to the biotechnology sector specifically.
Though the immediate target of the US Supreme Court’s June 30, 2022, decision in West Virginia v. EPA was the US Environmental Protection Agency (EPA), the Court’s decision will have far wider consequences in the administrative arena. The decision provides a new, strong weapon to attack both new and existing agency rules; we may also see it used to justify inaction by agencies unwilling or unable to agree on a new rule. House Agriculture Committee Republicans have already signaled their intent to use the decision offensively, sending a letter in September to USDA Secretary Vilsack, stating, “we are compelled to underscore the implications of West Virginia v. EPA and to remind you of the limitations on your authority... As the committee of jurisdiction overseeing your agency, we intend to exercise our oversight authority to ensure the Biden administration does not continue to exceed Congressional authorizations.”

In Sackett v. EPA, argued before the Supreme Court on October 3, the Court has another opportunity to impact the agency’s rulemaking, implementation, and scope of authority, this time relating to the definition of “waters of the US.”[1] This decision also could create ripple effects throughout other federal agencies, including the USDA.

In light of the increasing tendency of the Supreme Court to apply limits to federal agency action and authority, we expect to see a continuing push and pull between agencies seeking to exercise delegated authority and Congress seeking to retract and reassert authority previously delegated or abdicated.

**Appropriations Update**

The Fiscal Year (FY) 2023 omnibus spending bill enacted on December 27, 2022, provides over $3.7 billion for agricultural research; $1.17 billion for the Animal and Plant Health Inspection service (more than $60 million above the FY 22 enacted amount); $237.6 million for domestic and international agricultural marketing programs; $1.15 billion for food safety and inspections; increased funding to reduce user fees for small and very small processing facilities; a prohibition on the closure of Farm Service Agency (FSA) county offices and increased resources for IT improvements and personnel at FSAs; $10.652 billion in total Program Loan Authorizations, including an increase of $300 million for Direct Farm Ownership Loans; $941 million to the Natural Resources Conservation Service for Conservation Operations; $75 million for Watershed and Flood Prevention Operations; and $348 million for the ReConnect Broadband Pilot.

In addition, a disaster supplemental funding bill provides $3.7 billion to extend USDA’s Emergency Relief Program to assist producers who suffered losses due to natural disasters in 2022; $27 million for the Emergency Forest Restoration Program (EFRP) for non-industrial timber restoration; and $925 million for the Emergency Watershed Protection Program (EWP) for rural watershed recovery.

Some House Republicans, including incoming Agriculture Appropriations Subcommittee Chair Andy Harris,[2] have been deeply critical of the increased federal spending for FY 2023, and we expect intense debate over appropriations legislation for FY 2024.

**Conclusion**

With the war in Ukraine adding pressure to the global food supply, issues affecting American agriculture are likely to be seen as even more crucial in a Farm Bill year. Russia’s attempts to prevent Ukraine’s grain exports could affect policy on ethanol and biofuels if more US grain is needed for food. In addition to regional and partisan policy differences on priorities, differing perspectives on the impacts and appropriate uses of Farm Bill subsidies and USDA regulations in...
tackling inflation will likely factor into the debates. Although Senator Boozman suggested that including agriculture issues in the IRA could derail the 2023 Farm Bill, we are optimistic that the leaders will succeed in negotiating a new bill and in marshaling the votes to pass it.

FOOTNOTES

[1] Although the Supreme Court has not issued a decision in Sackett, in December the EPA published a new “waters of the US” rule with an effective date of March 20, 2023. Agricultural stakeholders including the American Farm Bureau, National Cattlemen’s Beef Association, National Corn Growers Association, National Pork Producers Council, and US Poultry and Egg Association have filed suit to block the rule, arguing, among other things, that the rule exceeds the agency’s authority.