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Agriculture Improvement Act of 2018 Summary

The Farm Bill

Prepared by the NAWG Staff

Shortly after the 2018 Farm Bill conference report was released the NAWG staff prepared a summary of the bill regarding provisions of particular importance to NAWG. Now that Congress has completed action on the bill and it's been signed into law, we have expanded the summary to provide more detail of the contents of the bill and overviews to describe how we believe the provisions will impact wheat farmers. When reading, unless noted as new programs, these are changes to existing programs.

Title 1 – Commodities

The Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) programs are both reauthorized with improvements made to both, and farmers will have an opportunity to re-elect programs beginning with the 2019 crop year, and then beginning with the 2021 crop year farmers will have the option of either maintaining their farm program election or they can elect a different program each year moving forward. Below is a summary of the program improvements that were made.

Base Acres

The bill maintains the current system of farm program payments being made on base acres; however, there is a provision that will require that a farm with base acres that hasn't been planted to anything other than grass/pasture between 2009 and 2017 will not be eligible for farm program payments for the 2019-2023 crop years. This provision of ineligibility applies to cropland that was idle or fallow during that period. Base acres and payment yields will be maintained on those farm, they will just be ineligible for ARC/PLC payments (by maintaining those base acres, that will provide flexibility in the next Farm Bill). For those farms that have base acres that have become ineligible for farm program payments, farmers can enroll those farms into a Grassland Conservation Initiative within CSP by undertaking a priority resource concern. Payments would be $18 per acre on those farms.

Agriculture Risk Coverage (ARC) Program

As part of their farm program election choice, farmers will be able to choose between county level or individual level coverage. County level coverage will continue to pay on 85 percent of base acres, while individual level coverage will continue to pay on 65 percent of base acres. Additionally, counties that are larger than 1,400 square miles and contain more than 190,000 base acres will have the opportunity to split into 2 administrative units for the purposes of ARC-County (up to 25 counties nationwide).

Administrative improvements to ARC include a requirement that RMA yield data be used if it's available in a county and that the physical location of a farm be used to determine which county payment rate applies to that specific farm.

In terms of programmatic improvements, the bill increases the plug yield from 70 percent to 80 percent of the transitional yield, requires USDA to calculate and use a trend-adjusted yield factor to adjust yields (similar to the crop insurance trend-adjusted yield endorsement), requires the use of an effective reference price (similar to the PLC change where reference prices can increase if certain market improvements happen over time), and it requires the publishing of separate irrigated and non-irrigated yields in each county. USDA will also be required to publish payment rate information within 30 days of the end of the marketing year for each commodity and USDA will be required to publish the data source that was used.

Price Loss Coverage (PLC) program

The bill maintains the current statutory reference prices, but requires the use of an "effective reference price." In any given year, the five year Olympic average market year average price will be multiplied by 85 percent; if that level is higher than the statutory reference price, then the effective reference price will be that level up to 115 percent of the statutory reference price. The maximum level for wheat would be $6.33 per bushel, and it cannot drop below the statutory reference price of $5.50.

The bill also allows for all producers nationwide the option of updating their yields for PLC in the 2020 crop year. The yield update would be 90 percent of the average farm yield of the 2013-2017 crop years (with a plug of 75 percent for any year that a yield was lower than that), and that level would be multiplied by a ratio obtained by dividing the 2008-2012 national average yield by the 2013-2017 national average yield, with the ratio limited to between 90-100 percent. For wheat, we anticipate that the national average yields that will be used for the 2008-2012 timeframe will be 42 bu/acre and for the 2013-2017 timeframe will be 43 bu/acre (though it won't be official until FSA updates the regulations).

Example:	
Current PLC program yield:	50 bushels per acre
Average 2013-2017 yield:	60 bushels per acre
Yield update option:	
90 percent multiplied by 60 bushels per acre:	54 bushels per acre
Ratio of national average yields of 42 divided by 43:	0.9767
This ratio is limited to being between 90 and 100 percent	
54 bushels per acre multiplied by 97.67 percent:	52.7

As 52.7 is more than the farm's current 50 bushels per acre, the farm would opt to update their yield.

USDA would be required to publish payment rates within 30 days of the end of the marketing year for each commodity.

Marketing Assistance Loans

The Marketing Assistance Loan (MAL) program and Loan Deficiency Payments are maintained in the Farm Bill. Loan rates used in the program are increased for several commodities, including a 15 percent increase for wheat from the current level of $2.94 to $3.38 per bushel.

Payment Limitations

The Farm Bill maintains the current $125,000 hard cap per person or entity for participation in ARC/PLC. LDPs and Marketing Loan Gains (MLGs) are removed from counting towards this payment limit. Additionally, the bill maintains the current Adjusted Gross Income (AGI) threshold of $900,000 for eligibility in farm programs.

Actively Engaged Requirements

The bill maintains the current actively engaged requirements for farm program eligibility, including the requirement that all individuals contribute land, labor, or capital to the farming operation and that they also provide sufficient labor and/or management. Family farming operations are exempt from some requirements, and the bill expands the definition of family to include first cousins, nieces, and nephews.

Title 2 - Conservation

Conservation Reserve Program (CRP)

CRP is continued for the 5-year term of the Farm Bill, with an acreage cap increase to 27 million (over several years) acres through lowered rental rates. The bill also includes specific continuous sign-up provisions and expands Conservation Reserve Enhancement Program (CREP) beyond state partners. New Drought and Water Conservation Agreements are added to CREP that allow dryland agriculture uses with the adoption of best management practices on enrolled land if the agreement involved significant long-term reduction of consumptive water use. Grassland enrollment should be a minimum of 2 million acres of the overall cap. Continuous sign-up acres are limited from 8 million acres to 8.6 million acres over the 5 years.

Secretary to allocate 60% of available acres each year for enrolling in the conservation reserve based on historical state enrollment rates (FY07-16 enrollment). Rental rates are capped at 85% of country rental rates for general sign up and 90% for continuous sign up. State FSA committees can recommend alternative rates with supporting information.

Haying and grazing provisions are expanded. Two new pilot programs are included – CLEAR 30 for 30-year contracts for buffer type practices and a Soil Health Income Protection program that is specific to the Prairie Pothole region and limited to 50,000 acres and has a limited sign-up timeframe.

Environmental Quality Incentives Program & the Conservation Stewardship Program

EQIP and CSP are merged in the legislative text, creating a shared funding line-item in the CBO baseline, but each program will operate separately, though are directed to coordinate closely on practices and program applications. Increased funding is provided for EQIP and incentive payments are added. The livestock and wildlife set asides are retained. EQIP/Conservation Innovation Grants (CIG) are to include a new On-Farm Innovation Trials to test new technology and a Soil Health Trial to provide incentives to producers to implement soil health practices, establish protocols for measuring and testing carbon levels in the soil and initiate a study regarding changes in soil health including economic outcomes. New provisions allow states to designate high priority practices (related to water quality, water quantity and habitat) for increased cost share funding.

CSP is modified to operated based on funding instead of an acreage cap for enrollment. Reenrollments in CSP are no longer capped, but due to the new funding mechanism, reenrollments will compete with new enrollments for ranking/funding. CSP is directed to consider soil health in the operation of the program; and soil health management is added to conservation activities. A new Grassland Conservation Initiative is included to provide conservation payments on eligible land specific to cropland with base acres impacted by changes made in Title 1 of the Farm Bill. This very specific eligibility limits the program but provides a $18 an acre payment for meeting 1 resource concern on the land. Current CSP contracts expiring before December 31, 2019 are permitted to extend contracts for 1 year under the old (2014 Farm Bill) program and then must re-apply under the new (2018 Farm Bill) program.

Additionally, there was report language included that NAWG requested. The report language stated: "For example, wheat growers need to be able to access the program through conservation practices that are specific to local production needs and that includes areas with lower rainfall. The Managers believe USDA should provide appropriate conservation practice and enhancement options for producers that focus on drought mitigation and dryland agriculture. The Managers also believe USDA should also provide assistance at varying levels of conservation performance, to enable all producers to access conservation assistance."

Agricultural Conservation Easement Program

Agricultural Land and Wetland Easements are continued and the Agricultural Land Easement (ALE) program is modified to eliminate the agricultural land easement plan, modify the permissible forms of matching funds and provides provisions on mineral development. The bill also clarifies the certification criteria for eligible entities. Wetland Reserve easements adds compatible use authorization, grazing management plans and updates the wetland reserve easement plan. Revised administrative provisions modify the provisions on subordination, exchange, modification and termination to provide more specific provisions for each action.

Regional Conservation Partnership Program

The Regional Conservation Partnership Program is modified to remove the "donor" program funding and acres from EQIP, CSP and easement programs an instead is provided $300 million in funding each year. CRP and Watershed Protection and Flood Prevention Act are added to the covered programs. Drinking water and groundwater source protection are added to purposes. The bill clarified the partner match, timing of match and that USDA can provide advance funding. USDA is directed to specify their technical assistance costs and can enter into up to 15 alternative funding arrangement that can be used for partners to carry out activities with producers directly. The national funding competition tool is eliminated, and the funding pools/split will be 50/50 between State or Multistate projects and Critical Conservation Areas (up to 8 areas designated by the Secretary).

Additional Conservation Provisions

Additional provisions include wildlife management to expand the working lands for wildlife model and extend the period of regulatory predictability for farmers, and a regulatory certainty provision to continue collaboration between local, state, federal and Indian tribes relating to regulatory certainty, regulatory predictability and safe harbor protections. The Emergency Conservation Program is modified to include payment for fencing and allowing a certain portion of emergency funding to be provided to individuals "up front" to carry out activities.

Conservation & Regulatory Provisions in other titles

Data on Conservation Practices - Section 12618

USDA is directed to report to Congress within 1 year regarding data sets regarding the use of conservation practices and the effect of practices on farm and ranch profitability and the steps USDA would need to take to make data available to university researchers; a summary of safeguard USDA employs when releasing data, privacy protection and recommendations on changes or clarifications to federal laws to allow access to data sets.

FIFRA Interagency Working Group - Section 10115

USDA, Dept of Commerce, Dept of Interior, Council on Environmental Quality, EPA are directed to participate in an interagency working group to provide recommendations regarding and to implement a strategy for improving the consultation process required under section 7 of the Endangered Species Act for pesticide registration and review. EPA (with other agencies) to report to Congress (multiple requirements/deadlines). The working group is directed to consult with the private sector in undertaking their work.

Title 3- Trade

Agricultural Trade Promotion and Facilitation Program

The conference language adopts the Senate version for Market Access Program (MAP) and Foreign Market Development (FMD). These two programs, along with Technical Assistance for Specialty Crops (TASC) and Emerging Markets Program (EMP) under one umbrella program called the Priority Trade Promotion, Development and Assistance. This new program has annual mandatory funding set at $255 million. MAP is to receive no less than $200 million annually and FMD is to receive no less than $34.5 million annually (both are the current levels of funding). A Priority Trade Fund will receive $3.5 million per year and the Secretary will be given discretion to allocate among the programs. Additionally, the bill allows MAP and FMD programs to be used to improve exports to Cuba.

Food for Peace

The program continues to provide in-kind food aid as the base of the program and continues the 20 percent flexibility from the 2014 Farm Bill and authorizes the program at $2.5 billion each year.

Food for Progress

Continues to support countries that are looking to expand trade and bolster their agricultural economies. The final bill keeps commodity donations as the main part of Food for Progress but creates a pilot project to study the effectiveness of providing direct financial assistance for development projects.

Title 5- Credit

The credit title notably included large increases in overall authorization levels of loans for the years 2019 through 2023. Loan Authorization levels are significantly increased allowing the Secretary to make or guarantee loans up to $10,000,000,000 for each of the fiscal years 2019 through 2023. Direct loans receive an authorization of $3,000,000,000 with $1.5 billion for farm ownership loans and $1.5 billion for operating loans. Guaranteed loans are authorized at $7,000,000,000 with $3,500,000,000 for farm ownership loans and $3,500,000,000 for operating loans. Additionally, the conference report increases FSA's authority for guaranteed loan limits to be made up to $1,750,000, direct operating loans up to $400,000 and direct farm ownership loans up to $600,000.

Title 6- Rural Development

Improving Health Outcomes in Rural America

Sections 6101, 6102, and 6103 all deal with healthcare in rural America. The sections contain language that prioritize distance learning in telemedicine and making funds available for substance use disorder treatment services, priority for selecting recipients of direct loans and grants for the development of essential community facilities if they provide for substance use disorders, and priority to rural health and safety education programs if they provide substance use disorder education, treatment, and prevention. These section also provide temporary authority for Secretary to announce through Federal Register a temporary reprioritization, on a national or multistate basis, for certain rural development loan and grant applications to assist rural communities in responding to a significant public health disruption. In addition $82 million is appropriated each of the fiscal years 2019-2023 for distance learning and telemedicine. Lastly, they allow for the refinancing of certain rural hospital debt if the assistance would help preserve access to a health service in a rural community, meaningfully improve the financial position of the hospital, and otherwise meet the financial feasibility and adequacy of security requirements of the Rural Development Agency. Additionally the Farm and Ranch Stress Assistance Network which directs resources to mental health professionals aiding agricultural community during a time of record suicides.

Broadband Development

The bill increases total authorization for broadband from $25 million to $350 million, establishes new minimum acceptable standards for projects, prioritizes hard to serve areas and expands reporting and transparency requirements for all USDA broadband recipients. The bill requires minimum speeds of 10-mbps downstream transmission capacity and 1-MBps upstream transmission capacity. Focus is placed on communities with populations less than 10,000 permanent residents. There is also provisions to focus on middle mile broadband infrastructure to connect underserved rural areas through an authorization of $10 million per year. Middle mile infrastructure is any broadband infrastructure that does not connect directly to end-user locations and may include interoffice, transport, backhaul, Internet connectivity, data centers, or special access transport to rural areas. There are also provisions focused on regulatory expediency. The bill also establishes a Rural Broadband Integration Working Group comprised of a variety of federal agencies and requires the working group to produce a survey of federal programs and federal agency-specific policies and rules that impact directly or indirectly the investment in or deployment of wired and wireless broadband networks.

Rural Water Infrastructure

The title strengthens USDA water infrastructure programs, including provisions that target resources to address emerging contaminant issues in rural communities. It increases funding to $200,000 maximum amount of financing for predevelopment costs associated with proposed water and wastewater projects with existing water and wastewater systems and short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing waste and wastewater systems. In addition, the bill authorizes $15,000,000 for making grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing financing to the costs above.

<u>Title 7- Research</u>

In addition to research title sections previously reported there were several other provisions of importance to wheat growers.

Wheat and Barley Scab Initiative

There were significant improvements made to the USWBSI. Specifically, the bill increases the funding authorization level from $10 million to $15 million annually, and the bill limits the level of indirect costs by any recipient of a program grant from USWBSI at 10 percent.

Agriculture Advanced Research and Development Authority Pilot (AGARDA)

AGARDA's goals are to develop and deploy advanced solutions to prevent, prepare, and protect against unintentional and intentional threats to agriculture and food in the United States; to overcome barriers in the development of agricultural technologies, research tools, and qualified products and projects that enhance export competitiveness, environmental sustainability, and resilience to extreme weather; to ensure that the United States maintains and enhances its position as a leader in developing and deploying agricultural technologies, research tools, and qualified projects and products that increase economic opportunities and security for farmers, ranchers, and rural communities; and to undertake advanced research and development in areas in which industry by itself is not likely to do so because of the technological or financial uncertainty. It has an authorization of $50,000,000 for each year from 2019-2023.

Agricultural Genome to Phenome Initiative (Through NIFA)

The Agricultural Genome to Phenome Initiative's goals are to expand knowledge concerning genomes and phenomes of crops and animals of importance to the agriculture sector of the United States; to understand how variable weather, environments, and production systems impact the growth and productivity of specific varieties of crops and species of animals in order to provide greater accuracy in predicting crop and animal performance under variable conditions; among others listed. The program has an authorization of $40,000,000 for each of the fiscal years 2019-2023.

Title 11 – Crop Insurance

There are several positive provisions included in the crop insurance title. The top of the list is that it maintains the current strong structure of the crop insurance program by not imposing any means testing, cuts to the federal cost-share, or cuts to the delivery system. Additionally, it includes a requirement that RMA undertake research and development of alternative methods for adjusting for quality loss, reform to the 508(h) reimbursement process, enables growers to purchases separate policies for grazing and harvesting of crops, and language regarding how cover crops impact the insurability of summer fallow.

Quality Adjustments

An issue that's particularly challenging for wheat growers is the susceptibility to quality problems. In addition to the marketing impact quality problems have, there are also problems in how the Risk Management Agency (RMA) is required to incorporate quality losses into a producer's Actual Production History (APH). The Farm Bill includes a provision requiring RMA to undertake research and development of new methods of adjusting for quality losses. The language specifies that the R&D should be to explore a new method that does not impact the producer's APH, a method gives the producer the option of excluding the quality loss from their APH if the quality loss doesn't trigger an indemnity, or a combination of those methods. It also requires that any new policy developed out of this would be optional for the producer to use and that it be offered at an actuarially sound premium rate.

Cover Crops

The bill includes language clarifying that the voluntary practice of cover cropping shall be considered a good farming practice if the cover crop is terminated appropriately. Cover crop termination shall not affect the insurability of a subsequently planted insurable crop if the cover crop is terminated appropriately. Additionally, in a county in which summer fallow is an insurable practice, a cover crop in that county is terminated appropriately shall be considered as summer fallow for the purpose of insurance.

Wheat crops grown for forage and grazing

For crops that can be grown for both grazing and harvesting, the Farm Bill will enable growers to purchase separate insurance policies for each intended use.

Enterprise Units

The bill enables producers the option to establish a single enterprise unit by combining an enterprise unit with 1 or more other enterprise units in 1 or more other counties or all basic units and all optional units in 1 or more other counties.

508(h) Reimbursements

The bill revises the reimbursement process for new plans of insurance developed through the 508(h) process. Applicants through the process shall be eligible for the reimbursement of reasonable research and development costs if the policy is approved by the Board for sale to producers. Reasonable costs shall be based on certain parameters outlined in the bill.