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S. 1251

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

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2021

Mr. BRAUN (for himself, Ms. STABENOW, Mr. GRAHAM, Mr. WHITEHOUSE, Mr. BOOZMAN, Ms. KLOBUCHAR, Mrs. FISCHER, Mr. BENNET, Mr. GRASSLEY, Ms. SMITH, Ms. ERNST, Mr. COONS, Mr. THUNE, Mr. KING, Ms. COLLINS, Ms. ROSEN, Mr. YOUNG, Mr. BROWN, Mr. HOEVEN, Mrs. SHAHEEN, Mr. RUBIO, Mr. HEINRICH, Mr. CASSIDY, Mrs. FEINSTEIN, Ms. MURKOWSKI, Mr. CARPER, Mr. ROMNEY, Mr. WYDEN, Mr. CRAPO, Mr. LUJÁN, Mrs. HYDE-SMITH, Ms. BALDWIN, Ms. LUMMIS, Mr. WARNOCK, Mr. TUBERVILLE, Mr. MARSHALL, Mr. CORNYN, Mr. CRAMER, Mr. CASEY, Mr. PORTMAN, Mr. PETERS, Mr. DURBIN, Mr. SCHATZ, Mr. KELLY, Mr. SCOTT of South Carolina, Mr. BLUNT, Ms. HASSAN, Mr. ROUNDS, Ms. DUCKWORTH, Mr. KAINE, Ms. CORTEZ MASTO, and Mr. HICKENLOOPER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

JUNE 14, 2021

Reported by Ms. STABENOW, without amendment

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 voluntary 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 2021”.

6 **SEC. 2. GREENHOUSE GAS TECHNICAL ASSISTANCE PRO-**
 7 **VIDER AND THIRD-PARTY VERIFIER CERTIFI-**
 8 **CATION PROGRAM.**

- 9 (a) PURPOSES.—The purposes of this section are—
- 10 (1) to facilitate the participation of farmers,
 11 ranchers, and private forest landowners in voluntary
 12 environmental credit markets, including through the
 13 Program;
- 14 (2) to facilitate the provision of technical assist-
 15 ance through covered entities to farmers, ranchers,
 16 and private forest landowners in overcoming barriers
 17 to entry into voluntary environmental credit mar-
 18 kets;
- 19 (3) to assist covered entities in certifying under
 20 the Program; and
- 21 (4) to establish the Advisory Council to advise
 22 the Secretary regarding the Program and other re-
 23 lated matters.
- 24 (b) DEFINITIONS.—In this section:

1 (1) ADVISORY COUNCIL.—The term “Advisory
2 Council” means the Greenhouse Gas Technical As-
3 sistance Provider and Third-Party Verifier Certifi-
4 cation Program Advisory Council established under
5 subsection (g)(1).

6 (2) AGRICULTURE OR FORESTRY CREDIT.—The
7 term “agriculture or forestry credit” means a credit
8 derived from the prevention, reduction, or mitigation
9 of greenhouse gas emissions or carbon sequestration
10 on agricultural land or private forest land that may
11 be bought or sold on a voluntary environmental cred-
12 it market.

13 (3) BEGINNING FARMER OR RANCHER.—The
14 term “beginning farmer or rancher” has the mean-
15 ing given the term in section 2501(a) of the Food,
16 Agriculture, Conservation, and Trade Act of 1990 (7
17 U.S.C. 2279(a)).

18 (4) COVERED ENTITY.—The term “covered en-
19 tity” means a person or State that either—

20 (A) is a provider of technical assistance to
21 farmers, ranchers, or private forest landowners
22 in carrying out sustainable land use manage-
23 ment practices that—

24 (i) prevent, reduce, or mitigate green-
25 house gas emissions; or

1 (ii) sequester carbon; or

2 (B) is a third-party verifier entity that
3 conducts the verification of the processes de-
4 scribed in protocols for voluntary environmental
5 credit markets.

6 (5) GREENHOUSE GAS.—The term “greenhouse
7 gas” means—

8 (A) carbon dioxide;

9 (B) methane;

10 (C) nitrous oxide; and

11 (D) any other gas that the Secretary, in
12 consultation with the Advisory Council, deter-
13 mines has been identified to have heat trapping
14 qualities.

15 (6) PROGRAM.—The term “Program” means
16 the Greenhouse Gas Technical Assistance Provider
17 and Third-Party Verifier Certification Program es-
18 tablished under subsection (c).

19 (7) PROTOCOL.—The term “protocol” means a
20 systematic approach that follows a science-based
21 methodology that is transparent and thorough to es-
22 tablish requirements—

23 (A) for the development of projects to pre-
24 vent, reduce, or mitigate greenhouse gas emis-

1 sions or sequester carbon that include 1 or
2 more baseline scenarios; and

3 (B) to quantify, monitor, report, and verify
4 the prevention, reduction, or mitigation of
5 greenhouse gas emissions or carbon sequestra-
6 tion by projects described in subparagraph (A).

7 (8) SECRETARY.—The term “Secretary” means
8 the Secretary of Agriculture.

9 (9) SOCIALLY DISADVANTAGED FARMER OR
10 RANCHER; SOCIALLY DISADVANTAGED GROUP.—The
11 terms “socially disadvantaged farmer or rancher”
12 and “socially disadvantaged group” have the mean-
13 ing given those terms in section 355(e) of the Con-
14 solidated Farm and Rural Development Act (7
15 U.S.C. 2003(e)).

16 (10) TECHNICAL ASSISTANCE.—The term
17 “technical assistance” means technical expertise, in-
18 formation, and tools necessary to assist a farmer,
19 rancher, or private forest landowner who is engaged
20 in or wants to engage in a project to prevent, re-
21 duce, or mitigate greenhouse gas emissions or se-
22 quester carbon to meet a protocol.

23 (11) VOLUNTARY ENVIRONMENTAL CREDIT
24 MARKET.—The term “voluntary environmental cred-
25 it market” means a voluntary market through which

1 agriculture or forestry credits may be bought or
2 sold.

3 (c) ESTABLISHMENT.—

4 (1) IN GENERAL.—On the date that is 270 days
5 after the date of enactment of this Act, and after
6 making a positive determination under paragraph
7 (2), the Secretary shall establish a voluntary pro-
8 gram, to be known as the “Greenhouse Gas Tech-
9 nical Assistance Provider and Third-Party Verifier
10 Certification Program”, to certify covered entities
11 that the Secretary determines meet the requirements
12 described in subsection (d).

13 (2) DETERMINATION.—The Secretary shall es-
14 tablish the Program only if, after considering rel-
15 evant information, including the information col-
16 lected or reviewed relating to the assessment con-
17 ducted under subsection (h)(1)(A), the Secretary de-
18 termines that the Program will further each of the
19 purposes described in paragraphs (1) and (2) of sub-
20 section (a).

21 (3) REPORT.—If the Secretary determines
22 under paragraph (2) that the Program would not
23 further the purposes described in paragraph (1) or
24 (2) of subsection (a) and does not establish the Pro-
25 gram, the Secretary shall publish a report describing

1 the reasons the Program would not further those
2 purposes.

3 (d) CERTIFICATION QUALIFICATIONS.—

4 (1) IN GENERAL.—

5 (A) PROTOCOLS AND QUALIFICATIONS.—

6 After providing public notice and at least a 60-
7 day period for public comment, the Secretary
8 shall, during the 90-day period beginning on
9 the date on which the Program is established,
10 publish—

11 (i) a list of, and documents relating
12 to, recognized protocols for voluntary envi-
13 ronmental credit markets that are designed
14 to ensure consistency, reliability, effective-
15 ness, efficiency, and transparency, includ-
16 ing protocol documents and details relating
17 to—

18 (I) calculations;

19 (II) sampling methodologies;

20 (III) accounting principles;

21 (IV) systems for verification,
22 monitoring, measurement, and report-
23 ing; and

24 (V) methods to account for
25 additionality, permanence, leakage,

1 and, where appropriate, avoidance of
 2 double counting; and

3 (ii) descriptions of qualifications for
 4 covered entities that—

5 (I) demonstrate that the covered
 6 entity can assist farmers, ranchers,
 7 and private forest landowners in ac-
 8 complishing the purposes described in
 9 paragraphs (1) and (2) of subsection
 10 (a); and

11 (II) demonstrate proficiency with
 12 the protocols described in clause (i).

13 (B) REQUIREMENTS.—Covered entities
 14 certified under the Program shall maintain ex-
 15 pertise in the protocols described in subpara-
 16 graph (A)(i), adhere to the qualifications de-
 17 scribed in subparagraph (A)(ii), and adhere to
 18 any relevant conflict of interest requirements,
 19 as determined appropriate by the Secretary,
 20 for—

21 (i) the provision of technical assist-
 22 ance to farmers, ranchers, and private for-
 23 est landowners for carrying out activities
 24 described in paragraph (2); or

1 (ii) the verification of the processes
 2 described in protocols for voluntary envi-
 3 ronmental credit markets that are used in
 4 carrying out activities described in para-
 5 graph (2).

6 (2) ACTIVITIES.—The activities for which cov-
 7 ered entities may provide technical assistance or con-
 8 duct verification of processes under the Program are
 9 current and future activities that prevent, reduce, or
 10 mitigate greenhouse gas emissions or sequester car-
 11 bon, which may include—

12 (A) land or soil carbon sequestration;

13 (B) emissions reductions derived from fuel
 14 choice or reduced fuel use;

15 (C) livestock emissions reductions, includ-
 16 ing emissions reductions achieved through—

17 (i) feeds, feed additives, and the use
 18 of byproducts as feed sources; or

19 (ii) manure management practices;

20 (D) on-farm energy generation;

21 (E) energy feedstock production;

22 (F) fertilizer or nutrient use emissions re-
 23 ductions;

24 (G) reforestation;

1 (H) forest management, including improv-
2 ing harvesting practices and thinning diseased
3 trees;

4 (I) prevention of the conversion of forests,
5 grasslands, and wetlands;

6 (J) restoration of wetlands or grasslands;

7 (K) grassland management, including pre-
8 scribed grazing;

9 (L) current practices associated with pri-
10 vate land conservation programs administered
11 by the Secretary; and

12 (M) such other activities, or combinations
13 of activities, that the Secretary, in consultation
14 with the Advisory Council, determines to be ap-
15 propriate.

16 (3) REQUIREMENTS.—In publishing the list of
17 protocols and description of qualifications under
18 paragraph (1)(A), the Secretary, in consultation
19 with the Advisory Council, shall—

20 (A) ensure that the requirements for cov-
21 ered entities to certify under the Program in-
22 clude maintaining expertise in all relevant infor-
23 mation relating to market-based protocols, as
24 appropriate, with regard to—

25 (i) quantification;

- 1 (ii) verification;
- 2 (iii) additionality;
- 3 (iv) permanence;
- 4 (v) reporting; and
- 5 (vi) other expertise, as determined by
- 6 the Secretary; and

7 (B) ensure that a covered entity certified
 8 under the Program is required to perform, and
 9 to demonstrate expertise, as determined by the
 10 Secretary, in accordance with best management
 11 practices for agricultural and forestry activities
 12 that prevent, reduce, or mitigate greenhouse
 13 gas emissions or sequester carbon.

14 (4) PERIODIC REVIEW.—As appropriate, the
 15 Secretary shall periodically review and revise the list
 16 of protocols and description of certification qualifica-
 17 tions published under paragraph (1)(A) to include
 18 any additional protocols or qualifications that meet
 19 the requirements described in subparagraphs (A)
 20 and (B) of paragraph (3).

21 (e) CERTIFICATION, WEBSITE, AND PUBLICATION OF
 22 LISTS.—

23 (1) CERTIFICATION.—A covered entity may
 24 self-certify under the Program by submitting to the

1 Secretary, through a website maintained by the Sec-
2 retary—

3 (A) a notification that the covered entity
4 will—

5 (i) maintain expertise in the protocols
6 described in clause (i) of subsection
7 (d)(1)(A); and

8 (ii) adhere to the qualifications de-
9 scribed in clause (ii) of that subsection;
10 and

11 (B) appropriate documentation dem-
12 onstrating the expertise described in subpara-
13 graph (A)(i) and qualifications described in
14 subparagraph (A)(ii).

15 (2) WEBSITE AND SOLICITATION.—During the
16 180-day period beginning on the date on which the
17 Program is established, the Secretary shall publish,
18 through an existing website maintained by the Sec-
19 retary—

20 (A) information describing how covered en-
21 tities may self-certify under the Program in ac-
22 cordance with paragraph (1);

23 (B) information describing how covered en-
24 tities may obtain, through private training pro-

1 grams or Department of Agriculture training
2 programs, the requisite expertise—

3 (i) in the protocols described in clause
4 (i) of subsection (d)(1)(A); and

5 (ii) to meet the qualifications de-
6 scribed in clause (ii) of that subsection;

7 (C) the protocols and qualifications pub-
8 lished by the Secretary under subsection
9 (d)(1)(A); and

10 (D) instructions and suggestions to assist
11 farmers, ranchers, and private forest land-
12 owners in facilitating the development of agri-
13 culture or forestry credits and accessing vol-
14 untary environmental credit markets, includ-
15 ing—

16 (i) through working with covered enti-
17 ties certified under the Program; and

18 (ii) by providing information relating
19 to programs, registries, and protocols of
20 programs and registries that provide mar-
21 ket-based participation opportunities for
22 working and conservation agricultural and
23 forestry lands.

24 (3) PUBLICATION.—During the 1-year period
25 beginning on the date on which the Program is es-

1 tablished, the Secretary, in consultation with the Ad-
2 visory Council and following the review by the Sec-
3 retary for completeness and accuracy of the certifi-
4 cation notifications and documentation submitted
5 under paragraph (1), shall use an existing website
6 maintained by the Secretary to publish—

7 (A) a list of covered entities that are cer-
8 tified under paragraph (1) as technical assist-
9 ance providers; and

10 (B) a list of covered entities that are cer-
11 tified under paragraph (1) as verifiers of the
12 processes described in protocols for voluntary
13 environmental credit markets.

14 (4) UPDATES.—Not less frequently than quar-
15 terly, the Secretary, in consultation with the Advi-
16 sory Council, shall update the lists published under
17 paragraph (3).

18 (5) SUBMISSION.—The Secretary shall notify
19 Congress of the publication of the initial list under
20 paragraph (3).

21 (6) REQUIREMENT.—To remain certified under
22 the Program, a covered entity shall continue—

23 (A) to maintain expertise in the protocols
24 described in subparagraph (A)(i) of subsection
25 (d)(1); and

1 (B) to adhere to the qualifications de-
2 scribed in subparagraph (A)(ii) of that sub-
3 section.

4 (7) AUDITING.—Not less frequently than annu-
5 ally, the Secretary shall conduct audits of covered
6 entities that are certified under the Program to en-
7 sure compliance with the requirements under sub-
8 section (d)(1)(B) through an audit process that in-
9 cludes a representative sample of—

10 (A) technical assistance providers; and

11 (B) verifiers of the processes described in
12 protocols for voluntary environmental credit
13 markets.

14 (8) REVOCATION OF CERTIFICATION.—

15 (A) IN GENERAL.—The Secretary may re-
16 voke the certification of a covered entity under
17 the Program in the event of—

18 (i) noncompliance with the require-
19 ments under subsection (d)(1)(B); or

20 (ii) a violation of subsection (f)(2)(A).

21 (B) NOTIFICATION.—If the Secretary re-
22 vokes a certification of a covered entity under
23 subparagraph (A), to the extent practicable, the
24 Secretary shall—

(i) request from that covered entity contact information for all farmers, ranchers, and private forest landowners to which the covered entity provided technical assistance or the verification of the processes described in protocols for voluntary environmental credit markets; and

(ii) notify those farmers, ranchers, and private forest landowners of the revocation.

(9) FAIR TREATMENT OF FARMERS.—The Secretary shall ensure, to the maximum extent practicable, that covered entities certified under paragraph (1) act in good faith—

(A) to provide realistic estimates of costs and revenues relating to activities and verification of processes, as applicable to the covered entity, as described in subsection (d)(2); and

(B) in the case of technical assistance providers, to assist farmers, ranchers, and private forest landowners in ensuring that the farmers, ranchers, and private forest landowners receive fair distribution of revenues derived from the sale of an agriculture or forestry credit.

1 (10) SAVINGS CLAUSE.—Nothing in this section
2 authorizes the Secretary to compel a farmer, ranch-
3 er, or private forest landowner to participate in a
4 transaction or project facilitated by a covered entity
5 certified under paragraph (1).

6 (f) ENFORCEMENT.—

7 (1) PROHIBITION ON CLAIMS.—

8 (A) IN GENERAL.—A person that is not
9 certified under the Program in accordance with
10 this section shall not knowingly make a claim
11 that the person is a “USDA-certified technical
12 assistance provider or third-party verifier for
13 voluntary environmental credit markets” or any
14 substantially similar claim.

15 (B) PENALTY.—Any person that violates
16 subparagraph (A) shall be—

17 (i) subject to a civil penalty equal to
18 such amount as the Secretary determines
19 to be appropriate, not to exceed \$1,000 per
20 violation; and

21 (ii) ineligible to certify under the Pro-
22 gram for the 5-year period beginning on
23 the date of the violation.

24 (2) SUBMISSION OF FRAUDULENT INFORMA-
25 TION.—

(A) IN GENERAL.—A person, regardless of whether the person is certified under the program, shall not submit fraudulent information as part of a notification under subsection (e)(1).

(B) PENALTY.—Any person that violates subparagraph (A) shall be—

(i) subject to a civil penalty equal to such amount as the Secretary determines to be appropriate, not to exceed \$1,000 per violation; and

(ii) ineligible to certify under the Program for the 5-year period beginning on the date of the violation.

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

(1) IN GENERAL.—During the 90-day period beginning on the date on which the Program is established, the Secretary shall establish an advisory council, to be known as the “Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Certification Program Advisory Council”.

(2) MEMBERSHIP.—

1 (A) IN GENERAL.—The Advisory Council
2 shall be composed of members appointed by the
3 Secretary in accordance with this paragraph.

4 (B) GENERAL REPRESENTATION.—The
5 Advisory Council shall—

6 (i) be broadly representative of the ag-
7 riculture and private forest sectors;

8 (ii) include socially disadvantaged
9 farmers and ranchers and other historically
10 underserved farmers, ranchers, or private
11 forest landowners; and

12 (iii) be composed of not less than 51
13 percent farmers, ranchers, or private forest
14 landowners.

15 (C) MEMBERS.—Members appointed under
16 subparagraph (A) shall include—

17 (i) not more than 2 representatives of
18 the Department of Agriculture, as deter-
19 mined by the Secretary;

20 (ii) not more than 1 representative of
21 the Environmental Protection Agency, as
22 determined by the Administrator of the
23 Environmental Protection Agency;

1 (iii) not more than 1 representative of
2 the National Institute of Standards and
3 Technology;

4 (iv) not fewer than 12 representatives
5 of the agriculture industry, appointed in a
6 manner that is broadly representative of
7 the agriculture sector, including not fewer
8 than 6 active farmers and ranchers;

9 (v) not fewer than 4 representatives of
10 private forest landowners or the forestry
11 and forest products industry appointed in
12 a manner that is broadly representative of
13 the private forest sector;

14 (vi) not more than 4 representatives
15 of the relevant scientific research commu-
16 nity, including not fewer than 2 represent-
17 atives from land-grant colleges and univer-
18 sities (as defined in section 1404 of the
19 National Agricultural Research, Extension,
20 and Teaching Policy Act of 1977 (7 U.S.C.
21 3103)), of which 1 shall be a representa-
22 tive of a college or university eligible to re-
23 ceive funds under the Act of August 30,
24 1890 (commonly known as the “Second
25 Morrill Act”) (26 Stat. 417, chapter 841;

1 7 U.S.C. 321 et seq.), including Tuskegee
2 University;

3 (vii) not more than 2 experts or pro-
4 fessionals familiar with voluntary environ-
5 mental credit markets and the verification
6 requirements in those markets;

7 (viii) not more than 3 members of
8 nongovernmental or civil society organiza-
9 tions with relevant expertise, of which not
10 fewer than 1 shall represent the interests
11 of socially disadvantaged groups;

12 (ix) not more than 3 members of pri-
13 vate sector entities or organizations that
14 participate in voluntary environmental
15 credit markets through which agriculture
16 or forestry credits are bought and sold;
17 and

18 (x) any other individual whom the
19 Secretary determines to be necessary to
20 ensure that the Advisory Council is com-
21 posed of a diverse group of representatives
22 of industry, academia, independent re-
23 searchers, and public and private entities.

1 (D) CHAIR.—The Secretary shall designate
2 a member of the Advisory Council to serve as
3 the Chair.

4 (E) TERMS.—

5 (i) IN GENERAL.—The term of a
6 member of the Advisory Council shall be 2
7 years, except that, of the members first ap-
8 pointed—

9 (I) not fewer than 8 members
10 shall serve for a term of 1 year;

11 (II) not fewer than 12 members
12 shall serve for a term of 2 years; and

13 (III) not fewer than 12 members
14 shall serve for a term of 3 years.

15 (ii) ADDITIONAL TERMS.—After the
16 initial term of a member of the Advisory
17 Council, including the members first ap-
18 pointed, the member may serve not more
19 than 4 additional 2-year terms.

20 (3) MEETINGS.—

21 (A) FREQUENCY.—The Advisory Council
22 shall meet not less frequently than annually, at
23 the call of the Chair.

24 (B) INITIAL MEETING.—During the 90-day
25 period beginning on the date on which the

1 members are appointed under paragraph
2 (2)(A), the Advisory Council shall hold an ini-
3 tial meeting.

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

5 (A) periodically review and recommend any
6 appropriate changes to—

7 (i) the list of protocols and description
8 of qualifications published by the Secretary
9 under subsection (d)(1)(A); and

10 (ii) the requirements described in sub-
11 section (d)(1)(B);

12 (B) make recommendations to the Sec-
13 retary regarding the best practices that should
14 be included in the protocols, description of
15 qualifications, and requirements described in
16 subparagraph (A); and

17 (C) advise the Secretary regarding—

18 (i) the current methods used by vol-
19 untary environmental credit markets to
20 quantify and verify the prevention, reduc-
21 tion, and mitigation of greenhouse gas
22 emissions or sequestration of carbon;

23 (ii) additional considerations for certi-
24 fying covered entities under the Program;

1 (iii) means to reduce barriers to entry
2 in the business of providing technical as-
3 sistance or the verification of the processes
4 described in protocols for voluntary envi-
5 ronmental credit markets for covered enti-
6 ties, including by improving technical as-
7 sistance provided by the Secretary;

8 (iv) means to reduce compliance and
9 verification costs for farmers, ranchers,
10 and private forest landowners in entering
11 voluntary environmental credit markets, in-
12 cluding through mechanisms and processes
13 to aggregate the value of activities across
14 land ownership;

15 (v) issues relating to land and asset
16 ownership in light of evolving voluntary en-
17 vironmental credit markets; and

18 (vi) additional means to reduce bar-
19 riers to entry in voluntary environmental
20 credit markets for farmers, ranchers, and
21 private forest landowners, particularly for
22 historically underserved, socially disadvan-
23 taged, or limited resource farmers, ranch-
24 ers, or private forest landowners.

1 (5) COMPENSATION.—The members of the Ad-
2 visory Council shall serve without compensation.

3 (6) CONFLICT OF INTEREST.—The Secretary
4 shall prohibit any member of the Advisory Council
5 from—

6 (A) engaging in any determinations or ac-
7 tivities of the Advisory Council that may result
8 in the favoring of, or a direct and predictable
9 effect on—

10 (i) the member or a family member,
11 as determined by the Secretary;

12 (ii) stock owned by the member or a
13 family member, as determined by the Sec-
14 retary; or

15 (iii) the employer of, or a business
16 owned in whole or in part by, the member
17 or a family member, as determined by the
18 Secretary; or

19 (B) providing advice or recommendations
20 regarding, or otherwise participating in, mat-
21 ters of the Advisory Council that—

22 (i) constitute a conflict of interest
23 under section 208 of title 18, United
24 States Code; or

1 (ii) may call into question the integ-
 2 rity of the Advisory Council, the Program,
 3 or the technical assistance or verification
 4 activities described under subsection
 5 (d)(2).

6 (7) FACA APPLICABILITY.—The Advisory
 7 Council shall be subject to the Federal Advisory
 8 Committee Act (5 U.S.C. App.), except that section
 9 14(a)(2) of that Act shall not apply.

10 (h) ASSESSMENT.—

11 (1) IN GENERAL.—Not later than 240 days
 12 after the date of enactment of this Act, the Sec-
 13 retary, in consultation with the Administrator of the
 14 Environmental Protection Agency, shall—

15 (A) conduct an assessment, including by
 16 incorporating information from existing publica-
 17 tions and reports of the Department of Agri-
 18 culture and other entities with relevant exper-
 19 tise, regarding—

20 (i) the number and categories of non-
 21 Federal actors in the nonprofit and for-
 22 profit sectors involved in buying, selling,
 23 and trading agriculture or forestry credits
 24 in voluntary environmental credit markets;

1 (ii) the estimated overall domestic
2 market demand for agriculture or forestry
3 credits at the end of the preceding 4-cal-
4 endar year period, and historically, in vol-
5 untary environmental credit markets;

6 (iii) the total number of agriculture or
7 forestry credits (measured in metric tons
8 of carbon dioxide equivalent) that were es-
9 timated to be in development, generated,
10 or sold in market transactions during the
11 preceding 4-calendar year period, and his-
12 torically, in voluntary environmental credit
13 markets;

14 (iv) the estimated supply and demand
15 of metric tons of carbon dioxide equivalent
16 of offsets in the global marketplace for the
17 next 4 years;

18 (v) the barriers to entry due to com-
19 pliance and verification costs described in
20 subsection (g)(4)(C)(iv);

21 (vi) the state of monitoring and meas-
22 urement technologies needed to quantify
23 long-term carbon sequestration in soils and
24 from other activities to prevent, reduce, or

mitigate greenhouse gas emissions in the agriculture and forestry sectors;

(vii) means to reduce barriers to entry into voluntary environmental credit markets for small, beginning, and socially disadvantaged farmers, ranchers, and private forest landowners and the extent to which existing protocols in voluntary environmental credit markets allow for aggregation of projects among farmers, ranchers, and private forest landowners;

(viii) means to leverage existing Department of Agriculture programs and other Federal programs that could improve, lower the costs of, and enhance the deployment of monitoring and measurement technologies described in clause (vi);

(ix) the potential impact of Department of Agriculture activities on supply and demand of agriculture or forestry credits;

(x) the potential role of the Department of Agriculture in encouraging innovation in voluntary environmental credit markets;

(xi) the extent to which the existing regimes for generating and selling agriculture or forestry credits, as the regimes exist at the end of the preceding 4-calendar year period, and historically, and existing voluntary environmental credit markets, may be impeded or constricted, or achieve greater scale and reach, if the Department of Agriculture were involved, including by considering the role of the Department of Agriculture in reducing the barriers to entry identified under clause (v), including by educating stakeholders about voluntary environmental credit markets;

(xii) the extent to which existing protocols in voluntary environmental credit markets, including verification, additionality, permanence, and reporting, adequately take into consideration and account for factors encountered by the agriculture and private forest sectors in preventing, reducing, or mitigating greenhouse gases or sequestering carbon through agriculture and forestry practices, considering

1 variances across regions, topography, soil
2 types, crop or species varieties, and busi-
3 ness models;

4 (xiii) the extent to which existing pro-
5 tocols in voluntary environmental credit
6 markets consider options to ensure the
7 continued valuation, through discounting
8 or other means, of agriculture and forestry
9 credits in the case of the practices under-
10 lying those credits being disrupted due to
11 unavoidable events, including production
12 challenges and natural disasters; and

13 (xiv) opportunities for other voluntary
14 markets outside of voluntary environmental
15 credit markets to foster the trading, buy-
16 ing, or selling of credits that are derived
17 from activities that provide other eco-
18 system service benefits, including activities
19 that improve water quality, water quantity,
20 wildlife habitat enhancement, and other
21 ecosystem services, as the Secretary deter-
22 mines appropriate;

23 (B) publish the assessment; and

24 (C) submit the assessment to the Com-
25 mittee on Agriculture, Nutrition, and Forestry

1 of the Senate and the Committee on Agri-
2 culture of the House of Representatives.

3 (2) QUADRIENNIAL ASSESSMENT.—The Sec-
4 retary, in consultation with the Administrator of the
5 Environmental Protection Agency and the Advisory
6 Council, shall conduct the assessment described in
7 paragraph (1)(A) and publish and submit the assess-
8 ment in accordance with subparagraphs (B) and (C)
9 of paragraph (1) every 4 years after the publication
10 and submission of the first assessment under sub-
11 paragraphs (B) and (C) of paragraph (1).

12 (i) REPORT.—Not later than 2 years after the date
13 on which the Program is established, and every 2 years
14 thereafter, the Secretary shall publish and submit to the
15 Committee on Agriculture, Nutrition, and Forestry of the
16 Senate and the Committee on Agriculture of the House
17 of Representatives a report describing, for the period cov-
18 ered by the report—

19 (1) the number of covered entities that—

20 (A) were registered under the Program;

21 (B) were new registrants under the Pro-
22 gram, if applicable; and

23 (C) did not renew their registration under
24 the Program, if applicable;

1 (2) each covered entity the certification of
2 which was revoked by the Secretary under sub-
3 section (e)(8);

4 (3) a review of the outcomes of the Program,
5 including—

6 (A) the ability of farmers, ranchers, and
7 private forest landowners, including small, be-
8 ginning, and socially disadvantaged farmers,
9 ranchers, and private forest landowners, to de-
10 velop agriculture or forestry credits through
11 covered entities certified under the Program;

12 (B) methods to improve the ability of
13 farmers, ranchers, and private forest land-
14 owners to overcome barriers to entry to vol-
15 untary environmental credit markets; and

16 (C) methods to further facilitate participa-
17 tion of farmers, ranchers, and private forest
18 landowners in voluntary environmental credit
19 markets; and

20 (4) any recommendations for improvements to
21 the Program.

22 (j) CONFIDENTIALITY.—

23 (1) PROHIBITION.—

24 (A) IN GENERAL.—Except as provided in
25 paragraph (2), the Secretary, any other officer

1 or employee of the Department of Agriculture
2 or any agency of the Department of Agri-
3 culture, or any other person may not disclose to
4 the public the information held by the Secretary
5 described in subparagraph (B).

6 (B) INFORMATION.—

7 (i) IN GENERAL.—Except as provided
8 in clause (ii), the information prohibited
9 from disclosure under subparagraph (A)
10 is—

11 (I) information collected by the
12 Secretary or published by the Sec-
13 retary under subsection (h) or (i);

14 (II) personally identifiable infor-
15 mation, including in a contract or
16 service agreement, of a farmer, ranch-
17 er, or private forest landowner, ob-
18 tained by the Secretary under para-
19 graph (7) or (8)(B)(i) of subsection
20 (e); and

21 (III) confidential business infor-
22 mation in a contract or service agree-
23 ment of a farmer, rancher, or private
24 forest landowner obtained by the Sec-

1 retary under paragraph (7) or
2 (8)(B)(i) of subsection (e).

3 (ii) AGGREGATED RELEASE.—Infor-
4 mation described in clause (i) may be re-
5 leased to the public if the information has
6 been transformed into a statistical or ag-
7 gregate form that does not allow the iden-
8 tification of the person who supplied or is
9 the subject of the particular information.

10 (2) EXCEPTION.—Paragraph (1) shall not pro-
11 hibit the disclosure—

12 (A) of the name of any covered entity pub-
13 lished and submitted by the Secretary under
14 subsection (i)(2); or

15 (B) by an officer or employee of the Fed-
16 eral Government of information described in
17 paragraph (1)(B) as otherwise directed by the
18 Secretary or the Attorney General for enforce-
19 ment purposes.

20 (k) FUNDING.—

21 (1) AUTHORIZATION OF APPROPRIATIONS.—In
22 addition to the amount made available under para-
23 graph (2), there is authorized to be appropriated to
24 carry out this section \$1,000,000 for each of fiscal
25 years 2022 through 2026.

1 (2) DIRECT FUNDING.—

2 (A) RESCISSION.—There is rescinded
3 \$4,100,000 of the unobligated balance of
4 amounts made available by section 1003 of the
5 American Rescue Plan Act of 2021 (Public Law
6 117–2).

7 (B) DIRECT FUNDING.—If sufficient unob-
8 ligated amounts made available by section 1003
9 of the American Rescue Plan Act of 2021 (Pub-
10 lic Law 117–2) are available on the date of en-
11 actment of this Act to execute the entire rescis-
12 sion described in subparagraph (A), then on the
13 day after the execution of the entire rescission,
14 there is appropriated to the Secretary, out of
15 amounts in the Treasury not otherwise appro-
16 priated, \$4,100,000 to carry out this section.

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117TH CONGRESS
1ST Session

S. 1251

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 voluntary markets, and for other purposes.

JUNE 14, 2021

Reported without amendment