Farm Bill Primer: Support for Native Agricultural Producers

The 2018 farm bill (Agriculture Improvement Act of 2018; P.L. 115-334) expanded federal farm program support for Native agricultural producers and tribal communities. Congress further enhanced economic and development for tribes in the Indian Community Economic Enhancement Act of 2020 (P.L. 116-261) and provided additional support for historically underserved agricultural producers, including Native producers, in the American Rescue Plan Act of 2021 (P.L. 117-2). As Congress debates the next farm bill, groups supporting Native agriculture are calling for additional support related to production services and credit, nutrition and food sovereignty, and economic development for tribal producers and communities.

Native Farmers and Ranchers
More than 79,000 farmers and ranchers identify as American Indian or Alaska Native, including producers identifying in combination with another race, according to the U.S. Department of Agriculture (USDA). In 2017, Native agricultural producers accounted for 2% of all U.S. producers. Native agricultural sales were $3.5 billion in 2017, or about 1% of all U.S. farm-level sales. Most Native producers (46%) are located in Arizona and Oklahoma (Figure 1). Other leading states were New Mexico, Texas, California, Montana, Missouri, Utah, Arkansas, Alabama, Oregon, and South Dakota. These operations cover 59 million acres of farm and grazing land. Native producers, however, may lack legal title to land often held in trust by the federal government. (For more background, see CRS Report R46667, Tribal Land and Ownership Statuses: Overview and Selected Issues for Congress.)

In statute, support for Native producers references the definition of Indian tribe in the Indian Self-Determination and Education Assistance Act (ISDEAA; P.L. 93-638, 25 U.S.C. §5304(e)). The Bureau of Indian Affairs (BIA) of the Department of the Interior (DOI) reports 574 federally recognized Indian tribes are eligible to receive services, including farm program support. Alternatively, some statutes specifically reference Native Americans, American Indians, Alaska Natives, or Native Hawaiians. Some statutes use terms such as tribal groups or Indian tribal organizations that are defined in statute or regulation.

Federal Role in Native Agriculture
As the agency delegated to implement many federal statutes addressing Indian tribes, BIA has been the lead agency for providing agricultural programs and services to Indian tribes, often contracting with and transferring funds to USDA for farm programs (e.g., the Cooperative Extension System). In 1993, Congress enacted the American Indian Agricultural Resource Management Act (AIRMA; P.L. 103-177, 25 U.S.C. Ch. 39) intended to “improve the management, productivity, and use of Indian agricultural lands and resources,” citing also the need to fulfill federal trust responsibility and promotion of tribal self-determination and emphasizing agriculture’s significance to tribal economic development. Since AIRMA’s enactment, BIA’s Branch of Agriculture and Rangeland Development has been managing “tribal agricultural programs.” In addition to BIA program funding, Congress has continued to address Native agriculture by amending USDA programs to expand access to farm credit and research/extension services (e.g., P.L. 100-233, Title VI; P.L. 101-624, Titles XVI and XVIII). Congress also added Tribal Colleges and Universities (TCUs), or 1994 Institutions, to the land-grant university system (P.L. 103-382, Title V).

Figure 1. Native Farms, Percent of U.S. Farms, 2017

Source: USDA, 2017 Census of Agriculture, “American Indian/Alaska Native Producers,” October 2019. Native farms as a share of all farms. Based on 42,705 American Indian or Alaska Native farms. Following enactment of the 2018 farm bill, USDA now has limited authority for contracting under ISDEAA, allowing an Indian tribe or group of tribes to negotiate contracts to administer programs, functions, services, or activities that a federal agency performs for an Indian tribe and its members. These are known as 638 contracts or compacts or self-determination contracts and must conform to statutory and regulatory standards, including specific performance and recordkeeping requirements. Previously, these contracts were limited to DOI or Department of Health and Human Services programs. The 2018 farm bill authorized USDA to enter into demonstration project contracts under ISDEAA to empower a tribe or tribal organization to negotiate a 638 contract to perform certain program functions on Indian forestlands. The 2018 farm bill also authorized USDA to contract with a tribe or tribal organizations to perform purchasing functions under its Food Distribution Program on Indian Reservations (FDPIR). Unlike DOI, which is authorized to enter into a self-governance compact or single annual funding agreement for the tribe to administer all the Indian programs that the agency administers for that tribe.
The 118th Congress has introduced legislation seeking to address the needs of Indian tribes and their producers. Some bills would give tribes more control over Supplemental Nutrition Assistance Program (SNAP) administration (H.R. 5970, S. 2912); others would expand self-governance authority for other types of community services (e.g., H.R. 1450/S. 697; H.R. 3307; H.R. 3964). Some proposals would establish additional services for Native communities (e.g., S. 1156), while other proposals would more broadly expand support for historically underserved producers, including Native producers. These efforts generally seek to address perceived discrimination and inequities in accessing USDA services and assistance—such as through loan forgiveness, targeted assistance, and instituting reforms at USDA. Congress may consider these and other Native agriculture and community priorities as it debates the farm bill.

### The Coalition’s Proposed Farm Bill Priorities

**Title I, Commodity:** Establish tribal representatives on local county committees. Amend livestock disaster assistance.

**Title II, Conservation:** Provide flexible conservation program delivery and alternative funding arrangements. Recognize alternative conservation practices and tribal priorities.

**Title III, Trade:** Promote parity in USDA trade programs. Support trade and address fraud in tribally produced foods.

**Title IV, Nutrition:** Amend FDPIR, making permanent/expand self-governance (638 authority). Expand parity/sovereignty under SNAP and the Emergency Food Assistance Program (TEFAP). Expand purchases of tribally procured/produced foods.

**Title V, Credit:** Expand access to credit and authorize a pilot program relaxing certain requirements and providing flexibility.

**Title VI, Rural Development:** Expand tribal set-asides and the Substantially Underserved Trust Area designation for all USDA Rural Development programs.

**Title VII, Research:** Expand youth grants, set-asides, and TCU eligibility in USDA research, extension, and education funding. Fully fund the Federally Recognized Tribes Extension Program.

**Title VIII, Forestry:** Transfer lands back to Tribal Nations. Extend/expand 638 authority in USDA forestry programs. Give full authority for tribes to retain/utilize revenue from Good Neighbor Agreement projects. Protection for Sacred Sites.

**Title IX, Energy:** Ensure tribal eligibility and set-asides in USDA energy programs. Develop tribal solar/bio-based grants.

**Title X, Horticulture:** Protect Native seeds and traditional foods. Expand support for tribes under USDA horticulture programs. Acknowledge tribal sovereignty in pesticide regulation.

**Title XI, Crop Insurance:** Allow tribal insurance companies to insure tribal producers, and appoint tribal producers to oversight board. Expand training and technical assistance. Develop crop insurance for traditional foods/livestock.

**Title XII, Miscellaneous:** Apply 638 authority to all USDA programming; and create a 638 Office at USDA. Recognize tribal departments of agriculture. Allow tribes to buy certain available USDA lands. Expand assistance, hiring preferences, procurement, and collaboration/cooperation within USDA and other federal agencies. Increase food assistance programs for urban Indian communities. Study fraud/cultural appropriation of Native foods.

**Source:** CRS from Native Farm Bill Coalition, “Resources and Updates,” at https://www.nativefarmbill.com/resources-updates.
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