

\$100 billion since the last farm bill, which covers interest on loans, livestock feed, fertilizer, labor, fuel—to name just a few of the things that farmers need to produce that food.

Looking back at 2023, USDA, or the Department of Agriculture, forecasted that America's farmers and ranchers would see farm profitability fall by \$42 billion nationwide, nearly a 25-percent drop compared to 2022.

So during the life of the farm bill, USDA is estimating that profitability will decline by \$42 billion. This is just unsustainable. Farmers can't manage these circumstances. These challenges don't just impact farmers, but, ultimately, they impact American consumers trying to feed their families.

For Kansas, agriculture is our State's largest economic driver, with a total output contribution of \$81 billion into the State's economy and supporting more than 250,000 jobs, which is about 13 percent of our entire State's workforce.

Beyond crops and animal husbandry, Kansas agriculture is at the forefront—forefront—of producing renewable energy, critical research and education, and furthering sustainability and conservation practices throughout Kansas and worldwide.

Kansas is also a leader in animal health science. As part of the animal health corridor, Kansas has the largest concentration of animal health interests in the world. Last year, Manhattan, KS, welcomed the National Bio and Agro-Defense Facility, or NBAF. This is a state-of-the-art facility that protects and will defend our Nation's farmers and citizens from potentially severe zoonotic and biological diseases.

In addition, Kansas and many places of the country continue to experience weather challenges. In Kansas, there is a wide array of those challenges, but most oppressing is the drought. We need to address drought through mitigation and resiliency.

On Monday of this week, yesterday, I was in Liberal, KS, for the 2024 Ogallala Summit. Ogallala is an aquifer that, in about the western third or western fourth of our State—along with five other States, six other States—is a huge component of the agricultural economy. This event, this conference I attended in Kansas, brought stakeholders from across the High Plains region and beyond to discuss and learn about water management practices. How do we do better in preserving our assets? And how do we conserve and utilize more efficiently that great asset?

Key conservation research and education programs are authorized in the farm bill, including USDA's Natural Resources Conservation Service, which provides technical assistance and conservation programs, like the Conservation Reserve Enhancement Program.

In previous farm bill years, I have led the effort to maximize that program, called CREP, on the Upper Arkansas River Basin to reduce the amount of

groundwater used for irrigation, improve groundwater levels, increase stream flows in the Arkansas River, and protect water quality in our region. The program is working, but we need additional tweaks, changes in the law, which is why I introduced the CREP Improvement Act, which would provide additional flexibility for family farms to better utilize the program.

In Kansas, landowners view access to the Ogallala as their lifeblood and the core of their rural communities and are committed to conserving and replenishing the Ogallala.

These are just a few sections. In fact, throughout the last year or more, we have been working with both Republican and Democrat Members of the Senate, particularly Senator BENNET of Colorado, to figure out what more we do. And we have introduced several pieces of legislation, all with the anticipation that that legislation would be considered at the same time the farm bill was considered and potentially be included in the farm bill.

But the recent announcement by the chair of the committee indicates that we are going to abide by the status quo—no conversations, no additional efforts.

I have been an aggie since I came to Congress, including my days in the House, where I chaired the subcommittee on farm commodity programs, and I have been through numerous farm bills. And they are always hard, and they are always late, and we never get them done easily. But this seems different to me, for the first time saying: What we have is what we get.

There are many provisions that affect agriculture that need to be addressed in a new farm bill, and it is important. I underscore how valuable, how important it is to pass a farm bill in the House and Senate and send it to the President.

We must deliver a farm bill that provides certainty of risk management programs to help farmers and ranchers weather the storm, and we must rework revenue protection programs to provide a critical safety net that works with market challenges and allows farmers, particularly young farmers, to borrow the money to stay in business.

If we fail to pass a farm bill, we are passing up opportunities to grow alternative fuel production through policies that encourage investments in biofuels for aviation, for example. Our global competitors are outspending the United States year after year by billions in agriculture research.

The Senator from Illinois and I have legislation designed to increase the support for agricultural research, which we hope—at least I hoped—would be a part of the farm bill. And we will be left behind in your investments for research if we don't meet the needs of the day.

A farm bill would include investments in education for our land grants and our Agricultural Research Service,

which provides cutting-edge science and tools to allow farmers and ranchers to do more with less and contribute to our national and food security.

A good point, the farm bill is a component of our national security. The farm bill maintains critical authorizations, as well, for reauthorization of global food aid programs. Through these programs, America's farmers and ranchers proudly provide U.S. grown commodities throughout the world as a lifeline to many who are in war-torn regions or recovering from economic or natural disasters. Global hunger, unfortunately, is real and threatens the future of millions of people every day.

I join three others of my Senate colleagues, another Republican and two Democrats, in cochairing the Senate Hunger Caucus. And you just look around the world at Russia's invasion of Ukraine, around the Middle East, Africa, and Haiti, and we see starving people. From a young age, most of us—each of us—were taught that it is our duty to help those in need. So many in Kansas have answered that call time and time again.

A Kansan, President Dwight D. Eisenhower, created Food for Peace. Senator Bob Dole worked to expand our Nation's efforts to provide food for the most vulnerable populations through the Dole-McGovern—or McGovern-Dole—Food for Education Program, and Senator Pat Roberts prioritized these programs in previous farm bills.

Kansans have taken this moral responsibility to heart, and we must do our part by reauthorizing these programs in a farm bill considered this year. The time is now to show leadership—to show leadership for America's farmers and ranchers. Tough decisions are ahead of us. The farm bill is always difficult, but we have always been able to come together and accomplish our goals. We should not walk away from the process. It is a dereliction of duty to the farmers and ranchers of America. I hope that we, as leaders, can get back to the table and produce a farm bill that provides meaningful and real relief for Kansas producers and protects our country from the challenges that we face around the globe.

I yield the floor.

NOMINATION OF NICOLE G. BERNER

Mr. DURBIN. Mr. President, today, the Senate will vote to confirm Nicole Berner to the U.S. Court of Appeals for the Fourth Circuit.

After receiving her B.A., M.P.P., and J.D. from the University of California, Berkeley, Ms. Berner clerked for the Hon. Betty Binns Fletcher on the U.S. Court of Appeals for the Ninth Circuit and the Hon. Thelton E. Henderson on the U.S. District Court for the Northern District of California.

After several years in private practice, Ms. Berner served as a staff attorney at Planned Parenthood Federation of America, litigating cases to protect and expand access to reproductive healthcare.

Since 2006, she has worked at the Service Employees International

Union—SEIU—currently serving as general counsel. At the SEIU, she has worked on a range of matters, including cases arising under labor and employment laws and regulations, as well as advising on legal claims involving criminal law, voting rights, Federal preemption, antitrust, bankruptcy, and immigration.

Ms. Berner has the strong support from her home State Senators, Mr. CARDIN and Mr. VAN HOLLEN. In addition, she received a “well qualified” rating from the American Bar Association.

Ms. Berner will be the first openly LGBTQ+ person to serve on the U.S. Court of Appeals for the Fourth Circuit and will bring professional diversity as a lawyer with expertise in representing employees and labor organizations. Ms. Berner’s breadth and depth of experience demonstrates that she is eminently qualified to serve on the bench.

I urge my colleagues to support Ms. Berner’s nomination.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. VAN HOLLEN. Mr. President, I ask unanimous consent that, following my remarks, Senator CARDIN be permitted to speak for up to 10 minutes prior to the scheduled vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VAN HOLLEN. Mr. President, I come to the floor today to express my strong support for the confirmation of Nicole Berner of Maryland to the U.S. Court of Appeals for the Fourth Circuit.

She is an outstanding nominee to represent Maryland on that court. That is why Senator CARDIN and I were proud to recommend her nomination to the Senate Judiciary Committee. We are pleased the Senate Judiciary Committee advanced her nomination to the floor of the Senate, and today we are proud to recommend her nomination to the full U.S. Senate.

Ms. Berner’s impressive legal career is a testament to her exceptional skill and unwavering dedication to justice, to fairness, and to service.

Ms. Berner is a highly experienced litigator. She knows the courtroom. She is currently a partner at the law firm of James & Hoffman, where she is on full-time retainer as the general counsel of the Service Employees International Union, or SEIU. In over 15 years as the general counsel to SEIU, she has represented the union’s 2 million members in a diverse range of professional sectors, making her deeply knowledgeable about the challenges facing working people throughout the United States of America.

There are few judges on the Federal bench—and none on the Fourth Circuit—who have this practice background.

As part of her substantial litigation responsibilities, Ms. Berner has worked on a range of matters, including cases arising under labor and employment laws and regulations, as well as advis-

ing on legal claims involving criminal law, voting rights, Federal preemption, antitrust, bankruptcy, immigration, and the list goes on.

She has served as counsel in more than three dozen cases before the U.S. Supreme Court and dozens more in Federal courts of appeals.

Earlier in her career, Ms. Berner was a staff attorney with Planned Parenthood Federation of America, litigating cases to protect and expand access to reproductive care and healthcare. She also spent several years in private practice. She has also worked to train future lawyers as an adjunct professor at Vanderbilt Law School.

She earned her J.D. from the University of California Berkeley Law School and went on to clerk for two Federal judges—one in the Ninth Circuit Court of Appeals and one in the District Court for the Northern District of Columbia.

Based on all her legal experience, the American Bar Association gave Ms. Berner its highest rating of “well qualified” for the position she has been nominated for.

Her confirmation would mark a significant milestone for the Fourth Circuit. If confirmed, she would be the first openly gay, LGBTQ judge to serve on that court.

Ms. Berner’s qualifications, her values, and her life experience, coupled with her notably steady, thoughtful, and calm demeanor, which was exhibited during the hearing and questioning on the Senate Judiciary Committee, will make her an exceptional addition to the Fourth Circuit.

Her nomination has inspired letters and statements of support from a host of organizations, including 27 interfaith organizations, the International Brotherhood of Police Officers, the National Council of Jewish Women, the Lawyers’ Committee for Civil Rights under Law, the National Women’s Law Center, a number of union presidents—23 of them—the Leadership Conference on Civil and Human Rights, the National Task Force to End Sexual and Domestic Violence, among many others.

I know that Ms. Berner would say and she has told us that she has traveled this important journey of her life alongside other members of her family: her wife Debra and their sons Mattan, Naveh, Segev, and Ari.

I join my good friend and colleague, the senior Senator from the State of Maryland, BEN CARDIN, in strongly recommending that the U.S. Senate confirm Nicole Berner to the U.S. Court of Appeals for the Fourth Circuit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me thank Senator VAN HOLLEN for his friendship and the way that we have been recommending potential members to the bench, working together, in regards to the Maryland judiciary.

Nicole Berner is an outstanding candidate for the Fourth Circuit, to fill

the position vacated by Diana Gribbon Motz.

I just really want to underscore some of the points that Senator VAN HOLLEN said.

Nicole Berner is an extraordinarily qualified candidate to serve on the Fourth Circuit—her experience, which Senator VAN HOLLEN went over in great detail, her understanding of the importance of the independent judicial branch of government and protecting our rights, and her commitment to the values which are the strength of our Nation. Senator VAN HOLLEN went over her qualifications. I am just going to underscore a few of those points.

Ms. Berner serves as general counsel to the Service Employees International Union, SEIU, and she has been in-house counsel since 2006. She served as staff attorney for Planned Parenthood and worked as a litigation associate at a private law firm. She served as a law clerk for a district court judge in California and an appellate court judge in the Ninth Circuit.

She has a record of fighting for working families. She has filed numerous—numerous—amicus briefs before the Supreme Court of the United States as well as circuit and district courts that she has been involved with. She has been a lawyer in hundreds of cases in Federal and State courts, protecting the rights of working families.

So let me just share with you a couple things that really, I think, are outstanding in her background.

First, she is motivated by a desire to ensure full and fair access to the courts for all Americans, regardless of their social status or financial resources. She has consistently advocated for the interests of historically underrepresented communities.

Second, as a skilled appellate lawyer, she has organized legal strategies to bring her clients’ voices to the court and tell their story. She seeks to show how their lives will be affected by the outcome of a case.

During the COVID-19 pandemic, she represented frontline workers who literally put their lives and health at risk to do their jobs and keep our economy running when many Americans were told to stay home until the vaccine was developed. Her SEIU clients included workers in the fast-growing occupations of public services, healthcare, home care, childcare, janitorial, and building security. She represented them at that time.

We talk a lot about our frontline workers as being our heroes. Nicole Berner is one of those heroes.

Third, she would bring a unique and diverse perspective to the appellate court. We know that the Fourth Circuit is a particularly diverse circuit and includes the States of Maryland, West Virginia, Virginia, North Carolina, and South Carolina. A more diverse bench will better reflect the population that the judges serve as well as better inform judicial decision making.

Fourth, Ms. Berner brings to the bench both her vast experience as an

appellate lawyer and her own personal advocacy as a Jewish woman on so many civil rights issues. Ms. Berner successfully won a long-running case involving her own family at the Israeli Supreme Court—a landmark ruling that required the government to recognize two mothers as the parents of one child.

Fifth, she has received strong endorsements, and Senator VAN HOLLEN pointed out the list of endorsements from very diverse groups, from civil rights to law enforcement.

Let me highlight one of those letters—we received numerous letters—one of those letters that came from former assistants to the Solicitors General of two different administrations—the Reagan administration and the Clinton administration. The letter is authored by David Frederick and Andrew Pincus.

We have worked with, litigated against, and collaborated on cases with Ms. Berner in the Supreme Court of the United States and federal courts of appeal over more than a decade. Based on that professional experience, we are united in the firm conviction that Ms. Berner is highly qualified to serve on the Fourth Circuit and will be an excellent appellate judge.

Ms. Berner has demonstrated superb skills as a writer, legal analyst, and advocate in the appellate cases in which we have seen her work up close. . . . Her legal training is extensive, including as a law clerk to a distinguished court of appeals judge, an associate in a well-respected law firm, a lawyer in a public interest organization, and general counsel of one of the largest labor unions in the country. Ms. Berner's experience with a wide range of the legal issues that arise in the federal courts, her diverse roles as a lawyer, and her professional expertise, which we have observed firsthand, demonstrate that she will be a first-rate appellate judge.

Just as impressive as Ms. Berner's legal skills are her personal qualities. She is unfailingly polite and measured in her interactions with others, even on highly contentious issues. She listens carefully and thoughtfully with an open mind to new ideas—even those that may not comport with her personal experience—so that she can offer the soundest position in a case. These qualities make us certain that she will transition seamlessly from the role of advocate to the work of a circuit judge. She will understand that serving as a judge requires her to act as a neutral arbiter based on faithful application of the relevant constitutional or statutory text, precedent, and record facts.

I would note that Ms. Berner is a longtime resident of Montgomery County, MD. She has been an active member of her synagogue and community and lives with her wife in Takoma Park, MD. I appreciated the opportunity to meet with Ms. Berner and talk to her about her priorities and her commitment to fully integrate into the vibrant Maryland legal community, including Baltimore.

I also want to join Senator VAN HOLLEN in thanking her family because this truly is a joint sacrifice in public service.

I urge my colleagues to ratify her nomination and vote in favor of her nomination.

I yield the floor.

VOTE ON BERNER NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Berner nomination?

Mr. CARDIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. MULLIN), and the Senator from Idaho (Mr. RUSCH).

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 94 Ex.]

YEAS—50

Baldwin	Heinrich	Rosen
Bennet	Hickenlooper	Sanders
Blumenthal	Hirono	Schatz
Booker	Kaine	Schumer
Brown	Kelly	Shaheen
Butler	King	Sinema
Cantwell	Klobuchar	Smith
Cardin	Lujan	Stabenow
Carper	Markley	Tester
Casey	Menendez	Van Hollen
Coons	Merkley	Warner
Cortez Masto	Murphy	Warnock
Duckworth	Murray	Warren
Durbin	Ossoff	Welch
Fetterman	Padilla	Whitehouse
Gillibrand	Peters	Wyden
Hassan	Reed	

NAYS—47

Barrasso	Fischer	Paul
Blackburn	Grassley	Ricketts
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeben	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Manchin	Tuberville
Crapo	Marshall	Vance
Cruz	McConnell	Wicker
Daines	Moran	Young
Ernst	Murkowski	

NOT VOTING—3

Graham	Mullin	Risch
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The nomination was confirmed.

The PRESIDING OFFICER (Mr. WARNOCK). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The majority leader.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS SALES NOTIFICATION

Mr. CARDIN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications that have been received. If the cover letter references a classified annex, then such an annex is available to all Senators in the office of the Foreign Relations Committee, room SD-423.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY COOPERATION AGENCY, Washington, DC.

Hon. BENJAMIN L. CARDIN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 24-26, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost \$219.1 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

JAMES A. HURSCH,
Director.

Enclosures.

TRANSMITTAL NO. 24-26

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Government of Poland.

(ii) Total Estimated Value:

Major Defense Equipment * \$181.3 million.

Other \$37.8 million.

Total \$219.1 million.

Funding Source: Foreign Military Financing and National Funds

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Major Defense Equipment (MDE):

Two hundred thirty-two (232) AIM-9X Sidewinder Block II Tactical Missiles.

Sixteen (16) AIM-9X Sidewinder Block II Tactical Missile Guidance Units.

Non-MDE: Also included are missile containers; training aids; active optical target detectors; spares; support equipment; missile support; U.S. Government and contractor technical assistance; and other related elements of logistics and program support.

(iv) Military Department: Navy (PL-P-ABH).

(v) Prior Related Cases, if any: PL-P-AAV.

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None known at this time.

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Attached Annex.

(viii) Date Report Delivered to Congress: March 12, 2024.