

116TH CONGRESS
2D SESSION

S. 3894

To authorize the Secretary of Agriculture to develop a program to reduce barriers to entry for farmers, ranchers, and private forest landowners in certain private markets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2020

Mr. BRAUN (for himself, Ms. STABENOW, Mr. GRAHAM, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To authorize the Secretary of Agriculture to develop a program to reduce barriers to entry for farmers, ranchers, and private forest landowners in certain private markets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Growing Climate Solu-
5 tions Act of 2020”.

1 **SEC. 2. GREENHOUSE GAS TECHNICAL ASSISTANCE PRO-**
 2 **VIDER AND THIRD-PARTY VERIFIER CERTIFI-**
 3 **CATION PROGRAM.**

4 Chapter 5 of subtitle D of title XII of the Food Secu-
 5 rity Act of 1985 is amended by inserting after section
 6 1240M (16 U.S.C. 3839bb) the following:

7 **“SEC. 1240N. GREENHOUSE GAS TECHNICAL ASSISTANCE**
 8 **PROVIDER AND THIRD-PARTY VERIFIER CER-**
 9 **TIFICATION PROGRAM.**

10 “(a) PURPOSES.—The purposes of this section are—

11 “(1) to encourage sustainable, climate-friendly
 12 farming and forestry practices by providing to farm-
 13 ers, ranchers, and private forest landowners access
 14 to private-sector capital;

15 “(2) to facilitate the participation of farmers,
 16 ranchers, and private forest landowners in green-
 17 house gas credit markets, including through the Pro-
 18 gram;

19 “(3) to provide technical assistance to farmers,
 20 ranchers, and private forest landowners in over-
 21 coming barriers to entry into greenhouse gas credit
 22 markets;

23 “(4) to assist covered entities in registering
 24 under the Program; and

1 “(5) to establish the Advisory Council to advise
 2 the Secretary regarding the Program and other re-
 3 lated matters.

4 “(b) DEFINITIONS.—In this section:

5 “(1) ADVISORY COUNCIL.—The term ‘Advisory
 6 Council’ means the Greenhouse Gas Technical As-
 7 sistance Provider and Third-Party Verifier Certifi-
 8 cation Program Advisory Council established under
 9 subsection (g)(1).

10 “(2) COVERED ENTITY.—The term ‘covered en-
 11 tity’ means a person or State that—

12 “(A) is a provider of a technical assistance
 13 to farmers, ranchers, or private forest land-
 14 owners in carrying out sustainable land use
 15 management practices that, as compared to tra-
 16 ditional practices—

17 “(i) prevent or mitigate greenhouse
 18 gas emissions; or

19 “(ii) sequester carbon; or

20 “(B) is a third-party entity that conducts
 21 the verification of the processes described in
 22 protocols for greenhouse gas credit markets.

23 “(3) GREENHOUSE GAS.—The term ‘greenhouse
 24 gas’ means—

25 “(A) carbon dioxide;

1 “(B) methane;

2 “(C) nitrous oxide; and

3 “(D) any other gas that the Secretary, in
4 consultation with the Advisory Council, deter-
5 mines has been identified to have heat trapping
6 qualities.

7 “(4) PROGRAM.—The term ‘Program’ means
8 the Greenhouse Gas Technical Assistance Provider
9 and Third-Party Verifier Certification Program es-
10 tablished under subsection (c).

11 “(5) PROTOCOL.—The term ‘protocol’ means a
12 systematic approach that follows a science-based
13 methodology that is conservative, transparent, and
14 thorough to establish requirements—

15 “(A) for the development of the 1 or more
16 baseline scenarios for a project to reduce green-
17 house gas emissions or sequester carbon; and

18 “(B) to quantify, monitor, report, and
19 verify emissions reductions or sequestration by
20 a project described in subparagraph (A).

21 “(6) TECHNICAL ASSISTANCE.—The term ‘tech-
22 nical assistance’ means technical expertise, informa-
23 tion, and tools necessary for activities carried out
24 under this section.

1 “(c) ESTABLISHMENT OF PROGRAM.—The Secretary
 2 shall establish a voluntary program, to be known as the
 3 ‘Greenhouse Gas Technical Assistance Provider and
 4 Third-Party Verifier Certification Program’, to certify
 5 covered entities that the Secretary determines meet the
 6 standards described in subsection (d).

7 “(d) STANDARDS.—

8 “(1) IN GENERAL.—The Secretary, in consulta-
 9 tion with the Advisory Council, shall publish a list
 10 and description of standards that accomplish the
 11 purposes described in paragraphs (1) and (2) of sub-
 12 section (a) and are taken from widely used industry
 13 protocols for greenhouse gas credit markets (includ-
 14 ing calculations, sampling methodologies, accounting
 15 principles, systems for verification, monitoring, and
 16 reporting, and methods to account for additionality,
 17 permanence, and leakage, where appropriate) that
 18 covered entities registered under the Program shall
 19 maintain expertise in and adhere to, as appropriate,
 20 for—

21 “(A) the provision of technical assistance
 22 to farmers, ranchers, and private forest land-
 23 owners for carrying out activities described in
 24 paragraph (2); and

1 “(B) the verification of the processes de-
 2 scribed in protocols for greenhouse gas credit
 3 markets that are used in carrying out activities
 4 described in paragraph (2).

5 “(2) ACTIVITIES.—The activities referred to in
 6 paragraph (1) are current and future activities that
 7 reduce greenhouse gas emissions or sequester carbon
 8 as compared to traditional practices, which may in-
 9 clude—

10 “(A) land or soil carbon sequestration;

11 “(B) emissions reductions derived from
 12 fuel choice or reduced fuel use;

13 “(C) livestock emissions reductions, includ-
 14 ing emissions reductions achieved through feeds
 15 and feed additives;

16 “(D) on-farm energy generation, including
 17 fuel switching;

18 “(E) energy feedstock production;

19 “(F) fertilizer use emissions reductions;

20 “(G) reforestation;

21 “(H) forest management, including im-
 22 proving harvesting practices and thinning dis-
 23 eased trees;

24 “(I) avoidance of the conversion of forests;

1 “(J) grassland management, including pre-
2 scribed grazing; and

3 “(K) such other activities, or combinations
4 of activities, that the Secretary, in consultation
5 with the Advisory Council, determine to be ap-
6 propriate.

7 “(3) REQUIREMENTS.—In publishing the list
8 and description of standards under paragraph (1),
9 the Secretary, in consultation with the Advisory
10 Council, shall—

11 “(A) ensure that the standards include all
12 relevant information relating to market-based
13 protocols with regard to—

14 “(i) quantification;

15 “(ii) verifiability;

16 “(iii) additionality, as compared to a
17 historical baseline; and

18 “(iv) permanence;

19 “(B) ensure that the standards include re-
20 quirements for covered entities registered under
21 the Program to demonstrate expertise in best
22 management practices for agricultural and for-
23 estry practices that increase carbon sequestra-
24 tion or reduce greenhouse gas emissions; and

1 “(C) periodically review and revise the list
 2 and description, as appropriate, to include any
 3 additional standards that meet the require-
 4 ments described in subparagraphs (A) and (B).

5 “(e) REGISTRATION AND PUBLICATION OF LISTS.—

6 “(1) REGISTRATION.—A covered entity may
 7 self-register under the Program by submitting to the
 8 Secretary, through a website maintained by the Sec-
 9 retary, a notification that the covered entity will
 10 maintain expertise in and adhere to the standards
 11 published by the Secretary under subsection (d)(1).

12 “(2) SOLICITATION.—Not later than 180 days
 13 after the date on which the Secretary establishes the
 14 Program, the Secretary shall publish—

15 “(A) information describing how covered
 16 entities may self-register under the Program in
 17 accordance with paragraph (1);

18 “(B) the standards published by the Sec-
 19 retary under subsection (d)(1); and

20 “(C) instructions and suggestions to assist
 21 farmers, ranchers, and private forest land-
 22 owners in accessing greenhouse gas credit mar-
 23 kets, including—

24 “(i) through the Program; and

1 “(ii) by providing information relating
2 to programs, registries, and protocols of
3 programs and registries that provide mar-
4 ket-based participation opportunities for
5 working and conservation agricultural and
6 forestry lands.

7 “(3) PUBLICATION.—Not later than 1 year
8 after the date on which the Secretary establishes the
9 Program, the Secretary, in consultation with the Ad-
10 visory Council, shall use an existing website main-
11 tained by the Secretary to publish—

12 “(A) a list of covered entities that are reg-
13 istered under paragraph (1) as verifiers of the
14 processes described in protocols for greenhouse
15 gas credit markets; and

16 “(B) a list of covered entities that are reg-
17 istered under paragraph (1) as technical assist-
18 ance providers.

19 “(4) UPDATES.—Not less frequently than annu-
20 ally, the Secretary, in consultation with the Advisory
21 Council, shall update the lists published under para-
22 graph (3).

23 “(5) SUBMISSION.—The Secretary shall submit
24 the list under paragraph (3), including each update
25 under paragraph (4), to Congress.

1 “(6) REQUIREMENT.—To remain registered
2 under the Program, a covered entity shall continue
3 to maintain expertise in and adhere to the standards
4 published by the Secretary under subsection (d)(1).

5 “(7) AUDITING.—The Secretary shall periodically
6 conduct audits of covered entities that are registered
7 under the Program to ensure compliance
8 with the standards published by the Secretary under
9 subsection (d)(1).

10 “(8) NOTIFICATION.—If the Secretary revokes
11 the registration of a covered entity under the Program
12 for noncompliance with the standards published
13 by the Secretary under subsection (d)(1), to
14 the extent practicable, the Secretary shall notify
15 farmers, ranchers, and private forest landowners to
16 which the covered entity provided technical assistance
17 or the verification of the processes described in
18 protocols for greenhouse gas credit markets of the
19 revocation.

20 “(f) ENFORCEMENT.—

21 “(1) PROHIBITION ON CLAIMS.—

22 “(A) IN GENERAL.—A person that is not
23 registered under the Program shall not knowingly
24 make a claim that the person is a ‘USDA-
25 certified technical assistance provider or third-

1 party verifier for greenhouse gas credit mar-
 2 kets' or any substantially similar claim.

3 “(B) PENALTY.—Any person that violates
 4 subparagraph (A) shall be subject to a civil
 5 penalty equal to such amount as the Secretary
 6 determines to be appropriate.

7 “(2) PROHIBITION ON SUBMISSION OF FRAUDU-
 8 LENT INFORMATION.—

9 “(A) IN GENERAL.—A person, regardless
 10 of whether the person is registered under the
 11 program, shall not submit fraudulent informa-
 12 tion as part of a notification under subsection
 13 (e)(1).

14 “(B) PENALTY.—Any person that violates
 15 subparagraph (A) shall be subject to a civil
 16 penalty equal to such amount as the Secretary
 17 determines to be appropriate.

18 “(g) GREENHOUSE GAS TECHNICAL ASSISTANCE
 19 PROVIDER AND THIRD-PARTY VERIFIER CERTIFICATION
 20 PROGRAM ADVISORY COUNCIL.—

21 “(1) IN GENERAL.—Not later than 90 days
 22 after the date on which the Secretary establishes the
 23 Program, the Secretary shall establish an advisory
 24 council, to be known as the ‘Greenhouse Gas Tech-

1 nical Service Assistance and Third-Party Verifier
2 Certification Program Advisory Council’.

3 “(2) MEMBERSHIP.—

4 “(A) IN GENERAL.—The Advisory Council
5 shall be composed of not fewer than 24 mem-
6 bers, who shall be appointed by the Secretary.

7 “(B) REPRESENTATION.—Members ap-
8 pointed under subparagraph (A) shall include—

9 “(i) not fewer than 1 representative of
10 the Environmental Protection Agency, as
11 determined by the Administrator of the
12 Environmental Protection Agency;

13 “(ii) not fewer than 10 representatives
14 of the agriculture industry appointed in a
15 manner that is broadly representative of
16 the agriculture sector;

17 “(iii) not fewer than 3 representatives
18 from the forestry and forest products in-
19 dustry appointed in a manner that is
20 broadly representative of the forestry sec-
21 tor;

22 “(iv) not fewer than 4 representatives
23 of the relevant scientific research commu-
24 nity, including not fewer than 1 represent-
25 ative from land-grant colleges and univer-

1 sities (as defined in section 1404 of the
2 National Agricultural Research, Extension,
3 and Teaching Policy Act of 1977 (7 U.S.C.
4 3103));

5 “(v) not fewer than 2, and not more
6 than 3, experts or professionals familiar
7 with private greenhouse gas credit markets
8 and the verification requirements in those
9 markets;

10 “(vi) not fewer than 2, and not more
11 than 3, members of nongovernmental or
12 civil society organizations with relevant ex-
13 pertise;

14 “(vii) not fewer than 2, and not more
15 than 3, members of private sector compa-
16 nies or impact investors who are current
17 and likely future purchasers of or investors
18 in domestic greenhouse gas credits in vol-
19 untary markets and compliance markets
20 that are derived from projects that achieve
21 greenhouse gas mitigation or carbon se-
22 questration through practices on agricul-
23 tural land or private forest land; and

24 “(viii) any other individual whom the
25 Secretary determines to be necessary to

1 ensure that the Advisory Council is com-
2 posed of a diverse group of representatives
3 of industry, academia, independent re-
4 searchers, and public and private entities.

5 “(C) CHAIR.—The Secretary shall des-
6 ignate a member of the Advisory Council to
7 serve as the Chair.

8 “(D) TERMS.—The term of a member of
9 the Advisory Council shall be 5 years, which
10 may be renewed for 1 additional 5-year term.

11 “(3) MEETINGS.—

12 “(A) FREQUENCY.—The Advisory Council
13 shall meet not less frequently than annually, at
14 the call of the Chair.

15 “(B) INITIAL MEETING.—Not later than
16 30 days after the date on which the members
17 are appointed under paragraph (2)(A), the Ad-
18 visory Council shall hold an initial meeting.

19 “(4) DUTIES.—The Advisory Council shall—

20 “(A) review the list of standards published
21 by the Secretary under subsection (d)(1);

22 “(B) make recommendations to the Sec-
23 retary regarding the best practices that should
24 be included in the standards under subsection
25 (d)(1); and

1 “(C) advise the Secretary regarding—

2 “(i) the current methods used by pri-
3 vate markets to quantify and verify green-
4 house gas emissions reduced or carbon se-
5 questered;

6 “(ii) additional considerations for reg-
7 istering covered entities under the Pro-
8 gram;

9 “(iii) means to reduce barriers to
10 entry in the business of providing technical
11 assistance or the verification of the proc-
12 esses described in protocols for greenhouse
13 gas markets for covered entities, including
14 by improving technical assistance provided
15 by the Secretary;

16 “(iv) means to reduce compliance and
17 verification costs for farmers, ranchers,
18 and private forest landowners in entering
19 private greenhouse gas credit markets, in-
20 cluding through mechanisms and processes
21 to aggregate the value of activities across
22 land ownership; and

23 “(v) means for farmers, ranchers, and
24 private forest landowners to advertise
25 products derived from practices that re-

1 duce greenhouse gas emissions or sequester
2 carbon.

3 “(5) COMPENSATION.—

4 “(A) IN GENERAL.—The members of the
5 Advisory Council shall serve without compensa-
6 tion.

7 “(B) TREATMENT.—Except in the case of
8 a member described in paragraph (2)(B)(i), the
9 members of the Advisory Council shall not be
10 considered to be Federal employees.

11 “(h) ASSESSMENT OF GREENHOUSE GAS CREDIT
12 MARKETPLACES AND VERIFICATION REGIMES.—Not later
13 than October 1, 2022, and every 4 years thereafter, the
14 Secretary, in consultation with the Administrator of the
15 Environmental Protection Agency and the Advisory Coun-
16 cil, shall—

17 “(1) conduct an assessment, including by incor-
18 porating information from existing publications of
19 nongovernmental organizations with relevant exper-
20 tise, regarding—

21 “(A) the number and categories of non-
22 Federal actors in the nonprofit and for-profit
23 sectors involved in buying, selling, and trading
24 domestic greenhouse gas credits in voluntary
25 markets and compliance markets that are de-

1 rived from projects that achieve greenhouse gas
2 mitigation or carbon sequestration through
3 practices on agricultural land or private forest
4 land;

5 “(B) the estimated overall domestic market
6 demand for greenhouse gas credits (measured
7 in metric tons of carbon dioxide equivalent) at
8 the end of the preceding 4-calendar year period,
9 and historically, in voluntary markets and com-
10 pliance markets through projects that achieve
11 greenhouse gas mitigation or carbon sequestra-
12 tion through practices on agricultural land or
13 private forest land;

14 “(C) the total number of greenhouse gas
15 credits (measured in metric tons of carbon diox-
16 ide equivalent) that were in development, gen-
17 erated, or sold in market transactions during
18 the preceding 4-calendar year period, and his-
19 torically, in voluntary markets and compliance
20 markets through projects that achieve green-
21 house gas mitigation or carbon sequestration
22 through practices on agricultural land or pri-
23 vate forest land;

24 “(D) the estimated supply and demand of
25 metric tons of carbon dioxide equivalent of off-

1 sets in the global marketplace for the next 4
2 years;

3 “(E) the barriers to entry due to compli-
4 ance and verification costs described in sub-
5 section (g)(4)(C)(iv);

6 “(F) the state of monitoring technologies
7 needed to quantify long-term carbon sequestra-
8 tion in soils and from other emission reduction
9 activities in the agriculture and forestry sectors;

10 “(G) means for farmers, ranchers, and pri-
11 vate forest landowners to advertise products de-
12 rived from practices that reduce greenhouse gas
13 emissions or sequester carbon;

14 “(H) means to leverage existing Depart-
15 ment of Agriculture programs and other Fed-
16 eral programs that could improve, lower the
17 costs of, and enhance the deployment of moni-
18 toring technologies described in subparagraph
19 (F);

20 “(I) the potential impact of Department of
21 Agriculture activities on supply and demand of
22 greenhouse gas credits;

23 “(J) the potential role of the Department
24 of Agriculture in increasing innovation in green-
25 house gas credit markets; and

1 “(K) the extent to which the existing re-
2 gimes for generating and selling greenhouse gas
3 credits derived from agricultural land or private
4 forest land, as the regimes exist at the end of
5 the preceding 4-calendar year period, and his-
6 torically, would achieve greater scale and reach
7 if the Department of Agriculture were involved,
8 including by considering the role of the Depart-
9 ment of Agriculture in reducing the barriers to
10 entry identified under subparagraph (E), in-
11 cluding by educating stakeholders about green-
12 house gas credit markets and means by which
13 to reduce the compliance and verification costs
14 described in subsection (g)(4)(C)(iv); and

15 “(2) submit to the Committee on Agriculture of
16 the House of Representatives and the Committee on
17 Agriculture, Nutrition, and Forestry of the Senate a
18 report describing the findings of the assessment
19 under paragraph (1), including recommendations re-
20 garding potential new authorities that would facili-
21 tate a more robust role for the Department of Agri-
22 culture in the domestic market for greenhouse gas
23 emissions credits derived from practices on agricul-
24 tural land or private forest land, including—

1 “(A) whether the Department of Agri-
 2 culture should play a larger role in devel-
 3 oping—

4 “(i) greenhouse gas credit protocols,
 5 including new protocols for activities within
 6 the agriculture and forestry sectors that do
 7 not currently exist in the private market-
 8 place; and

9 “(ii) verification methodologies to
 10 quantify greenhouse gas emissions reduc-
 11 tion across activities that reduce green-
 12 house gas emissions or sequester carbon as
 13 compared to traditional practices; and

14 “(B) whether the Department of Agri-
 15 culture—

16 “(i) should play a larger role in reduc-
 17 ing compliance and verification costs for
 18 farmers, ranchers, and private forest land-
 19 owners, including by certifying greenhouse
 20 gas credits; and

21 “(ii) needs additional authority to
 22 carry out the activities described in clause
 23 (i).”.

○