MORE FARM IN THE FARM BILL: A FORMULA FOR UNDERSTANDING THE DEMISE OF A LEGISLATIVE COALITION

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> *I think that all of us from the South should be willing and eager to give the farmers of the Great Midwest and elsewhere the same opportunity that we have with crops we produce.*
>
> — Representative Harold Cooley (D-NC), June 19, 1962.[1]

ABSTRACT

The omnibus budget reconciliation legislation that was enacted on July 4, 2025, and known as the One Big Beautiful Bill Act of 2025, contained reauthorization and revision to programs that were the political core of what is commonly referred to as the Farm Bill. This Article argues that including those programs in the budget reconciliation bill effectively ended the legislative coalition that has been known as the Farm Bill for five decades. Congress broke the cardinal political rule of the Farm Bill coalition because food assistance was used to offset increased costs for farm assistance, and this effectively terminated legislative coalition. This Article deploys familiar framing in the form of a whodunit for the Farm Bill's demise; the who, what, where, how, and why, questions and challenging issues involved, as well as the implications of it. The Article works through the weaponized budgeting of the reconciliation process, applies political economics and a review of Farm Bill history to answer the questions raised and help provide accountability for the results. The full consequences and implications are yet unknown but the political realities of breaking the cardinal rule, and the Farm Bill coalition, make reconciliation of that coalition unlikely at best. This Article provides one perspective on the meaning of this latest episode in the history and development of American farm and food policy.

1. 108 CONG. REC. 10944 (1962) (statement of Rep. Harold Cooley).

I. INTRODUCTION

The Farm Bill is dead.[2] The Farm Bill that began on August 10, 1973, can be officially pronounced dead as of July 4, 2025, after 52 years.[3] Its death has implications that extend beyond its name or the alphabet soup of its program acronyms. Understanding these matters and more is the focus of the discussion that follows. To borrow a line from Shakespeare, however, this Article comes to bury the Farm Bill, not to praise it.[4]

The Farm Bill was more than the sum of its programs. It was more than the sprawling and complex provisions contained in periodic omnibus reauthorization legislation. The Farm Bill was a politically powerful legislative coalition with more than five decades of Congressional success.[5] Arguably most important, the Farm Bill was a legislative coalition between factional interests seeking assistance for farmers and those seeking assistance for low-income households to help with the purchase of food.[6] To varying degrees, that legislative coalition bridged partisan political divides and those between producers and consumers, as well as the political divides separating farmers from rural communities and both from urban population centers.[7]

While the coalition that supported the Farm Bill repeatedly carried reauthorization through the complex, difficult legislative process in Congress, its existence depended on adherence to a cardinal political rule that one part of the coalition was not to be used to fund another.[8] Violating that rule would spell the

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2. *See* JIM MONKE & MEGAN STUBBS, CONG. RSCH. SERV., RS22131, WHAT IS THE FARM BILL? 1 (2024). The Farm Bill is the common name used for multi-year, omnibus authorizing legislation for programs in the agriculture, food, conservation, and rural sectors. *Id.*

3. *See* Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221; One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025). The Farm Bill began with the Agriculture and Consumer Protection Act of 1973 and was killed by the One Big Beautiful Bill Act of 2025.

4. WILLIAM SHAKESPEARE, THE TRAGEDY OF JULIUS CAESAR act 2, sc. 2.

5. *See* Agriculture and Consumer Protection Act of 1973, 87 Stat. at 221; MONKE & STUBBS, *supra* note 2, at 1.

6. MONKE & STUBBS, *supra* note 2, at 1.

7. *Id.*

8. Jonathan Coppess, *Farm Bill in Reconciliation: What the Byrd Rule Exposes but Does Not Resolve*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), June 18, 2025, at 3, https://farmdocdaily.illinois.edu/2025/06/farm-bill-in-reconciliation-what-the-byrd-rule-exposes-but-does-not-resolve.html [https://perma.cc/PPF9-APV4] [hereinafter Coppess, *What the Byrd Rule Exposes*].

end of the legislative coalition.[9] The 119th Congress broke this cardinal rule when it included major changes to key Farm Bill programs in Public Law 119-21, officially-titled and commonly-known as The One Big Beautiful Bill using special budget procedures known as reconciliation.[10] Accordingly, the Farm Bill changes included in Title I of the One Big Beautiful Bill are referred to hereinafter as the "Reconciliation Farm Bill" to distinguish it from the complete Farm Bill traditionally reauthorized through the regular Congressional legislative process.[11] Reconciliation legislation is not regular-order legislation, and the Reconciliation Farm Bill is not a Farm Bill in the traditional sense.[12]

Admittedly, there is risk of hyperbole with declaring the Farm Bill dead because the farm payment programs and most of the conservation programs have been reauthorized through 2031, while crop insurance is permanently authorized.[13] An important technical matter highlights the point of the declaration: Congress did not extend the expiration date for food assistance in the statute.[14] This does not spell the end of food assistance in the Supplemental Nutrition Assistance Program (SNAP) because Congressional appropriators can continue to appropriate funds for food assistance.[15] Along with other changes to be discussed, the different expiration dates expose that food assistance has been politically separated from farm assistance.[16]

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9. *See id.*

10. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025). Note that the bill covered a vast array of topics, including tax cuts and other budgetary reductions, but that Title I of the bill contained changes to key programs traditionally reauthorized in the Farm Bill. *See id.*

11. JIM MONKE & MEGAN STUBBS, CONG. RSCH. SERV., R48775, THE FARM BILL AFTER FY2025 BUDGET RECONCILIATION: FREQUENTLY ASKED QUESTIONS 1 (2025).

12. *See id.*

13. *See* One Big Beautiful Bill Act §§ 10309–13, 10601(a); Federal Crop Insurance Act, 7 U.S.C. § 1502; *2018 Farm Bill - Crop Insurance*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Jan. 1, 2025), https://www.ers.usda.gov/topics/farm-bill/2018-farm-bill/crop-insurance [https://perma.cc/ALN3-YLMS].

14. *See* 7 U.S.C. § 2013; 7 U.S.C. § 2027(a)(1). Technically, food assistance via the Supplemental Nutrition Assistance Program does not have a sunset (or expiration date) in the same way that farm and conservation programs do. *Id.* It is permanently authorized. *Id.* That authorization, however, is subject to the "availability of funds appropriated under section 2027 of this title" and that section does have an expiration or sunset date, which remains fiscal year 2023. *Id.* Congress did not extend that date in the Reconciliation Farm Bill discussed herein. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, §10105, 139 Stat. 72, 83 (2025).

15. KARA CLIFFORD BILLINGS, CONG. RSCH. SERV., R45408, THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP): BACKGROUND AND FUNDING 11 (2025).

16. JIM MONKE, RANDY ALISON AUSSENBERG & MEGAN STUBBS, CONG. RSCH. SERV., R47659, EXPIRATION OF THE 2018 FARM BILL AND EXTENSION FOR 2025, at 11 (2024).

Thus, the Farm Bill's demise is not the demise of farm or food assistance policies, it is the termination of the legislative coalition between farm assistance and food assistance. Few things in politics or policymaking are permanent and there may always be the potential for some kind of resurrection of the Farm Bill and its coalition.[17] Everything depends on future Congresses, but political and legislative realities make restoration of the legislative coalition very unlikely. The Reconciliation Farm Bill creates a new kind of uncertainty for most of what was once the Farm Bill.[18]

The details of the Farm Bill may not be familiar to many people, especially with massive budget numbers projected over 10 years into the future which often verge on being incomprehensible.[19] The workings of Congress can be obscure and the implications difficult to understand. Congressional procedure, complex policies, and the interplay of political factions or actors are all complicating factors. Making matters worse, Congress packaged the legislation in a sycophantic tongue-twister bill title. Doing so further reduces clarity and understanding of both the bill and the process, with critical matters of public policy sacrificed in service of political obscurantism befitting the clickbait modern corporate media environment.[20]

17. *Id.*

18. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025). For example, Congress extended all other authorizations from the 2018 Farm Bill for another year in the bill that ended the government shutdown. *See* Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extension Act, 2026, Pub. L. No. 119-37, 139 Stat. 495.

19. *See* CONG. BUDGET OFF., BASELINE PROJECTIONS, CBO'S JANUARY 2025 BASELINE FOR FARM PROGRAMS (2025). Note that the Congressional Budget Office (CBO) projected it all to cost $3.4 trillion from fiscal year (FY) 2025 to FY 2034, adding at least that amount to the national debt. *Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO's January 2025 Baseline*, CONG. BUDGET OFF. (July 21, 2025), https://www.cbo.gov/publication/61570 [https://perma.cc/DFK6-GZEL]. CBO's projections were for a total decrease in revenues of $4.5 trillion, mostly from extending tax cuts; partially offsetting the lost revenue were $1.1 trillion in reductions to direct spending. *Id.*

20. *See* Salman Khawar & Mark Boukes, *Analyzing Sensationalism in News on Twitter* (*X*): *Clickbait Journalism by Legacy vs. Online-Native Outlets and the Consequences for User Engagement*, 13 DIGIT. JOURNALISM 1482, 1483 (2025); Kevin Munger, *All the News That's Fit to Click: The Economics of Clickbait Media*, 37 POL. COMMC'N 376, 379 (2020); Viktor Ivanković, *Steering Clear of Bullshit? The Problem of Obscurantism*, 44 PHILOSOPHIA 531, 531 (2016); Eric Nenkia Bien, *How Obscurantism Differs from Bullshit: A Proposal*, *Theoria*, 87 THEORIA 1497, 1497 (2021); *see*, *e.g.*, Jonathan Coppess, *Hiding Behind the Baseline: Big Numbers and the Budget Game*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Feb. 29, 2024, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/02/fdd022924.pdf [https://perma.cc/B2J5-2RG6].

With those points in mind, pronouncing the Farm Bill dead offers one method for cutting through the esoteric and the obscure to help understanding. It is a method that deploys familiar framing to reason through challenging issues, a whodunit for policy and political matters.[21] It provides a guide for working through basic questions—who, what, where, how, and why—that may help clarify what happened and develop an understanding of the implications.[22] But this declaration has not been made lightly nor rashly. It is the logical conclusion informed by history and research, some of which nearly predicted this very outcome.[23] It is backed by personal experience that includes substantial analytical work over many years.[24] Ultimately, it seems fitting for the Farm Bill, the oddity of its existence matched only by the absurdity of its passing.

II. Surveying the Scene and Examining the Victim

The fatal blow to the Farm Bill was struck on July 4, 2025, when President Donald Trump signed into law the One Big Beautiful Bill Act of 2025 (OB3).[25] That legislation was enacted through special budget procedures and without

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21. *Whodunit*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/whodunit [https://perma.cc/5QLT-TRUH].

22. *See id.*

23. *See* JONATHAN COPPESS, THE FAULT LINES OF FARM POLICY: A LEGISLATIVE AND POLITICAL HISTORY OF THE FARM BILL 237 (2018) [hereinafter COPPESS, THE FAULT LINES OF FARM POLICY]; JONATHAN COPPESS, BETWEEN SOIL & SOCIETY: LEGISLATIVE HISTORY AND POLITICAL DEVELOPMENT OF FARM BILL CONSERVATION POLICY 220 (2024) [hereinafter COPPESS, BETWEEN SOIL AND SOCIETY]; Jonathan W. Coppess, *High Cotton and the Low Road: An Unraveling Farm Bill Coalition and Its Implications*, 23 DRAKE J. AGRIC. L. 343, 353 (2018) [hereinafter Coppess, *High Cotton and the Low Road*].

24. By way of background, I worked on the 2008 Farm Bill as a legislative assistant to U.S. Senator Ben Nelson (D-NE). I worked on implementing farm policy changes in that Farm Bill as the Administrator of the Farm Service Agency at the U.S. Department of Agriculture. Subsequently, I worked on what became the 2014 Farm Bill as Chief Counsel to the U.S. Senate Committee on Agriculture, Nutrition, and Forestry under Chairwoman of the Committee, Senator Debbie Stabenow (D-MI). Since coming to the University of Illinois in late 2013, I have worked with many stakeholders, researchers, academics, and others on agricultural policy, including assisting farmers with farm program decision making. *See* Mykel R. Taylor et al., *Is It Good to Have Options? The 2014 Farm Bill Program Decisions*, 39 APPL. ECON. PERSP. & POL. 533, 533 (2017); Jonathan Coppess Archive, FARMDOC DAILY (Mar. 12, 2026, at 12:47 CT), https://farmdocdaily.illinois.edu/category/authors/authors-team/jonathan-coppess [https://perma.cc/V77K-N5VP]; Jonathan Coppess, *ISSUE BRIEF: Reviewing Projections for the Additional Conservation Investments from the Reconciliation Farm Bill* (Aug. 2025), https://policydesignlab.ncsa.illinois.edu/issues-whitepapers [https://perma.cc/W6GL-52L9].

25. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025).

bipartisan votes.[26] In it, Congress reauthorized farm assistance with revisions to the programs that nearly doubled the total projected spending for payments to farmers and covered the costs of those payments by making substantial reductions to food assistance.[27]

More than budget numbers and programs, the Farm Bill was primarily a legislative coalition.[28] Legislative coalitions are of fundamental importance, critical for achieving the enactment of policy into law through the complex processes and procedures of Congress.[29] Professor Jeremy Waldron has explained legislation as achievements in the "circumstances of politics, including the

26. KARL E. SCHNEIDER ET AL., CONG. RSCH. SERV., IN12552, ONE BIG BEAUTIFUL BILL ACT: TITLE V, HOUSE COMMITTEE ON FINANCIAL SERVICES 1 (2022); 171 CONG. REC. 4074 (2025) (showing the roll call vote for the OBBA); Mike Downey, *Maximize Your Farmer's USDA Benefits Now: $66 Billion Bill Changes Everything*, FARMPROGRESS (July 8, 2025), https://www.farmprogress.com/commentary/new-farm-bill-changes-usda-payment-limits-entity-rules [https://perma.cc/WRC9-JSEL].

27. *See* STEPHANIE ROSCH, BENJAMIN TSUI & CHRISTINE WHITT, CONG. RSCH. SERV., R48574, ONE BIG BEAUTIFUL BILL ACT (H.R. 1): TITLE I, FARM SAFETY NET AND MISCELLANEOUS PROVISIONS 1 (2025); Downey, *supra* note 26. The Congressional Budget Office (CBO) projects spending from mandatory programs over 10 years, known as the baseline. *See* CONG. BUDGET OFF., 58916, CBO EXPLAINS HOW IT DEVELOPS THE BUDGET BASELINE (2023). In the 2025 Baseline, CBO projected total spending for farm program payments of $69.6 billion (FY2025 to FY2034). CONG. BUDGET OFF., BASELINE PROJECTIONS, CBO'S JANUARY 2025 BASELINE FOR FARM PROGRAMS 9 (2025) (total spending for farm program payments can be calculated by adding the Total Payments Listed for 2025 to 2034). CBO projected the score for those farm program payments to add nearly $61.2 billion (FY2025 to FY2034). *See Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to the Budget Enforcement Baseline for Consideration in the Senate*, CONG. BUDGET OFF. (July 21, 2025), https://www.cbo.gov/publication/61569 [https://perma.cc/B924-YTPV] (download excel document to view data used for calculation under Title I tab, for projected farm program payments add together Estimated Outlay Subtitles C through E). Note that the score for the changes to SNAP was about -$186.7 billion (FY2025 to FY2034) (download excel document to view data used for calculation under Title I tab, for changes to SNAP see Subtitle A total). *Id.*

28. Coppess, *High Cotton and the Low Road*, *supra* note 23, at 345.

29. For what it is worth, I have been working to develop an understanding of this point through the Farm Bill lens for some time. This discussion is an attempt to build upon it further without repeating any more than necessary. Policymaking and legislation are iterative and often repetitive; analyzing them, therefore, also often requires repetition and recycling, with all due apologies for it. *See* COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 5; COPPESS, BETWEEN SOIL AND SOCIETY, *supra* note 23, at 10; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 345.

circumstances of disagreement."[30] In the Madisonian design of Congress, that achievement requires clearing double majority vote thresholds and either agreement by the President or supermajorities to override a Presidential veto.[31] The primary method for clearing the double majority and achieving legislative outcomes is through building and maintaining legislative coalitions, binding together different factional interests in a pluralistic competition.[32] The Farm Bill was one example.

The first iteration of the Farm Bill as a legislative coalition formed in the 1920s to push for assistance to struggling farmers.[33] It was a coalition among regional commodity interests, notably cotton in the South, corn in the Midwest, and wheat in the Great Plains.[34] The farm coalition operated through the 1930s and the early years following World War II but began to break down in the 1950s.[35] It self-destructed in 1962 when the House first defeated a Farm Bill on the floor and in 1963 when wheat farmers voted down farm policy in a national referendum.[36]

The more expansive and comprehensive Farm Bill political coalition was forged out of that self-destruction. By 1964, farm policy was on political life support, unable to move through Congress after the farm coalition turned on itself over policy disputes.[37] An initial legislative coalition between farm assistance and food assistance was the result of a deal in the House that included enactment of the

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30. JEREMY WALDRON, THE DIGNITY OF LEGISLATION 156 (1999); Jeremy Waldron, *Legislation, Authority, and Voting* 84 GEO. L. J. 2185, 2202 (1996) [hereinafter Waldron, *Legislation, Authority, and Voting*].

31. *See*, *e.g.*, U.S. CONST. art. I, § 7; THE FEDERALIST NO. 62 (James Madison & Alexander Hamilton); *see* William N. Eskridge & John Ferejohn, *The Article I, Section 7 Game*, 80 GEO L. J. 523, 528 (1992); Jonathan Coppess, *Considering Congress, Part 4: The Double Majority*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Jan. 12, 2023, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/01/fdd011223.pdf [https://perma.cc/G9UK-ZQWP].

32. *See*, e.g., COPPESS, BETWEEN SOIL AND SOCIETY, *supra* note 23, at 198–99; Jonathan Coppess, *Considering Congress, Part 5: An Initial Critique of the Design*, FARMDOC DAILY, (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Jan. 26, 2023, at 1–2, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/01/fdd012623.pdf [https://perma.cc/55JL-G7H3] [hereinafter Coppess, *Considering Congress, Part 5: An Initial Critique of the Design*].

33. COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 13–17.

34. *Id.*

35. *Id*. at 37, 64, 73, 95.

36. *See id.* at 116–23.

37. *Id.* at 124.

Food Stamp Act of 1964.[38] The legislative coalition was formalized when Food stamps and farm assistance were joined together in the 1973 Farm Bill.[39]

Food stamps saved farm policy in 1964 and again in 1973 and that legislative coalition was largely maintained for the following four decades, although there were challenging moments and near-death experiences.[40] Since 2008, however, food stamps—renamed SNAP in the 2008 Farm Bill—has grown in terms of participation and spending.[41] That year featured both a Farm Bill reauthorization that eased paperwork rules for SNAP beneficiaries, and an economic recession that drastically increased participants in the program, as well as SNAP spending.[42] SNAP participation and spending also increased in response to the COVID pandemic.[43] By 2023, SNAP constituted more than 80% of all spending in the Farm Bill.[44] Here it is important to note that total spending, measured over 10 years into the future, can be conveniently used to obscure the fact that the program serves more than 40 million American households on average each month, a number of

38. *Id.* at 124–25.

39. *Id.* at 143; *see* Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221.

40. *See*, *e.g.*, Coppess, *High Cotton and the Low Road*, *supra* note 23, at 352, 396. The primary examples were budget reconciliation, and the Farm Bill debates in 1981, as well as budget reconciliation and the eventual Farm Bill in 1995–1996, followed by the 1997 welfare reform legislation. *Id.* at 377–80.

41. *Id.* at 351–52.

42. *See* RANDY ALISON AUSSENBERG & GENE FALK, CONG. RSCH. SERV., R42505, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP): A PRIMER ON ELIGIBILITY AND BENEFITS 1 (2025); Mark Edwards et al., *The Great Recession and SNAP Caseloads: A Tale of Two States*, 20 J. OF POVERTY 261, 264 (2016); Colin Gray et al., *Employed in a SNAP? The Impact of Work Requirements on Program Participation and Labor Supply*, 15 AM. ECON. J.: ECON. POL'Y 306, 307 (2023); Leighton Ku, Erin Brantley & Drishti Pillai, *The Effects of SNAP Work Requirements in Reducing Participation and Benefits from 2013 to 2017*, 109 AM. J. PUB. HEALTH 1446, 1447 (2019); CHRISTOPHER BOSSO, WHY SNAP WORKS: A POLITICAL HISTORY – AND DEFENSE – OF THE FOOD STAMP PROGRAM 136 (2023) (describing the expansion of the SNAP eligibility); Coppess, *High Cotton and the Low Road*, *supra* note 23, at 352.

43. *See*, *e.g.*, Brandon J. Restrepo, *The Protective Effect of SNAP During Economic Downturns: Evidence from the COVID-19 Epidemic*, 45 APPLIED ECON. PERSPS. & POL'Y 2141, 2142 (2023); Erik Hembre, *Examining SNAP and TANF Caseload Trends, Responsiveness, and Policies During the COVID-19 Pandemic*, 41 CONTEMP. ECON. POL'Y 262, 262 (2023).

44. *See* MONKE & STUBBS, *supra* note 2, at 6–7; CONG. BUDGET OFF., BASELINE PROJECTIONS, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (2025); CBO'S JANUARY 2025 BASELINE FOR FARM PROGRAMS, *supra* note 19, at 4.

beneficiaries that exponentially exceeds the number of farmers receiving benefits in any year.[45]

Prior to OB3 and the Reconciliation Farm Bill, the traditional Farm Bill had been gravely wounded by three episodes or developments, as discussed below.[46] Whether the Farm Bill could have survived these wounds or recovered cannot be known. It is also irrelevant because OB3 undoubtedly finished it off.[47] Reviewing these wounds also adds important perspective to the Farm Bill's death.

The first wound was inflicted in 2013 on the floor of the House of Representatives when the Farm Bill was initially defeated in a partisan fight over food assistance through SNAP (formerly known as food stamps).[48] Importantly, this was the first time a Farm Bill had been defeated in Congress since 1962.[49] While reauthorization of a complete Farm Bill was eventually achieved in 2014, it required three years of work across two Congresses that spanned the contentious 2012 election cycle.[50]

The second wound was inflicted in 2018, when the House Agriculture Committee reported a partisan Farm Bill that cut SNAP spending.[51] That Farm Bill was also initially defeated on the floor, but the setback was again only temporary.[52] The Senate saved the political coalition and generally prevailed in conference

45. *See* CBO'S JANUARY 2025 BASELINE FOR FARM PROGRAMS, *supra* note 19, at 6–9 (referencing a program payment summary table where future predictions are outlined from 2025-2035); *Key Statistics & Research: Supplemental Nutrition Assistance Program (SNAP)*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (July 24, 2025), https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/key-statistics-and-research [https://perma.cc/F95N-8THX].

46. *See* COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 258; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 353; Jonathan Coppess, *Farm Bill 2023: Trying to Reason with Expectation for Farm Policy*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), June, 15, 2023, at 1, https://farmdocdaily.illinois.edu/2023/06/farm-bill-2023-trying-to-reason-with-expectations-for-farm-policy.html [https://perma.cc/6SMW-9C5P].

47. *See* One Big Beautiful Bill Act, Pub. L. No. 119–21, 139 Stat. 72 (2025).

48. *See* BOSSO, *supra* note 42, at 140–43; Jill Lawrence, *Profiles in Negotiation: The 2014 Farm and Food Stamp Deal*, BROOKINGS (Oct. 22, 2015), https://www.brookings.edu/articles/profiles-in-negotiation-the-2014-farm-and-food-stamp-deal/ [https://perma.cc/JKM5-M398]; COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 256.

49. *See* COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 262.

50. *See* CHRISTOPHER BOSSO, FRAMING THE FARM BILL: INTERESTS, IDEOLOGY, AND THE AGRICULTURAL ACT OF 2014, at 3 (2017).

51. Coppess, *High Cotton and the Low Road*, *supra* note 23, at 353–54.

52. *Id.*

negotiations.[53] In 2018, reauthorization also received an assist in the mid-term Congressional elections which flipped partisan control of the House.[54] The second consecutive loss on the House floor, however, was the only time in the Farm Bill's history that had happened.[55]

The intense partisanship of the 2014 and 2018 Farm Bill reauthorization efforts did not bode well for the Farm Bill, nor did subsequent political events.[56] Political polarization became more intense following the election of Donald Trump in 2016, and his troubled defeat in 2020, compounded by the Covid pandemic.[57] Also important, Senator Debbie Stabenow (D-MI) and chairwoman of the Senate Agriculture, Nutrition, and Forestry (ANF) Committee announced that she would not run for reelection in 2024, retiring from Congress at the end of her term.[58]

The third wound to the Farm Bill was more subtle but likely more damaging: Beginning in 2018, American farmers received an unprecedented level of federal assistance through what are known as ad hoc or supplemental payments, which are

53. *Id.* at 348–49.

54. *Id.* at 349.

55. *Id.*

56. *Id.* at 349–50.

57. *See* Theda Skocpol, *Rising Threats to US Democracy: Roots and Responses*, PS: POL. SCI. & POL., FIRST VIEW, Jan. 2025, at 12, n. 13 (2024); Andreas Schedler, *Rethinking Political Polarization*, 138 POL. SCI. Q. 335, 339 (2023).

58. *See* Alyssa Burr, *Sen. Debbie Stabenow Says Goodbye to the U.S. Senate After 24 Years of* Service, MICH. INDEP. (Dec. 10, 2024), https://michiganindependent.com/politics/debbie-stabenow-us-senate-farewell-elissa-slotkin-2024-election/ [https://perma.cc/KRT2-359F]. In the Senate since 2000, Stabenow had been Chair of the Senate Agriculture, Nutrition, and Forestry Committee for the 2014 reauthorization and ranking member for the 2018 reauthorization. *Id.* A formidable legislator, Stabenow's retirement could have motivated the committees to achieve reauthorization before the end of 2024 or offered partisans the option to delay reauthorization until the 119th Congress after the 2024 election. *See*, *e.g.*, Meredith Lee Hill, Burgess Everett & Marianne Levine, *Stabenow to Leave Senate Next Year, Setting Off Battleground-State Jostling*, POLITICO (Jan. 5, 2023, at 11:27 ET), https://www.politico.com/news/2023/01/05/stabenow-passes-on-2024-reelection-bid-00076526. *See* Elena Schneider, Adam Wren & Heidi Przbyla, *Within Hours of Debbie Stabenow Announcing Her Retirement, Dems are Scrambling to Replace Her*, POLITICO (Jan. 5, 2023, at 17:00 CT), https://www.politico.com/news/2023/01/05/dems-scrambling-to-replace-stabenow-00076601 (indicating that the retirement of Senator Stabenow caused a great shake up in Congress). Typically, political polarization and a chair's retirement would not cause substantial wounds to the Farm Bill if the legislative coalition was maintained. These events can be understood to have magnified or worsened the other wounds discussed.

not authorized by Congress in the Farm Bill.[59] The first Trump Administration initiated extraordinary ad hoc assistance by creating the Market Facilitation Program (MFP), intended to offset losses to farmers that resulted from the tariff conflict the Administration started, especially with China.[60] The first Trump Administration followed the 2018 payments with a second, larger round of MFP payments in 2019, which were then followed by even larger ad hoc payments to farmers during the Covid pandemic.[61] All told, the non-Farm Bill ad hoc assistance to farmers since 2018 totaled more than $130 billion compared to nearly $36 billion in assistance from farm programs authorized by Congress in the Farm Bill.[62]

One political consequence of this extraordinary ad hoc assistance was that farm lobbyists had become accustomed to demanding the payments, while at least

59. *See* CHRISTINE WHITT, CONG. RSCH. SERV., RS21212, AGRICULTURAL DISASTER ASSISTANCE 1 (2023). There are two sources for these payments. *Id.* The most common, or more traditional, is that Congress appropriates ad hoc or emergency disaster assistance funds in an annual appropriations bill or other supplemental appropriations legislation. *Id.* The other, and more unusual method, is to use the funds and authorities of the Commodity Credit Corporation (CCC) to create a payments program, which is what the Trump Administration did with the Market Facilitations Program (MFP) payments in 2018 and 2019. *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-700R, USDA MARKET FACILITATION PROGRAM: INFORMATION ON PAYMENTS FOR 2019, at 2 (2020); Joseph P. Janzen & Nathan P. Hendricks, *Are Farmers Made Whole by Trade Aid?*, 42 APPLIED ECON. PERSP. & POL'Y 205, 205–06 (2020).

60. U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-700R, *supra* note 59, at 2; Janzen & Hendricks, *supra* note 59, at 205–06.

61. *See* Janzen & Hendricks, *supra* note 59, at 223; Joseph P. Janzen et al., *Political Returns to Ad Hoc Farm Payments?*, 45 APPLIED ECON. PERSP. & POL'Y 555, 557 (2023); Eric J. Belasco &Vincent Smith, *The Impact of Policy Design on Payment Concentration in Ad-hoc Disaster Relief: Lessons from the Market Facilitation and Coronavirus Food Assistance Programs*, FOOD POL'Y, Nov. 6, 2021 at 1, 3.

62. Amounts on a nominal basis, not adjusted for inflation; calculated using data reported from USDA's Economic Research Service. *See Farm Income and Wealth Statistics – Government Payments by Program*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Feb. 5, 2026), https://data.ers.usda.gov/reports.aspx?ID=4050 [https://perma.cc/BLY7-YWWB] (non-Farm Bill ad hoc assistance to farmers since 2018 includes the total outlays from 2018 to 2026 for Cotton Ginning Cost-Share (CGCS) Program, USDA pandemic assistance, Other supplemental and ad hoc disaster assistance, Market Facilitation Program, and Miscellaneous programs. Assistance from Farm Bill authorized programs comes from total outlays from 2018 to 2026 for Price Loss Coverage (PLC), Agriculture Risk Coverage (ARC), loan deficiency payments, marketing loan gains, and Dairy Margin Coverage Program.); *see* KATHERINE BALDWIN, DYLAN TURNER & FRANCIS TSIBOE, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., ECON. INFO. BULL. NO. 278, RECENT DEVELOPMENTS IN AD HOC ASSISTANCE PROGRAMS FOR AGRICULTURAL PRODUCERS 12 (2024), https://ers.usda.gov/sites/default/files/_laserfiche/publications/110094/EIB-278.pdf [https://perma.cc/WAC5-3QGC].

some portion of farmers may have become dependent on the additional federal cash. This ad hoc assistance was, more importantly, at levels that Congress could not match in authorized programs.[63] It created expectations for farm payments that could not be achieved by Congress under budget rules.[64] Adding to the challenges, farm program payments declined with high crop prices after the Covid pandemic while inflationary pressures drove up costs.[65]

This brief history helps explain why Title I of OB3 brought about the Farm Bill's death. Congress also did not reauthorize the entire suite of programs in a traditional omnibus Farm Bill, leaving other members of the larger coalition in a state of significant uncertainty; most notably, Congress did not reauthorize the Conservation Reserve Program (CRP), the primary conservation program since 1985.[66] By reauthorizing some but not all of the Farm Bill, and cutting SNAP to pay for payments to farmers, Congress tore apart the coalition.[67] Doing so violated the cardinal rule of Farm Bill politics, that funding for one set of policies should not be used to fund the other.[68] This rule had protected and preserved the political coalition, preventing it from turning on itself and avoiding the destructive internecine fights that would have resulted.[69]

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63. *See* VINCENT H. SMITH & ERIC J. BELASCO, AM. ENTER. INST., LEAVE REFERENCE PRICES WHERE THEY ARE: FARM SAFETY-NET PROGRAMS ALREADY WORK TOO WELL 1–2 (2023), https://www.aei.org/wp-content/uploads/2023/11/Leave-Reference-Prices-Where-They-Are.pdf? [https://perma.cc/G4MG-7DZD].

64. *See id.* at 1.

65. *See*, *e.g.*, *id.* at 2; CBO, for example, projected $0 in Price Loss Coverage (PLC) payments for 2024 and just $2 million in 2025, as well as just $263 million in Agriculture Risk Coverage-County (ARC-CO) payments in 2024 and $442 million in 2025. *See* CBO'S JANUARY 2025 BASELINE FOR FARM PROGRAMS, *supra* note 19.

66. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025); MEGAN STUBBS, CONG. RSCH. SERV., IF13114, AGRICULTURAL CONSERVATION AFTER ENACTMENT OF THE FY2025 BUDGET RECONCILIATION LAW 1 (2025); JIM MONKE, CONG. RSCH. SERV., IN12573, BUDGET RECONCILIATION: FARM BILL PROGRAMS WITHOUT A BUDGET BASELINE 1 (2025); Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extension Act, Pub. L. No. 119-37, 139 Stat. 495 (2026); Jonathan Coppess, *The Reconciliation Farm Bill: Is Conservation a Silver Lining?* FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Sept. 11, 2025, at 4, https://farmdocdaily.illinois.edu/2025/09/the-reconciliation-farm-bill-is-conservation-a-silver-lining.html [https://perma.cc/AV5M-MS4B].

67. *See* MONKE, *supra* note 66, at 1.

68. *See*, *e.g.*, COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 176–77, 187 (providing Senator Leahy's quote on cardinal issues in 1990 Farm Bill debate; Leahy again threatening to join opposition to farm programs if they cut food stamps to fund them during the 1995-1996 reauthorization debate).

69. *See id.*

The CBO projections for additional spending on farm program payments make it clear that those farmers receiving the payments were the only winners in the Reconciliation Farm Bill, alone among the entire traditional Farm Bill as the only faction to benefit from the changes.[70] Breaking the cardinal rule of Farm Bill politics terminated the 52-year-old legislative coalition.[71] The damage extends well beyond the halls of Congress or the political concerns of legislative coalitions. Millions of people struggling to get by will now struggle further to afford food.[72] OB3 is also likely to have implications and consequences that extend beyond the Farm Bill, negatively impacting millions of lives.[73] The potential consequences for

70. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025); *Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO's January 2025 Baseline*, *supra* note 19, at 1.

71. Jonathan Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), September 4, 2025, at 4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/09/fdd090425.pdf [https://perma.cc/M3PZ-LQVA] [hereinafter Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*].

72. *See* CONG. BUDGET OFF., ESTIMATED EFFECTS OF PUBLIC LAW 119-21 ON PARTICIPATION AND BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM 2 (2025). CBO estimates that the changes will reduce SNAP participation by an average of 2.4 million people per month. *Id.*

73. *See* Letter from Phillip L. Swagel, Direct, CONG. BUDGET OFF., to Honorable Brendan F. Boyle et al. (Aug. 11, 2025) (on file with author) (providing as just one example, CBO analysis concluded that most of the gains from the changes in OB3 will flow to wealthy households and corporations); *How the 2025 Reconciliation Act (Public Law 119-21) Will Affect the Distribution of Resources Available to Households*, CONG. BUDGET OFF. (Aug. 11, 2025), https://www.cbo.gov/interactive/2025-reconciliation-act [https://perma.cc/Y88M-A29Y]; Letter from Phillip L. Swagel, Direct, CONG. BUDGET OFF., to Honorable Jodey Arrington, Honorable Brett Buthrie & Honorable Jason Smith (Aug. 25, 2025) (on file with author); *see*, *e.g.*, Aliza Rosen, *How New Federal Legislation Will Affect Health Care Costs and Access for Americans*, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH (July 30, 2025), https://publichealth.jhu.edu/2025/the-changes-coming-to-the-aca-medicaid-and-medicare [https://perma.cc/J33S-SGLK]; Zachary Levinson & Tricia Neuman, *A Closer Look at the $50 Billion Rural Health Fund in the New Reconciliation Law*, KFF (Aug. 4, 2025), https://www.kff.org/medicaid/a-closer-look-at-the-50-billion-rural-health-fund-in-the-new-reconciliation-law/ [https://perma.cc/7T6C-ZDC9]; Kimberly MacPherson, *How is the Federal Funding Landscape Affecting Rural Health?*, UC BERKELEY PUB. HEALTH (Oct. 29, 2025), https://publichealth.berkeley.edu/articles/news/commentary/how-is-the-federal-funding-landscape-affecting-rural-health [https://perma.cc/73CZ-RR36]. In addition to SNAP, there may be more to this use of reconciliation instead of the traditional process that may be worth exploring. The reauthorization process allowed Congress to review all programs and make updates or changes to them. Jonathan Coppess, *The Unfortunately Obligatory Farm Bill Expiration and Extension Discussion*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Sept. 12, 2024, at 1, https://farmdocdaily.illinois.edu/wp-

the public of this public law—from the demise of a powerful legislative coalition to those who will lose food assistance, or the long-term impacts on other policies not included in the Reconciliation Farm Bill—provide reason enough to explore the whodunit formula and better understand how it all came to pass.

III. Weaponized Budget Process, the Weapon; Reconciliation a Misnomer

As a legislative body, the process and procedures of Congress are of paramount importance.[74] It is that fundamental reality that informs understanding OB3 and the Reconciliation Farm Bill. The legislation was not considered by Congress in a regular legislative process but under the expedited procedures of budget reconciliation.[75] The weapon in the Farm Bill's death was a weaponized budget process, where wielding it involves political power in Congress.[76]

content/uploads/2024/09/fdd091224.pdf [https://perma.cc/CHE2-GK6T] [hereinafter Coppess, *The Unfortunately Obligatory Farm Bill Expiration and Extension Discussion*]. While many of these programs, such as rural development and rural housing programs, will continue with appropriated funding, they are not reviewed for changes or updates and the policies could suffer as a consequence. *Id.* This could be an area of further research by policy scholars.

74. *See*, *e.g.*, William N. Eskridge et al., Legislation and Statutory Interpretation 70, 81–83 (2d ed. 2006); Waldron, *Legislation, Authority, and Voting*, *supra* note 30, at 2213; John C. Roberts, *Are Congressional Committees Constitutional?: Radical Textualism, Separation of Powers, and the Enactment Process*, 52 Case W. Rsrv. L. Rev. 489, 490 (2001); Josh Chafetz, *Congress's Constitution*, 160 U. Pa. L. Rev. 715, 761 (2012); Jonathan S. Gould, *Law Within Congress*, 129 Yale L. J. 1946, 1950 (2020). For legislation and the exercise of the legislative power vested in Congress by the U.S. Constitution, process is critical and fundamental. U.S. Const., art. I, § 1.

75. Note this part of the discussion is adapted from the author's previous works. *See* Coppess, Between Soil and Society, *supra* note 23, at 195–220; Jonathan Coppess, *On the Origins of Budget Reconciliation*, Farmdoc Daily (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Mar. 13, 2025, at 4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/03/fdd031325.pdf [https://perma.cc/9UKP-APTG] [hereinafter Coppess, *On the Origins of Budget Reconciliation*]; Coppess, *What the Byrd Rule Exposes*, *supra* note 8, at 1; Jonathan Coppess, *Reauthorization or Reconciliation: Thoughts on the Farm Bill's Prospects*, Farmdoc Daily (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Nov. 21, 2024, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/11/fdd112124.pdf [https://perma.cc/ZEZ6-V7T5] [hereinafter Coppess, *Reauthorization or Reconciliation*].

76. Note this part of the discussion is adapted from the author's previous works. *See* Coppess, Between Soil and Society, *supra* note 23, at 195–220; Coppess, *High Cotton and the Low Roads*, *supra* note 23, at 378.

A. Budget Reconciliation, Weaponized Process

As should be clear by the outcome, reconciliation is a misnomer.[77] Budget reconciliation may have been designed for that purpose, but it no longer matches it.[78] Reconciliation is a special legislative process that was created by Congress to gain better control over the federal budget and spending.[79] It was designed as a method to revisit budget and spending matters near the end of the fiscal year, allowing Congress to make revisions due to changed circumstances.[80] Budget reconciliation has mutated substantially since its creation, ending up far from its original intent; put simply, reconciliation today is not reconciliation as it was designed.

Congress created reconciliation in 1974 as one small part of the larger effort to reform federal budgeting and spending issues.[81] Overall, the Congressional Budget Act of 1974 Act is considered "the most significant congressional reform of the 1970s, which was itself the most reform-minded decade in more than half a century."[82] Senator Sam Ervin (D-NC), chairman of the Senate Committee on

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77. At least in the common usage of the term, which is defined as the "action of reconciling" which can mean restoring to "friendship or harmony," coming to an "agreement on or an answer or solution to (something)," or to "make consistent or congruous." *Reconciliation*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/reconciliation [https://perma.cc/GX2G-T6PE]; *Reconciling*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/reconciling [https://perma.cc/93ML-SPFL].

78. *See* Coppess, *On the Origins of Budget Reconciliation*, *supra* note 75, at 4; Coppess, *What the Byrd Rule Exposes*, *supra* note 8, at 1.

79. *See* Congressional Budget Act of 1974, Pub. L. No. 93-344, 88 Stat. 297 (1974); ROBERT KEITH, CONG. RSCH. SERV., RL30862, THE BUDGET RECONCILIATION PROCESS: THE SENATE'S 'BYRD RULE' 1 (2022); Coppess, *On the Origins of Budget Reconciliation*, *supra* note 75, at 4; Coppess, *What the Byrd Rule Exposes*, *supra* note 8, at 1.

80. Congressional Budget Act of 1974, Pub. L. No. 93-344, § 310, 88 Stat. 297, 315.

81. H.R. REP. NO. 93-1101, at 58 (1974); S. REP. NO. 93-924, at 58 (1974). Congress created budget reconciliation in the Congressional Budget and Impoundment Control Act of 1974, signed into law on July 12, 1974, by President Richard Nixon just before he resigned from office. *See* Congressional Budget Act of 1974, Pub. L. No. 93-344, 88 Stat. 297, 297. In Title III, reconciliation was initially designed to be part of the second annual budget resolution (completed by September 25th each year), reconciling the outcomes during the fiscal year to the initial budget resolution (May 15th deadline each year) and goals for spending and revenue. Congressional Budget Act of 1974 § 300, 88 Stat. at 306.

82. RICHARD F. FENNO JR., THE EMERGENCE OF A SENATE LEADER: PETE DOMENICI AND THE REAGAN BUDGET 42 (1991); *see* AARON WILDAVSKY, THE NEW POLITICS OF THE BUDGETARY PROCESS 148–49 (1988); JOHN B. GILMOUR, RECONCILABLE DIFFERENCES?: CONGRESS, THE BUDGET PROCESS, AND THE DEFICIT 80 (1990); ALLEN SCHICK, RECONCILIATION AND THE CONGRESSIONAL BUDGET PROCESS 3 (1981); JULIAN E. ZELIZER, ON CAPITOL HILL: THE STRUGGLE TO REFORM CONGRESS AND ITS CONSEQUENCES, 1948–

Government Operations that authored the 1974 Act, proclaimed that the 1974 Act was "the most important piece of legislation" enacted during his 20 years in the Senate.[83] Reconciliation was not the centerpiece of those reforms, however, and Congress clarified that it was to apply "only to the specific procedures for the enactment of budget authority and spending authority legislation for the coming fiscal year and not to the jurisdiction of committees, the authorization of budget authority, or to permanent changes in congressional procedure."[84]

It didn't take long for Congress to become frustrated with the reforms and new procedures.[85] By 1980, overwhelmed by concerns about inflation in a difficult election year, Congress significantly changed the operation of reconciliation without amending the statute that created it.[86] The move was fought by a group of committee chairs in the House who were concerned that doing so would undercut the committee system and damage the legislative process; they were

2000, at 154 (2004); James A. Miller & James D. Range, *Reconciling an Irreconcilable Budget: The New Politics of the Budget Process*, 20 HARV. J. ON LEGIS. 4, 4 (1983); George Otte, *"Braking" the Federal Budget: The Emergence of Reconciliation in Budget Policy*, 3 PUB. L. F. 155, 161 (1983).

83. U.S. S. COMM. ON THE BUDGET, COMMITTEE ON THE BUDGET, UNITED STATES SENATE, 32ND ANNIVERSARY, 1974–2006, S. DOC. NO. 109-24, at 36 (2d Sess. 2006).

84. H.R. REP. NO. 93-1101, at 58; S. REP. NO. 93-924, at 58. Note that Congress also included a provision in Section 301(b)(2) that the first concurrent resolution may contain "additional matters" including "any other procedure which is considered appropriate to carry out the purposes of this Act." Congressional Budget Act of 1974, Pub. L. No. 93-344, § 301(b), 88 Stat. 297, 306–07.

85. S. REP. NO. 95-399, at 29 (1977). The first reconciliation instruction was by the Senate in 1977 and was included in the second budget resolution for FY 1978 but was dropped during debate on the Senate floor. *Id.*; STAFF OF H. COMM. OF THE BUDGET, 98TH CONG., A REVIEW OF THE RECONCILIATION PROCESS 11 (Comm. Print 1984). In 1979, the Senate tried again but was blocked by the House and had to settle for a Sense of Congress on cutting spending. *See* 125 CONG. REC. 31465, 31494 (1979); 125 CONG. REC. 33777, 33910 (1979).

86. *See* Omnibus Reconciliation Act of 1980, Pub. L. No. 96-499, 94 Stat. 2599; STAFF OF H. R. COMM. ON THE BUDGET, 98TH CONG., A REVIEW OF THE RECONCILIATION PROCESS 51 (Comm. Print 1984); SCHICK, *supra* note 82, at 3; H.R. Con. Res. 307, 110th Cong. (2008); H.R. REP. No. 96-857, pt. 3, at 13 (1960); S. Con. Res. 86, 105th Cong. (1998); S. REP. NO. 96-654, at 6 (1980). The Senate sought to achieve a balanced budget while also enacting a $10 billion tax cut and instructed ten committees to reduce spending by $12 billion in FY1980 and FY1981, as well as more than $85 billion over the following five fiscal years. *Id.* at 245. The House Budget Committee, for its part, acknowledged that it was implementing an "extraordinary procedure" but deemed it necessary to "balance the budget" when "there may not be time to act on reconciliation instructions" in an election year. H.R. REP. No. 96-857, pt. 3, at 13.

unsuccessful.[87] They also proved prophetic, as the altered process in 1980 became the precedent for a massive 1981 reconciliation effort, which went even further.[88] Reconciliation in 1981 became the precedent for future reconciliation efforts that have changed Congressional budgeting and, through it, the legislative process.[89]

Reconciliation now operates via instructions in a budget resolution—an agreement between the House and Senate that is not presented to the President, nor signed into law—pursuant to which instructed committees report legislation, making changes to laws in their jurisdiction that achieve the instruction.[90] The chamber's Budget Committees then compile each committee's legislation into a single piece of legislation.[91] That bill "receives fast-track consideration in both chambers."[92] Among other things, reconciliation avoids Senate rules for debate and filibuster, allowing the legislation to be passed without the typical 60-vote requirement.[93] The result is legislation that is massive and omnibus, and nearly impossible to change or derail, near-perfect conditions for deploying political power.[94] Massive budget numbers, moreover, obscure much about policy, politics, and political power.[95]

OB3 was set in motion by a concurrent budget resolution between the House and Senate that established federal budget levels for ten fiscal years (FY), 2025

87. 126 CONG. REC. 10152–53 (1980). Representative Morris Udall (D-AZ) and 15 other committee chairs sent a letter to Speaker of the House O'Neil opposing inclusion of reconciliation instructions in the first resolution. *Id.* at 10152. The House rejected Udall's amendment to strike the reconciliation instructions by a vote of 127 to 289 (16 not voting) on May 7, 1980. *Id*. at 10183.

88. SCHICK, *supra* note 82, at 2. That effort pushed through President Ronald Reagan's tax cuts and budget priorities, led by his Director of the Office of Management and Budget, David Stockman. Miller & Range, *supra* note 82, at 9; Otte, *supra* note 82, at 171. As one scholar noted, "[h]ad the Democrats not inaugurated reconciliation by shifting it to the first resolution, it would not have been available for Stockman in 1981." GILMOUR, *supra* note 82, at 111–12.

89. *See* WILDAVSKY, *supra* note 82, at 90–92; Jeff Davis, *The Rule that Broke the Senate*, POLITICO (Oct. 15, 2017), https://www.politico.com/magazine/story/2017/10/15/how-budget-reconciliation-broke-congress-215706/ [https://perma.cc/37UK-B3V2].

90. Coppess, *What the Byrd Rule Exposes*, *supra* note 8, at 1.

91. *Id.*; *see* Coppess, *On the Origins of Budget Reconciliation*, *supra* note 75, at 1; Coppess, *Reauthorization or Reconciliation*, *supra* note 75, at 1.

92. Coppess, *Reauthorization or Reconciliation*, *supra* note 75, at 2.

93. *Id.*; *see* 2 U.S.C. § 641.

94. *See* 2 U.S.C. § 641.

95. *See id.*

through 2034.[96] In it, Congress also provided reconciliation instructions to 11 committees in the house and ten in the Senate.[97] Arguably, the most notable instructions were for changes in tax law by the House Ways and Means Committee that "increase the deficit by not more than" $4.5 trillion and to the Senate Finance Committee changes that "increase the deficit by not more than" $1.5 trillion, both over FY2025 to FY2034.[98] According to CBO, the changes in OB3 when it was signed into law would cost nearly $3.4 trillion over ten years (FY2025 to FY2034), adding at least that amount to the national debt.[99]

The House Agriculture Committee was instructed to reduce spending by $230 billion over 10 years, while the Senate ANF Committee was instructed to reduce spending by at least $1 billion.[100] The reconciliation instructions did not contain any explicit directive to cut SNAP, although it was the obvious target based on the total funding available to meet the instruction.[101] The budget resolution did not instruct either committee to use reductions in SNAP spending to increase payments to farmers.[102] But that is what the agriculture committees did: CBO

96. *See* H.R. Con. Res. 14, 119th Cong. § 1101 (2025) (notably, it reported that the appropriate levels of public debt would rise from approximately over $36.5 trillion in FY2025 to nearly $50.5 trillion in FY2034, or an increase of about $14 trillion).

97. *Id.* at §§ 2001(a)–(b), 2002(a).

98. *Id.* at §§ 2001(b)(11), 2002(a)(2)(G).

99. *Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO's January 2025 Baseline*, *supra* note 19. CBO's projections were for a total decrease in revenues of about $4.5 trillion, mostly from extending tax cuts; partially offsetting the lost revenue were around $1.1 trillion in reductions to direct spending. *Id.*

100. *See* H.R. Con. Res. 14 §§ 2001(b), 2002(a)(2)(A). Notably, it reported that the appropriate levels of public debt would rise from over $36.5 trillion in FY2025 to nearly $50.5 trillion in FY2034, or an increase of $14 trillion. *Id.*

101. *See generally id.* (known as the CBO baseline, each year CBO projects spending for the mandatory programs) (showing that the total baseline for the Farm Bill was about $1.38 trillion over the ten fiscal years, with $1.12 trillion (81%) in SNAP and $260 billion for the farm assistance programs (subsidy payments, crop insurance, conservation, and export assistance)). *See* CONG. BUDGET OFF., BASELINE PROJECTIONS, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM, *supra* note 44.

102. *See generally* H.R. Con. Res. 14 §§ 2001(b), 2002(a)(2)(A) (showing that the total baseline for the Farm Bill was $1.38 trillion over the ten fiscal years, with $1.12 trillion (81%) in SNAP and $260 billion for the farm assistance programs (subsidy payments, crop insurance, conservation, and export assistance)). *See* Jonathan Coppess, Gary Schnitkey & Nick Paulson, *Reviewing the Congressional Budget Office Score of the House Reconciliation Bill,* FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), May 22, 2025, at 2, https://farmdocdaily.illinois.edu/2025/05/reviewing-the-cbo-score-of-the-house-reconciliation-bill.html [https://perma.cc/2Z6M-MJQR]; *see also* Coppess, *What the Byrd Rule Exposes*, *supra* note 8, at 2 (explaining while the House Committee on Agriculture

projected that spending on food assistance via SNAP would be reduced by nearly $200 billion and spending on assistance to farmers would increase by nearly $70 billion during those 10 years.[103]

As reconciliation mutated in the eighties, Aaron Wildavsky warned that a weaponized budget would lead to an increase in partisanship and diminish Congress' capacity to cope with conflict because it transforms inaction into a form of action that does not bode well for the ability to govern.[104] He has also proven prophetic: reconciliation has changed Congress and the legislative power.[105] It has amounted to a process revolution obscured by procedural matters and complicated details.[106] Matters of the budget are fundamental, rooted in the power of the purse, one of the most consequential powers of government.[107] The process revolution

considered and reported legislation in response to the budget instructions it was given, the Senate ANF Committee submitted provisions for the omnibus reconciliation bill but did not hold any formal markup, nor did it report legislation out of the committee).

103. *See Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO's January 2025 Baseline*, *supra* note 19 (showing that total spending on SNAP is calculated by adding sections 10101–10108 estimated outlays and total spending on assistance to farmers is calculated by adding subtitles C-F in the Title I tab). In total, the CBO projected that the changes in the Reconciliation Farm Bill would result in a net decrease in spending by over $120 billion. *Id.* Note that these totals do not include the costs from unexplained interaction effects among the changes, which CBO estimated as costing roughly $9 billion in SNAP. The CBO's projections were for a total decrease in revenues of $4.5 trillion, mostly from extending tax cuts; partially offsetting the lost revenue were $1.1 trillion in reductions to direct spending. *Id.*; *see* CONG. BUDGET OFF., ESTIMATED BUDGETARY EFFECTS OF PUBLIC LAW 119-21 ON PARTICIPATION AND BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (2025); *see generally* Title I—Committee on Agriculture, Nutrition, and Forestry, Pub. L. No. 119-21, 139 Stat. 81 (amending various assistance programs to become more restrictive, reducing spending on them accordingly).

104. *See* WILDAVSKY, *supra* note 82, at 216–18; RONALD F. KING, BUDGETING ENTITLEMENTS: THE POLITICS OF FOOD STAMPS 170 (2000) (providing as an example, it created "a strong prejudice on behalf of existing allocations" in existing programs).

105. *See* Elizabeth Garrett, *The Congressional Budget Process: Strengthening the Party-in-Government*, 100 COLUM. L. REV. 702, 705 (2000).

106. *See id.*; WILDAVSKY, *supra* note 82, at 216–18; Elizabeth Garrett, *Harnessing Politics: The Dynamics of Offset Requirements in the Tax Legislative Process*, 65 U. CHI. L. REV. 501, 515 (1998) [hereinafter Garrett, *Harnessing Politics*].

107. Garrett, *supra* note 105, at 727. Twenty-five years ago, Elizabeth Garrett explained that budget decisions "implicate fundamental ideological divisions between the political parties" such as "[should] government be larger or smaller" or "raise taxes" and influence negotiations. *Id*. The budget "goes more to the roots of governmental will" and impacts "all the other commitments government makes and would like to keep." WILDAVSKY, *supra* note 82, at 32. The budget "brings to a head questions about what kind of government we will have and, therefore, what kind of a people we will be" and control over the federal budget is a

was accomplished by forcing a procedural super-structure on the legislative process.[108] This makes building and maintaining legislative coalitions much more difficult and distorts or limits the competition among factional interests.[109]

Legislative coalitions are vital to public policy and are necessary to the operation of legislative power in the public's interest.[110] Prior to the budget reforms of 1974, however, legislative coalitions came under attack by partisans deploying questionable economic theories.[111] Contrary to its name but central to the purpose of what it became, reconciliation creates a negative-sum political situation, pitting interests against each other in a counterproductive competition to inflict damage on certain priorities.[112] The point of policies becomes lost, narrowed to a singular focus on the costs of programs rather than what they accomplish, who they benefit, or the purposes that underwrote them in the first place.[113] OB3 and the Reconciliation Farm Bill prove the point.

"synonym for power." *Id.* at 142, 396. *See generally* Kenneth W. Dam, *The American Fiscal Constitution*, 44 U. CHI. L. REV. 271, 278 (1977) (referencing the power of the purse as a check on the Executive's power); Kate Stith, *Congress' Power of the Purse*, 97 YALE L. J. 1343, 1344 (1988) (discussing Congress's power of the purse); *see* Garrett, *Harnessing Politics*, *supra* note 106, at 503.

108. *See* Garrett, *Harnessing Politics*, *supra* note 106, at 503–04.

109. *See* WILDAVSKY, *supra* note 82, at 286–90.

110. *See* Waldron, *Legislation, Authority, and Voting*, *supra* note 30, at 2198.

111. *See* JOSEPH WHITE & AARON WILDAVSKY, THE DEFICIT AND THE PUBLIC INTEREST 208 (1990). The view that coalition-building was a problem through which factional interests were bought off in the legislative process is known by the pejorative term "logrolling." Bernard Grofman, *Symposium: Regulating the Electoral Process: Public Choice, Civic Republicanism, and American Politics: Perspectives of a "Reasonable Choice" Modeler*, 71 TEX. L. REV. 1541, 1543, 1571, 1581, 1585 (1993). The origins of these theories notably coincided with reactionary opposition to school desegregation and voting rights. *See* ZELIZER, *supra* note 82, at 152; WILDAVSKY, *supra* note 82, at 69; NANCY MACLEAN, DEMOCRACY IN CHAINS 45–47 (2017); Edward L. Rubin, *Beyond Public Choice: Comprehensive Rationality in the Writing and Reading of Statutes*, 66 N.Y.U. L. REV. 1, 5–6 (1991); Steven Kelman, *"Public Choice" and Public Spirit*, PUB. INT., Spring 1987, at 80, 87, 94; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 343; COPPESS, BETWEEN SOIL AND SOCIETY, *supra* note 23, at 195– 220.

112. WHITE & WILDAVSKY, *supra* note 111, at 19, 504–05. Scholars predicted the degeneration in Congress as things became "heavily minus-sum—each side ends up feeling like losers—there is no way to do much without angering enough interests to block a proposal." *id.* at 504, and factional competition can spiral into mutual destruction. *Id*. at 505. In a minus-sum world all outcomes are negative, factions compete less on gain and more on hurting other factions. *Id*. at 504–05. From there, the divisions widen and deepen, causing the system of self-government to turn against itself when "political factions are more eager to hurt each other than to help themselves." *Id*. at 505.

113. *See id.* at 504.

B. Political Power; Economic Formula as Guide

The weaponized budget reconciliation process is one part of the equation, providing the conditions or rules.[114] The rest of the equation involves political power.[115] Combined, the complete formula offers a guide to evaluating potential suspects in the death of the Farm Bill and the evidence that weighs against them.

Of course, any discussion of political power, factions and process encounters foundational matters such as James Madison's designs for Congress and the Framers' concerns about factions that informed those designs.[116] In the simplest of summaries, the Framers' design of the United States government in the Constitution was intended to "guard one part of the society against the injustice of the other part" but with a particular concern that if a "majority be united by a common interest, the rights of the minority will be insecure."[117] Dividing power and channeling it through different branches was intended, among other things, to prevent the "existence of the same passion or interest in a majority at the same time."[118] Madison applied the same theory of political competition in the design of Congress.[119] Processes and procedures provide for operation of the legislative power and channel factional power, allowing competition to control the worst of factions.[120] The rules of the competition are critical, and the process revolution that is budget reconciliation has changed them.[121]

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114. *See* Garrett, *supra* note 105, at 718.

115. *See id.* at 705.

116. *See* THE FEDERALIST NO. 10, at 1 (James Madison); THE FEDERALIST NO. 9, at 1 (Alexander Hamilton). Famously, James Madison and Alexander Hamilton wrote powerful essays in *The Federalist Papers* exploring concerns at the framing of the Constitution about political factions, which Madison termed the "mortal diseases" of self-government. THE FEDERALIST NO. 10, at 1 (James Madison); THE FEDERALIST NO. 9, at 1 (Alexander Hamilton). *See* Jonathan Coppess, *Considering Congress, Part 2: The Mortal Disease of Self-Government*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Nov. 11, 2022, at 3, https://farmdocdaily.illinois.edu/wp-content/uploads/2022/11/fdd111122.pdf [https://perma.cc/4GB2-KMEA].

117. THE FEDERALIST NO. 51, at 1 (James Madison).

118. THE FEDERALIST NO. 10, *supra* note 116, at 1; *see* Jonathan Coppess, *Considering Congress, Part 3: A "Republican Remedy" to the Mortal Disease*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Jan. 5, 2023, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/01/fdd010523.pdf [https://perma.cc/26ET-JWGS].

119. *See* THE FEDERALIST NO. 10, *supra* note 116, at 2.

120. *See id.*

121. Note this part of the discussion is adapted from the author's previous works. *See* COPPESS, BETWEEN SOIL AND SOCIETY, *supra* note 23, at 209; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 387.

The process that evolved under budget reconciliation favors certain factional interests.[122] Weaponized budget procedures shift "power from one group of legislators to others" and to the Executive Branch of government.[123] These shifts in power were ideological in nature and created severe disadvantages for economic policies—and those who support those policies in the legislative chambers, as well as the beneficiaries and interests that seek to influence legislators—that provide for the distribution of resources for the benefit of larger interests.[124] Borrowing from the framing of one of its major proponents, budget reconciliation favors "powerful clients with weak claims" over "weak clients" that have more publicly supported, or politically powerful, claims.[125] Clients or constituents are often weak because they are numerous and disorganized; in reconciliation, they are weakened further by a process narrowed to considering only spending reductions in which small benefits to large constituencies spend much more in the aggregate budget figures than do large benefits to small constituencies.[126]

122. *See*, *e.g.*, WILDAVSKY, *supra* note 82, at 160, 212.

123. Garrett, *supra* note 105, at 702, 705–07, 711, 715; Garrett, *Harnessing Politics*, *supra* note 106, at 502; DAVID STOCKMAN, THE TRIUMPH OF POLITICS: HOW THE REAGAN REVOLUTION FAILED 159–60 (1986) (proclaiming a "stunningly radical theory of governance" by which the "constitutional prerogatives of the legislative branch would have to be, in effect, suspended" so that Reagan's policy goals could be achieved by "rubber stamp approval, nothing less" and bragged that the "world's so-called greatest deliberative body would have to be reduced to the status of a ministerial arm of the White House").

124. WILDAVSKY, *supra* note 82, at 69 (balancing the budget became "a conservative position used by lower spending Republicans as a weapon against the higher-spending liberal Democrats" and that "conflicted with the widespread desire that the government ensure a healthy economy"); Garrett, *supra* note 105, at 718; KING, *supra* note 104, at 149, 165–66 (considered a triumph for the conservative faction, reconciliation empowered it with procedural weapons—a process-based factional trump card on all policy decisions); *see* Norman J. Ornstein, *The Politics of the Deficit*, *in* ESSAYS IN CONTEMPORARY ECONOMIC PROBLEMS 311, 312 (1982 ed., 1985); ZELIZER, *supra* note 82, at 153–54, 212, 234–37, 246; WHITE & WILDAVSKY, *supra* note 111, at 425.

125. William Greider, *The Education of David Stockman*, THE ATL. (Dec. 1981), https://www.theatlantic.com/magazine/archive/1981/12/the-education-of-david-stockman/305760/ (quoting David Stockman, Former Director of the Office of Management and Budget (1981–85)).

126. Darrell M. West, *Gramm-Rudman-Hollings and the Politics of Deficit Reduction*, 499 ANNALS AM. ACAD. POL. SOC. SCI. 90, 97 (1988). It altered the competition so that "opponents of domestic spending would have powerful institutional advantages over supporters" of domestic spending, and the burdens would "fall disproportionately on Democratic programs and constituencies" given the reality of "the greater preponderance of social welfare" spending in the budget. *Id*.

Recently, Nobel-winning economists have built on the matter that so concerned Madison and Hamilton.[127] Their work on political economics adds critical elements to an understanding of political power, especially the difference between "de jure" and "de facto" political power.[128] The former is institutional, such as the powers vested in Congress and delegated to committees.[129] The latter, "is not allocated by institutions; rather, it is possessed by groups as a result of their wealth, weapons, or ability to solve the collective action problem."[130] There are important asymmetries in de facto political power. All factions are not equal. These asymmetries favor smaller, concentrated factions, or more generally the elite.[131]

127. *See* Press Release, The Royal Swedish Academy of Sciences, Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel (Oct. 14, 2024) (on file with The Nobel Prize). The 2024 Nobel in economics went to Dr. Daron Acemoglu (Massachusetts Institute of Technology), Dr. Simon Johnson (Massachusetts Institute of Technology), and James A. Robinson (University of Chicago). *Id.*; *see* THE FEDERALIST NO. 9, *supra* note 116; THE FEDERALIST NO. 10, *supra* note 116.

128. Daron Acemoglu & James A. Robinson, *A Theory of Political Transitions*, 91 AM. ECON. REV. 938, 957 (2001) [hereinafter Acemoglu & Robinson, *A Theory of Political Transitions*]; Daron Acemoglu & James A. Robinson, *De Facto Political Power and Institutional Persistence*, 96 AM. ECON. REV. 325, 325–26 (2006) [hereinafter Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*]; Daron Acemoglu & James A. Robinson, *Persistence of Power, Elites, and Institutions*, 98 AM. ECON. REV. 267, 267–68, 287 (2008) [hereinafter Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions*] ("Political power," they have argued, "is determined by both political institutions that allocate de jure power and the distribution of de facto power") ("[E]quilibrium institutions and the distribution of resources are the outcome of the interplay between de jure political power allocated by political institutions and investments in de facto political power to influence the course of politics through such other means as lobbying, bribery, and use of extralegal force").

129. *See* Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*, *supra* note 128, at 325–26 (providing that de jure is "the type of political power allocated by political institutions (such as constitutions or electoral systems)").

130. *See* Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions, supra* note 128, at 268 (explaining that de facto power is "determined by the equilibrium investments and organizations of different groups" and is "often essential for the determination of economic policies and the distribution of economic resources"); *see also* Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*, *supra* note 128, at 326 (explaining that de facto power "emerges from the ability to engage in collective action, or use brute force or other channels such as lobbying or bribery").

131. Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions*, *supra* note 128, at 267–68, 287 ("The elite, by virtue of their smaller numbers and their greater expected returns from controlling politics, have a comparative advantage in investing in de facto power."); *see also* MANCUR OLSON, THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS 127 (Cambridge: Harvard University Press, 1965) ("Since relatively small groups will frequently be able voluntarily to organize and act in support of their common interests, and since large groups normally will not be able to do so, the outcome of

Factional elites invest in de facto political power with expectations for significant returns on their investments.[132] Elites often exercise de facto political power as a reaction to changes in de jure political power, and "when there is a greater democratic advantage for the citizens[,]" elite factions "intensify their investments in de facto political power in order to avoid democratic institutions, which are now more costly for them."[133] Thus, when the elites who dominate "de jure political power lose this privilege, they may still exert disproportionate influence in politics by increasing the intensity of their collective action" to "ensure the continuation of the previous set of economic institutions."[134] This creates a paradox in which "a greater democratic advantage for the citizens may lead to a greater domination of politics by the elite."[135] Elite factions use their advantages to effectively purchase a counter to the democratic advantages afforded the citizenry via de jure political power.[136]

Political economics supports Madisonian political theory, even as it challenges his design.[137] Unfortunately, much about the design of Congress favors

the political struggle among the various groups in society will not be symmetrical"); *see* Coppess, *Considering Congress*, *Part 5: An Initial Critique of the Design*, *supra* note 32, at 1.

132. Omanjana Goswami & Karen Perry Stillerman, *Cultivating Control: Corporate Lobbying on the Food and Farm Bill*, UNION OF CONCERNED SCIENTISTS (May 13, 2024), https://www.ucs.org/resources/cultivating-control?read-online-content=1 [https://perma.cc/U4X4-BUYH]. In the Farm Bill context, subsidy payments to farmers are a primary example: a subset of farmers invest in commodity organizations and lobbyists, which push Congress (or USDA) to deliver payments to those farmers. *Id.*

133. Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions*, *supra* note 128, at 287–88 ("[E]lites that have fewer members, that can benefit more from controlling economic institutions, and that are more forward-looking are more likely to dominate politics. Somewhat paradoxically, over a certain range, a greater democratic advantage for the citizens leads to greater elite domination of politics").

134. Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*, *supra* note 128, at 326.

135. Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions*, *supra* note 128, at 269 ("This is because the democratic advantage of the citizens creates a future cost for the elite, encouraging them to invest more to increase their de factor power in order to avoid this future cost"). One avenue for this is through elite investment in lobbying and similar tools of de facto political power. *Id.* ("effect of lobbying in democracy").

136. *Id.* at 279 ("Intuitively, in democracy the elite invests sufficiently more to increase their de facto political power so that they entirely offset the democratic (de jure power) advantage of the citizens").

137. THE FEDERALIST NO. 58, at 1 (James Madison) ("The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed"). For example, Madison cautioned against having too many Representatives in the House because "[t]he countenance of the government may become more democratic, but the soul that animates it will be more oligarchic." *Id.*

smaller, elite factional interests over larger interests or majorities; the development of budget policy, including budget reconciliation, in the last 50 years has made the situation worse.[138] The challenging path through Congress stacks the legislative game in favor of factional elites who can take advantage of the asymmetries in the procedures and process of Congress, or its structural design. Modern budget rules magnify these asymmetries and have made policymaking more challenging.[139] Understanding this formulation of design and de facto political power exposes the factional interests behind the Farm Bill's death and provides the evidence to build the case against them.

IV. THE SUSPECTS

At first blush, the answer may appear deceptively simple: Congress killed the Farm Bill using the budget reconciliation process. More precisely, the majority members of the agricultural committees in Congress that wrote and voted for (or, in the case of the Senate, acquiesced to) the provisions did the deed. Importantly, the legislation produced by the agricultural committees was in response to instructions in the budget resolution, which were vague and vastly different for the House Agriculture Committee and the Senate ANF Committee.[140] The reconciliation instructions did not, however, require the committees to double farm subsidy payments and cover the costs with cuts to SNAP.[141] The decision to do so was made by the committees, or at least the majority members of each.[142] Given that Congress is a representative body, however, this answer overlooks the operation of de facto political power, conflating it with de jure political power. In other words, there are other suspects. They are the factional interests who demanded the action taken by the committees and deployed de facto political power to get the outcome they wanted.

138. *See* Herbert Hovenkamp, *Appraising the Progressive State*, 102 IOWA L. REV. 1063, 1063, 1102 (2016); Coppess, *High Cotton and the Low Road*, *supra* note 23, at 396; COPPESS, BETWEEN SOIL AND SOCIETY, *supra* note 23, at 197.

139. *See* Hovenkamp, *supra* note 138, at 1063; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 396.

140. Concurrent Resolution on the Budget for Fiscal Year 2025, H.R. Con. Res. 14, 119th Cong. § 2001(b)(1), § 2002(a)(2)(A) (2025).

141. *Id.* Specifically, the House Agriculture Committee was instructed to cut $230 billion over 10 years, while the Senate ANF Committee was instructed to cut at least $1 billion over those years. *Id.*

142. *See id.*

A. A Political Slogan as Potential Confession or Incrimination of the Accomplices

After nearly a full legislative year of Congressional futility in 2023, Senator John Boozman (R-AR), the ranking member of the Senate ANF Committee, effectively conceded that reauthorization would not be accomplished on time.[143] The 2024 election year did not prove to be any more conducive to reauthorization.[144] The House Agriculture Committee managed to report a party-line reauthorization that had no path in the closely divided House, in large part because it was nearly $33 billion over budget.[145] Worse, the Senate ANF Committee failed to begin the reauthorization process and the turbulent election year ended with the retiring chair of the committee producing one version of

143. *See* John Boozman, *Modernize the Farm Safety Net*, JOHN BOOZMAN: U.S. SEN. FOR ARK. (Nov. 28, 2023), https://www.boozman.senate.gov/2023/11/adg-new-bill-needed [https://perma.cc/UD53-2T8F]. The Farm Bill had last been reauthorized in 2018 and was scheduled for reauthorization in 2023. *See* Garrett Downs, *Farm Bill Debate goes Sour*, POLITICO (Dec. 18, 2023), https://www.politico.com/newsletters/weekly-agriculture/2023/12/18/farm-bill-debate-goes-sour-00132228; Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490.

144. *See*, *e.g.*, Zach Budryk, *Congress Poised for Another Farm Bill Punt After Senate Nonstarter*, THE HILL (Nov. 22, 2024, at 06:00 ET), https://thehill.com/policy/energy-environment/5002806-farm-bill-poised-one-year-extension/ [https://perma.cc/669M-VNHR]; Lisa Held, *Will Congress Pass a New Farm Bill in 2025?*, CIV. EATS (Jan. 8, 2025), https://civileats.com/2025/01/08/will-congress-pass-a-new-farm-bill-in-2025/ [https://perma.cc/3B6J-WA2M]; Jonathan Coppess, *Reauthorization or Reconciliation: Thoughts on the Farm Bill's Prospects*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Nov. 21, 2024, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/11/fdd112124.pdf [https://perma.cc/8TT9-ALSW]; Jonathan Coppess, *History and the 2024 House Farm Bill*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), May 30, 2024, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/05/fdd053024.pdf [https://perma.cc/ZA2M-SSD6] [hereinafter Coppess, *History and the 2024 House Farm Bill*]; Jonathan Coppess, *Farm Bill 2024: A Mid-Summer's Review*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Jul. 18, 2024, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/07/fdd071824.pdf [https://perma.cc/5EY8-ZE86]; Coppess, *The Unfortunately Obligatory Farm Bill Expiration and Extension Discussion*, *supra* note 73, at 1.

145. *See* CONG. BUDGET OFF., AT A GLANCE: H.R. 8467, FARM, FOOD, AND NATIONAL SECURITY ACT OF 2024 (2024); Letter from Phillip L. Swagel, Direct, CONG. BUDGET OFF., to Honorable Glenn Thompson & Honorable Debbie Stabenow (Nov. 8, 2024) (on file with author); Jonathan Coppess, *Reviewing the Congressional Budget Office Score of the House Farm Bill*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Aug. 8, 2024, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/08/fdd080824.pdf [https://perma.cc/RS6Q-B7NR] [hereinafter Coppess, *Reviewing the Congressional Budget Office Score*].

legislation while the ranking member essentially copied the legislation reported by the House Agriculture Committee.[146]

Two years of failed reauthorization efforts did not produce a Farm Bill, it produced a political slogan: a demand that Congress "put more farm in the Farm Bill."[147] On its face, the slogan was a demand for more crop support payments,

146. *See*, *e.g.*, Press Release, U.S. Senate, Committee on Agriculture, Nutrition, and Forestry, Chairwoman Debbie Stabenow, Ranking Member David Scott on Farm Bill Extension (Dec. 14, 2024) (on file with author); Grace Yarrow & Meredith Lee Hill, *Farm Bill Extension on the Line*, POLITICO (Dec. 9, 2024, at 10:00 ET), https://www.politico.com/newsletters/weekly-agriculture/2024/12/09/farm-bill-extension-on-the-line-00193201; Grace Yarrow, *What's Next for Ag Policy*, POLITICO (Dec. 23, 2024, at 10:00 ET), https://www.politico.com/newsletters/weekly-agriculture/2024/12/23/whats-next-for-ag-policy-00195850; Grace Yarrow & Meredith Lee Hill, *Scoop: Senate Democrats' Farm Bill Plans*, POLITICO (Nov. 18, 2024, at 10:00 ET), https://www.politico.com/newsletters/weekly-agriculture/2024/11/18/scoop-senate-democrats-farm-bill-plans-00190057; Ryan Hanrahan, *Farm Bill Extension Likely as GOP Rejects Stabenow's Bill*, ILL.: FARM POL'Y NEWS (Nov. 20, 2024), https://farmpolicynews.illinois.edu/2024/11/farm-bill-extension-likely-as-gop-rejects-stabenows-bill/ [https://perma.cc/99SM-HV99]; Ryan Hanrahan, *New Farm Bill Top of Mind as 119th Congress Begins*, ILL.: FARM POL'Y NEWS (Jan. 3, 2025), https://farmpolicynews.illinois.edu/2025/01/new-farm-bill-top-of-mind-as-119th-congress-begins/ [https://perma.cc/ZD4L-EVBS].

147. Based on press releases and comments, the phrase traces to comments by Senator Joni Ernst (R-IA) at a hearing in September 2023. *See Foreign Ownership in U.S. Agriculture*: *Hearing Before the S. Comm. on Agric., Nutrition, and Forestry*, 118th Cong. 29 (2023) (statement of Joni Ernst, Member, S. Comm. on Agric., Nutrition, and Forestry) ("I consistently hear from our farmers and ag leaders about the need for more farm in the farm bill"); Samantha Dietel, *Foreign Ownership of Farmland Probed at U.S. Senate Hearing*, MO. INDEP. (Sep. 28, 2023, at 06:45 CT), https://missouriindependent.com/2023/09/28/foreign-ownership-of-u-s-farmland-probed-at-u-s-senate-hearing/ [https://perma.cc/D3SD-AXSR]. Ranking Member, Senator John Boozman, credited a farmer at a North Dakota listening session. Boozman, *supra* note 143. The phrase was subsequently used by Senator Chuck Grassley (R-IA). Downs, *supra* note 143 (quoting Senator Grassley that he had observed "resistance by Democrats to putting more farm in the farm bill, which basically means an increase of reference pricing"). Senator John Thune used it in a speech on the Senate floor in February. 170 CONG. REC. 1021-22 (2024) (statement of Sen. John Thune) ("Simply put, we need to put more farm in the farm bill, and we need to get moving now"). Senator Ernst again used it in March. *See* Joni Ernst, *Ernst: Putting More Farm in the Farm Bill*, IOWA TORCH (Mar. 29, 2024), https://iowatorch.com/2024/03/29/ernst-putting-more-farm-in-the-farm-bill/ [https://perma.cc/U8A8-8LG5]. Senator John Hoeven (R-ND) also used the phrase in a speech on the Senate floor. 170 CONG. REC. 2669-72 (2024) (statement of Sen. John Hoeven) ("[I]t is about putting more farm in the farm bill"). Ranking Member Boozman also used the phrase in a Senate floor speech. 170 CONG. REC. 4028-29 (2024) (statement of Sen. John Boozman) (stating that things are "expected to get worse if we fail to put more farm in the farm bill"). Senator Cindy Hyde-Smith (R-MS) also joined the chorus in her Senate floor speech. 170

which had fallen to near zero in 2024 due to high crop prices—usually considered a positive for farmers who prefer income from the marketplace rather than the federal treasury.[148] None-too-subtly, "put more farm in the Farm Bill" was also a demand to increase spending on farmers relative to SNAP.[149] As it became the rallying cry, the threat to the political coalition increased because it played to partisan polarization in Congress built on problematic perspectives concerning SNAP.[150]

More specifically, the refrain meant increasing the price-based thresholds for triggering farm program payments known as reference prices.[151] Increasing price-

CONG. REC. 4328 (2024) (statement of Sen. Cindy Hyde-Smith) ("In short, put more farm in the Farm Bill"). Senator Boozman, in a press release as ranking member of the Senate ANF Committee, made it a part of the headline. *See* Press Release, U.S. Sen. Comm. on Agric., Nutrition, and Forestry, Senate Republicans Embrace Framework That Puts More Farm in the Farm Bill (July 19, 2024) (on file with author) (including quotes from other Republican Senators on it). Senator Debbie Stabenow (D-MI) and chair of the Senate ANF Committee made her own argument attempting to counter Republicans on the topic in a speech on the Senate floor. 170 CONG. REC. 6591 (2024) (statement of Sen. Debbie Stabenow) (stating her farm bill proposal "puts more farm in the farm bill for all of our commodities, not at the expense, though, of rural communities or American families that are critical to holding the farm bill coalition together.").

148. *See* CBO'S JANUARY 2025 BASELINE FOR FARM PROGRAMS, *supra* note 19, at 6. CBO, for example, projected $0 in PLC payments for 2024 and just $2 million in 2025, as well as just $263 million in ARC-CO payments in 2024 and $442 million in 2025. *Id.*

149. 170 CONG. REC. 4028–29 (2024) (statement of Sen. John Boozman). As noted earlier, by 2023 SNAP had grown to more than 80% of total Farm Bill spending from mandatory programs. *See* CONG. BUDGET OFF., BASELINE PROJECTIONS, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (2023); CONG. BUDGET OFF., BASELINE PROJECTIONS, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (2024); MONKE & STUBBS, *supra* note 2, at 7.

150. *See* Coppess, *High Cotton and the Low Road*, *supra* note 23, at 348; CONG. BUDGET OFF., BASELINE PROJECTIONS, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM, *supra* note 44. Most of the partisan political attention narrows the focus of SNAP to its costs, obscuring the fact that the program serves more than 40 million American households on average each month, a number of beneficiaries that exponentially exceeds the number of farmers receiving benefits. *Id.*

151. *See* 7 U.S.C. § 9011(19) (providing a definition of reference prices); 7 U.S.C. § 9015(a) (discussing producer election); 7 U.S.C. § 9016(a) (discussing Price Loss Coverage (PLC)); 7 U.S.C. § 9017 (discussing Agriculture Risk Coverage (ARC)). Pricing is fixed by Congress in the Farm Bill. *Id.* When market average prices are lower than the reference price, payments are triggered to farmers with base acres enrolled in the PLC program. *Id.* The other option for these farmers is the ARC program, which calculates a moving average revenue (prices multiplied by yields) benchmark, with a guarantee (86% of the benchmark) against which the actual revenue in a year is compared and if the actual revenue is below the guarantee, a payment on the difference is triggered. *Id.* Notably, reference prices are also incorporated in the ARC calculations. *Id.*

based thresholds for payments to farmers has long been the siren song of the Southern farm faction, a clue in and of itself.[152] The slogan was also likely connected to the extraordinary ad hoc assistance farmers had received, either through expectation setting, dependency, or some combination of both.[153]

Increasing the price-based payment thresholds would result in more payments, and larger payments, to farmers enrolled in the programs, but doing so would increase spending.[154] This was also a major problem. Congressional budget rules require that increased spending be offset by reductions in spending (or increased revenue).[155] Achieving "more farm in the Farm Bill" meant either violating budget rules or cutting SNAP to increase those payments. Cutting food assistance for low-income individuals and households to cover the costs of increasing farm subsidy payments to high-income farmers was particularly problematic politically.[156] Neither option offered much of a path through Congress.

Unable to "put more farm in the Farm Bill" in the regular order process in Congress—which would require greater scrutiny and deliberation, and sufficient bipartisan votes to move legislation—Republicans in Congress elected to do so in budget reconciliation.[157] Ironically or not, the budget rules that complicated reauthorization of a Farm Bill with "more farm" in it through regular Congressional order were the same ones that were used to carry that goal in reconciliation.[158]

152. COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 259; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 399–400.

153. *See supra* notes 60–63 and accompanying text; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 357, 398.

154. CONG. BUDGET OFF., AT A GLANCE: H.R. 8467, FARM, FOOD, AND NATIONAL SECURITY ACT OF 2024, *supra* note 145, at 4. The version reported by the House Agriculture Committee in 2024 was estimated to increase the costs of ARC and PLC by more than $40 billion over 10 years, almost $35 billion of it just for increased reference prices in PLC. *Id.*; Coppess, *Reviewing the Congressional Budget Office Score*, *supra* note 145, at 2.

155. 2 U.S.C. §§ 931-939 (statutory pay-as-you-go); *see* MEGAN S. LYNCH & JAMES V. SATURNO, CONG. RSCH. SERV., RL30862, THE BUDGET RECONCILIATION PROCESS: THE SENATE'S "BYRD RULE" 35 (2022).

156. *See* JONATHAN MCFADDEN & ROBERT A. HOPPE, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., ECON. INFO. BULL. NO. 184, THE EVOLVING DISTRIBUTION OF PAYMENTS FROM COMMODITY, CONSERVATION, AND FEDERAL CROP INSURANCE PROGRAMS 29 (2017). Among other things, notes findings from the USDA on payments and farms. *Id.*

157. *See* 2 U.S.C. §§ 931-939 (statutory pay-as-you-go); LYNCH & SATURNO, *supra* note at 155, at 35.

158. *See* 2 U.S.C. §§ 931-939 (statutory pay-as-you-go); LYNCH & SATURNO, *supra* note, at 155, at 35.

B. The Real Suspects; Or the Difference Between Planters and Farmers

Looked at in light of the Farm Bill's demise, the slogan "put more farm in the Farm Bill" begins to seem like a form of political confession, incriminating the complicit. The formula discussed in Part III(B) focuses on de facto political power by elite factions.[159] If the result of the Reconciliation Farm Bill was to substantially increase payments to some farmers, while cutting food assistance to poor households, then the primary suspects would be among the beneficiaries of that result. A dragnet that implicates all farmers is a problem, however, because not all farmers benefit the same, nor do they all have the same political power. This confronts a familiar conundrum for agriculture policy, seeking a clear and accurate picture of the farmers benefiting from the policies.

The most prominent data sources are of little help. For more than 50 years, USDA has defined a farm as any operation that produces at least $1,000 of agricultural commodities.[160] It is a definition so large and all-encompassing as to have little useful meaning for evaluating policy.[161] That definition has been rendered further meaningless in the modern agricultural economy, where $1,000 could be achieved on a single acre or less of a single crop.[162] At the other end of the spectrum sits long-running arguments about corporate farming and corporate farms, terminology that is also confused.[163] A corporate farm may or may not be a

159. Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions*, *supra* note 128, at 268.

160. MCFADDEN & HOPPE, *supra* note 156, at 4.

161. Erik O'Donoghue, *Changing the Definition of a "Farm" Can Affect Federal Funding*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV.: AMBER WAVES (Dec. 1, 2009), https://www.ers.usda.gov/amber-waves/2009/december/changing-the-definition-of-a-farm-can-affect-federal-funding [https://perma.cc/62DQ-BM7S]. The most recent Census of Agriculture counted 1.9 million farms with more than 1.6 million (85%) farming less than 500 acres. NAT'L AGRIC. STAT. SERV., U.S. DEP'T OF AGRIC., 2022 CENSUS OF AGRICULTURE: UNITED STATES SUMMARY AND STATE DATA 3 (2022), https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf [https://perma.cc/ALK6-F6WW].

162. *See* MCFADDEN & HOPPE, *supra* note 156, at 4–6. Within that broad definition are categories based on sales classes from below $10,000 to above $1 million. *See id.* at 6. Any meaning from these classes depends almost entirely on crop revenues. For example, a farm of 1,250 acres of corn would reach a million dollars in sales at 200 bushel per acre yields and $4.00 per bushel average prices and nearly reach $1,000 on a single acre. *See* U.S. DEP'T OF AGRIC., FARMERS FIRST 3 (2025), https://www.usda.gov/sites/default/files/documents/farmers-first-small-family-farms-policy-agenda.pdf [https://perma.cc/HS4R-TH9C].

163. Philip M. Raup, *Corporate Farming in the United States*, 33 J. ECON. HIST. 274, 275–76 (1973) (noting "[t]he first national attempt to measure corporate farms as a class was in 1968" by the USDA, finding just over thirteen thousand; however, this was likely

family farm; it could also be a large operation organized as a corporate entity or an agribusiness, or a corporation that owns farmland or farming operations.[164] The formula on political power helps design a categorical concept that better fits the issues of concern by distinguishing between farmers and planters.[165] Furthermore, this categorical distinction helps expose the latter as the primary suspects in the death of the Farm Bill.

The categorical formulation is built upon an understanding that, "Plantation agriculture competes with its opposite, the family farm, as it always has done."[166] Planter is, of course, a loaded term that carries plenty of troubled baggage from history.[167] Planters have traveled phases in American history, from the antebellum

undercounted by significant amounts, partially due to the struggle between the legal definition and the functional one); Jon Lauck, *The Corporate Farming Debate in the Post-World War II Midwest*, 18 GREAT PLAINS Q. 139, 147 (1998); Loka Ashwood et al., *What Owns the Land: The Corporate Organization of Farmland Investment*, 49 J. PEASANT STUDS. 233, 256; J. Michael Boomershine, Jr., *The Battle Over America's Farmlands: Corporate Farming Practices and Legislative Attempts at Preserving the Family Farm*, 21 DRAKE J. AGRIC. L. 361, 364 (2016).

164. *Family Farms*, U.S. DEP'T OF AGRIC.: NAT'L INST. OF FOOD & AGRIC. (Mar. 23, 2026, at 11:40 CT), https://www.nifa.usda.gov/grants/programs/rural-economic-development/family-farms [https://perma.cc/5V9C-R754].

165. Paul S. Taylor, *Plantation Agriculture in the United States: Seventeenth to Twentieth Centuries*, 30 LAND ECON. 141, 152 (1954).

166. *Id.* (adding that the "'planter' who absorbs the 'farmer' may be a man, a corporation, or a cooperative association to which the farmer belongs as a member[,]" and the "trend of the plantation is toward more elaborate management, and machinery, and less labor"); Howard F. Gregor, *The Large Industrialized American Crop Farm: A Mid-Latitude Plantation Variant*, 60 GEOGRAPHICAL REV. 151, 152, 175 (1970).

167. *See* Brian Williams, *"That We May Live": Pesticides, Plantations, and Environmental Racism in the United States South*, ENV'T & PLAN. E: NATURE & SPACE, Mar.–June 2018, at 1, 12–13. The term planter derives from plantation and the "first use of the word 'plantation' in the English language derived from the English occupation of Ireland, and referred to a settlement and occupation of conquered space" that "came to refer to large-scale operations devoted to one or two agricultural commodities, often produced by enslaved, coerced, or low-waged workers, for international markets." *Id.* at 7; *see* Harold D. Woodman, *Post-Civil War Southern Agriculture and the Law*, 53 AGRIC. HIST. 319, 319 (1979); Rupert B. Vance, *Human Factors in the South's Agricultural Readjustment*, 1 LAW & CONTEMP. PROBS. 259, 263 (1934); Luna Bellani, Anselm Hager & Stephan E. Maurer, *The Long Shadow of Slavery: The Persistence of Slave Owners in Southern Lawmaking*, 82 J. ECON. HIST. 250, 250 (2022) ("The end of the American Civil War brought the end of slavery, but it did not bring the end of the Southern planters."); Rick W.A. Smith et al., *The Plantation System and the Roots of the Southern Rural Mortality Penalty in the Northern Blackland Prairies of Texas*, HEALTH & PLACE, June 3, 2024, at 1, 2; CLYDE WOODS, DEVELOPMENT ARRESTED: THE BLUES AND PLANTATION POWER IN THE MISSISSIPPI DELTA 4–12 (1998); JAMES C. COBB, THE MOST SOUTHERN PLACE ON EARTH: THE MISSISSIPPI DELTA AND THE

system of slavery to the Jim Crow system of sharecropping, through a "neo-planter" phase under mechanization and the Green Revolution after World War II,[168] to even a "Modernist Planter" phase identified in more recent years.[169] In farming, the roots matter to the fruit.

Researchers have noted that:

> What we recognize today as the industrial-scale, export-oriented, monoculture farm system traces many of its historical roots to early plantations in the American South, where extreme reductions in biodiversity and impositions of monocultural farming techniques were specifically designed for the systematic coercion of labor to maximize profits for land owners. [170]

The key attributes that first surface in the literature are the size of the operation—generally large landholding elites—and a centralized management structure in which repressive labor practices of the past have been replaced by mechanization and chemicals, subsidized by federal policy.[171] Modern refinements

ROOTS OF REGIONAL IDENTITY 204–05 (1992). There are, of course, many great risks of big distractions in veering too close to the tangled, trouble mess of the antebellum South, slavery and plantations. That should not distract from the reality that those matters retain some degree of relevance; planters remain "painfully alive" and it should be remembered that "the plantation bloc has been able to thrive even though numerous scholars and activists declared it dead." WOODS, *supra*, at 4, 278 ("Although the plantation tradition has been relegated to the dustbin of history by some social theorists, it continues to survive among those who celebrate its brutal legacy").

168. *See* Jack Temple Kirby, *The Transformation of Southern Plantations c. 1920-1960*, 57 AGRIC. HIST. 257, 275 (1983).

169. WOODS, *supra* note 167, at 192, 204 (noting the "plantation power in the Delta survives through the creation of multiple forms and identities: old alliances are continuously being recast; new alliances are constantly being constructed; and new movements are perpetually being launched").

170. Smith et al., *supra* note 167, at 2.

171. *See* Brian Williams, *Articulating Agrarian Racism: Statistics and Plantationist Empirics*, 57 SE. GEOGRAPHER 12, 14 (2017) (reflecting that the concept of a planter needs "an expansive and dynamic conceptualization of the plantation" that is "both an idea, and as a set of spatial relations"); Taylor, *supra* note 165, at 151 (stating that the "essence of plantation agriculture . . . is the unified control of a large tract of land for agricultural production" with single or concentrated management and control); Gregor, *supra* note 166, at 151–52, 169 (noting that planters operate "large industrialized farms" making use of "mechanization and capitalization" in which "[c]ommercialism, specialization of crops, systematized management, and division of labor" are considered "standard aspects"); Raup, *supra* note 163, at 277–79 ("faith in economies of large-scale production" where "[m]echanization created a technological potential for large-scale agricultural enterprises"); Jonathan M. Wiener, *Planter Persistence and Social Change: Alabama, 1850-1870*, 7 J. INTERDISC. HIST. 235, 241 (1976)

of the planter category include highly industrialized operations with sophisticated management that claim economies of scale via specialized or monoculture production; always at the core is cotton.[172] Combined, the traditional and modern framings paint a picture of a gentleman farmer, part of an elite landholding class predominantly in the South, where scale obviates the planter from contributing actual labor but allows the exercise of strong central control over land and labor and capital.[173]

More critical than size or sophistication in the political power formula is the focus on defining the planter class in terms of political influence.[174]

("increasing concentration of landed wealth during the 1860-1870 decade could be seen as a normal consequence of economic depression; normally, economic concentration increases in periods of depression" demonstrating an ability to respond economic depression "as a normal short-term cycle rather than an economic cataclysm"); COBB, *supra* note 167, at 101, 103–105 ("Delta planters had adopted increasingly sophisticated management techniques . . . true efficiency derived not just from larger yields but from lower costs of production . . . afforded by sharecropping made it the labor arrangement of choice . . . Delta planters had successfully adopted modern, centralized management techniques to maximize the efficiency and profitability of these operations" that included the use of debt to control labor, or the peonage system).

172. Smith et al., *supra* note 167, at 2 ("[L]arge monocultural, agro[-]industrial farm economies and encompasses shifting forms of coercive and unfree labor that grew out of early colonial plantations"); Bill Winders, '*Sowing the Seeds of Their Own Destruction': Southern Planters, State Policy and the Market, 1933–1975*, 6 J. AGRARIAN CHANGE 143, 146 (2006) ("Southern planters were large landowners concentrated in the cotton belt" that through mechanization and diversification of crops became "large commercial farmers"); *see* Brian Williams, *"The Fabric of Our Lives"?: Cotton, Pesticides, and Agrarian Racial Regimes in the U.S. South*, 111 ANNALS AM. ASS'N GEOGRAPHERS 422, 422.

173. *See* Shearer Davis Bowman, *Antebellum Planters and Vormärz Junkers in Comparative Perspective*, 85 AM. HIST. REV. 779, 780–81 n.6 (1980) ("[D]enotes the larger and more elastic elite" with large landholdings that provided "freedom from the necessity of arduous physical labor and the concomitant freedom to enjoy civilized leisure" or "gentlemen farmers in that they were freed not only from the necessity of manual labor but also from the need to serve as full-time supervisors of work in the fields"); COBB, *supra* note 167, at 130–31 ("With cotton as the staff of economic life in the region, the cotton planter was quite naturally the dominant figure in both the economy and the society of the Delta[,]" providing the planter with status that was "symbolic of social as well as economic supremacy" which "suggested aristocracy and inherited wealth").

174. Steven Hahn, *Class and State in Postemancipation Societies: Southern Planters in Comparative Perspective*, 95 AM. HIST. REV. 75, 83 (1990) (describing that southern landed elite with significant political power that "sought to use the national government for its own purposes" including to "commit federal resources to socially and politically repressive policies"); Bowman, *supra* note 173, at 782 (observing how large "estates and their work forces constituted the foundations of their owners' wealth, political influence, social status, and, in many instances, even their self-esteem"); Jonathan M. Wiener, *Class Structure and Economic Development in the American South, 1865-1955*, 84 AM. HIST. REV. 970, 974

Planters "evolved as total social institutions with distinct regional, state, electoral, administrative, and judicial practices" such "that cotton and rice are not just crops; they are also highly mobilized political factions."[175] Planters helped create "a political system dominated by large-scale agricultur[e]" propagating a peculiar, one-sided version of conservatism that opposes social benefits in general and specifically for anyone other than themselves, in which the poor or the consumer are to be left to their own devices but the planters get all the help they desire.[176] With outsized political influence and power, planters have long been able to shape federal policies to capture benefits for themselves.[177] Outsized federal benefits, in turn, allow planters to further consolidate, adopt advanced technology, and increase their political influence in a self-perpetuating cycle.[178]

(1979) (asserting that planters use "state power to enforce the interests of their class and prevent those individualists among them who desired to engage in market economics").

175. WOODS, *supra* note 167, at 131, 263.

176. James C. Cobb, *Beyond Planters and Industrialists: A New Perspective on the New South*, 54 J. S. HIST. 45, 57 (1988); Wiener, *supra* note 171, at 242 (stating the conservatism was built upon the "politics of landholding" for an "agricultural basis of aristocratic power"); *see also* Bellani, Hager & Maurer, *supra* note 167, at 251 ("The former slave owners not only continued to exert control over the productive land, they also remained highly influential in politics.").

177. *See* COBB, *supra* note 167, at 329 ("Despite congressionally imposed limits of fifty thousand dollars per person in annual subsidy payments, Delta planters still sought on occasion to collect massive amounts of federal money" and noting Flowers in NYTs, August 1990); Hahn, *supra* note 174, at 83 (seeking to "use the national government for its own purposes" including to "commit federal resources to socially and politically repressive policies"); Winders, *supra* note 172, at 158, 159, 160 (stating "planters held disproportionate influence over national politics" due to the South's power in Congress and in the Democratic Party; "Southern Democrats also chaired important committees," and the "planters' influence over Southern politics" and "held important power over national politics"; the "most powerful segment of agriculture and proponent of supply management policy were Southern planters"); Raup, *supra* note 163, at 285 (discussing tax policy "reinforced by the nature of government farm price support programs" that provide direct benefits as "a function of historical acreage base" which creates incentives for farm size enlargement and farm program payments "also provided financial leverage that could be exploited by large or corporate farms but was not equally available as a credit base for small farms"); *see generally* BILL WINDERS, THE POLITICS OF FOOD SUPPLY: U.S. AGRICULTURAL POLICY IN THE WORLD ECONOMY (2009) (discussing the effects of agricultural policy decisions on the world economy as a whole) [hereinafter WINDERS, THE POLITICS OF FOOD SUPPLY].

178. *See* COBB, *supra* note 167, at 205 ("Consolidation, diversification, and mechanization . . . modern technology and improvements in chemical fertilizers and herbicides enabled large-scale producers to achieve both higher levels of productivity and dramatic savings in production costs, while they benefitted as well from government price supports"); Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*, *supra* note 128, at 326 ("[W]hen elites who monopolize de jure political power lose this

What most people who raise concerns about corporate farms appear to be talking about, therefore, is this modern conceptualization of planters. More accurately, it is the planter philosophy that has persisted throughout history, occupying different systems from slavery to sharecropping. It is that philosophy that seems to be most troubling about the modern system of large, mechanized farms relying heavily on synthetic chemicals and federal assistance.[179] With no small amount of irony, this planter philosophy was probably best summed up by Madison's memorable phrasing that "the mild voice of reason, pleading the cause of an enlarged and permanent interest, is but too often drowned, before public bodies as well as individuals, by the clamors of an impatient avidity for immediate and immoderate gain."[180]

The exercise of political power by this planter elite includes the hiring of lobbyists and consultants to push messages in the District of Columbia, both publicly and privately.[181] Among other things, these lobbyists and consultants create a political environment of near-perpetual grievance on behalf of the planters, a political martyr complex built upon persistent claims of victimhood. The planter elite often hide behind, or make use of, the challenges facing actual farmers to maximize payments to themselves.[182] As a small, concentrated but wealthy

privilege, they may still exert disproportionate influence in politics by increasing the intensity of their collective action . . . .").

179. *See* COBB, *supra* note 167, at 205 ("Consolidation, diversification, and mechanization . . . modern technology and improvements in chemical fertilizers and herbicides enabled large-scale producers to achieve both higher levels of productivity and dramatic savings in production costs, while they benefitted as well from government price supports"); Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*, *supra* note 128, at 326 ("[W]hen elites who monopolize de jure political power lose this privilege, they may still exert disproportionate influence in politics by increasing the intensity of their collective action . . . .").

180. THE FEDERALIST NO. 42 (James Madison).

181. *See* BOSSO, *supra* note 50, at 52–53; *see generally* CLARE R. BROCK, FARMED OUT: AGRICULTURAL LOBBYING IN A POLARIZED CONGRESS (2024) (discussing how agricultural industry groups affect policy work in Washington D.C.); WINDERS, THE POLITICS OF FOOD SUPPLY, *supra* note 177 (discussing food law and policy and its effects on the food supply); WILLIAM P. BROWNE, CULTIVATING CONGRESS: CONSTITUENTS, ISSUES, AND INTERESTS IN AGRICULTURAL POLICYMAKING (1995) (arguing that policy is no longer controlled by political parties, but instead by organized interest groups); JOHN MARK HANSEN, GAINING ACCESS: CONGRESS AND THE FARM LOBBY 1919–81 (1991) (discussing the evolution of interest group access to Congress over the majority of the 20th century).

182. BRIAN RIEDL, HOW FARM SUBSIDIES HARM TAXPAYERS, CONSUMERS, AND FARMERS, TOO 11 (2007), https://www.heritage.org/agriculture/report/how-farm-subsidies-harm-taxpayers-consumers-and-farmers-too [https://perma.cc/4ANX-9RTS].

factional interest, planters invest to achieve outcomes in their favor, capturing federal benefits at the expense of other interests or the general public.[183]

This categorical concept of planters and the understanding of the planter philosophy informs the evaluation of the suspects and the evidence. Specifically, cutting food assistance in SNAP to cover the costs of increasing farm payments looks very much like the work of the elite planter faction. To the extent that putting "more farm in the Farm Bill" resulted in outsized or inequitable benefits to planters, it indicts the planter elite as the primary suspects for the Farm Bill's demise.[184]

V. THE EVIDENCE; FINGERPRINTS AND A LONG HISTORY

There is nothing new under the American sun when it comes to the destructive tendencies of the Southern planter elite.[185] It is easily the most persistent and consistent theme in United States history, and the Farm Bill is no exception.[186] Likely the only thing surprising at this point is the ease and frequency

183. *See* Acemoglu & Robinson, *Persistence of Power, Elites, and Institutions*, *supra* note 128, at 269 ("The persistence of labor repression in the [United States] South is consistent with changes in political institutions because they were offset by the exercise of de facto power; slavery was replaced by monopsonistic arrangements, policies designed to impede labor mobility, political disenfranchisement, intimidation, violence and lynching."); THE FEDERALIST NO. 10, *supra* note 116 ("[T]he most common and durable source of factions has been the various and unequal distribution of property.").

184. *See* FRANK GOTTRON, CONG. RSCH. SERV., R48167, THE 2024 FARM BILL: H.R. 8467 COMPARED WITH CURRENT LAW 5 (2024).

185. *See Ecclesiastes* 1:9 (King James Version) (showing that this phrase traces to the Bible); *see*, *e.g.*, Russell G. Pearce & Pam Jenoff, *Nothing New Under the Sun: How the Legal Profession's Twenty-First Century Challenges Resemble Those of the Turn of the Twentieth Century*, 40 FORDHAM URB. L.J. 481, 481 (2016) (referencing the Tanakh, or the Hebrew Bible, in the first footnote listed on the page that is denoted by a cross symbol); Richard York & Brett Clark, *Nothing New Under the Sun? The Old False Promise of New Technology*, 33 FERNAND BRAUDEL CTR. REV. 203, 203 (2010).

186. This seems self-evident, or at least the logical conclusion of even the most cursory reading of United States history. The research would be too voluminous to cite, even in a law review footnote. For some relatively recent examples. *See*, *e.g.*, JOANNE B. FREEMAN, THE FIELD OF BLOOD: VIOLENCE IN CONGRESS AND THE ROAD TO CIVIL WAR (2018); HEATHER COX RICHARDSON, HOW THE SOUTH WON THE CIVIL WAR: OLIGARCHY, DEMOCRACY, AND THE CONTINUING FIGHT FOR THE SOUL OF AMERICA 198 (2020). For some policy-related examples, *see* Ira Katznelson, Kim Geiger & Daniel Kryder, *Limiting Liberalism: The Southern Veto in Congress, 1933–1950*, 108 POL. SCI. Q. 283, 284 (1993); David A. Bateman, Ira Katznelson & John Lapinski, *Southern Politics Revisited: On V. O. Key's "South in the House"*, 29 STUD. AM. POL. DEV. 154, 155 (2015); Sean Farhang & Ira Katznelson, *The Southern Imposition: Congress and Labor in the New Deal and Fair Deal*, 19 STUDS. AM. POL. DEV. 1, 1 (2005). Additionally, there has been reference to those related to the Farm Bill.

with which this reality is overlooked, ignored or forgotten. The evidence of the leading role of the Southern planters in the Farm Bill's death is overwhelming, from the benefits of the Reconciliation Farm Bill to more than 90 years of historical experience.[187]

A. Legislative Fingerprints in the Reconciliation Farm Bill

The strongest evidence pointing to the elite planter faction as the suspects can be found in the Reconciliation Farm Bill. That evidence begins with the stunning increases in farm program subsidies, estimated by CBO to exceed $61.5 billion in additional assistance to farmers in the next 10 fiscal years.[188] Over 80% of the increase to farmers is from one program, the PLC program.[189] Early projections of payments indicate that the largest beneficiaries of the changes in PLC will be southern farm operations with base acres of seed cotton, long grain rice, and peanuts.[190] Planters with base acres of long grain rice, for example, are

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See WINDERS, THE POLITICS OF FOOD SUPPLY, *supra* note 177, at 149; Winders, *supra* note 172, at 161.

187. *See* Winders, *supra* note 172, at 149.

188. Total calculated by author from the CBO score. *See Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO's January 2025 Baseline*, *supra* note 19; *see* John Newton, *Updated Farm Bill Math Confirms Challenging Farm Economy*, AM. FARM BUREAU FED'N (Feb. 2, 2026), https://www.fb.org/market-intel/updated-farm-bill-math-confirms-challenging-farm-economy [https://perma.cc/JJQ5-KMVR].

189. Ava Splear, *5 Crop Insurance Changes to Understand for 2026*, FARM PROGRESS: PRAIRIE FARMER (Dec. 18, 2025), https://www.farmprogress.com/farm-policy/government-boosts-crop-insurance-subsidies-to-80-for-key-options-sparking-integrity-concerns [https://perma.cc/95ZA-RFJY]. CBO projects an additional $60.5 billion in payments over the 10-year window, which is driven by an increase in the statutory reference prices. Newton, *supra* note 188. In addition to the increases for PLC payments, the Reconciliation Farm Bill also increased the payment threshold calculations in the ARC program. *See* Jonathan Coppess, *The Reconciliation Farm Bill: Top Five Most Problematic Changes to Farm Policy, #3*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Aug. 21, 2025, at 2, https://farmdocdaily.illinois.edu/2025/08/the-reconciliation-farm-bill-top-five-most-problematic-changes-to-farm-policy-3.html [https://perma.cc/N4JW-LNT7].

190. *See* Nick Paulson et al., *Projected ARC and PLC Payments for 2025*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Nov. 18, 2025, at 3, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/11/fdd111825.pdf [https://perma.cc/D5GG-YHE7] [hereinafter Paulson et al., *Projected Payments for 2025*]; Nick Paulson et al., *Additional ARC/PLC Payments for 2025: Value of Receiving the Maximum Program Payment*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Nov. 25, 2025, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/11/fdd112525.pdf [https://perma.cc/C3SP-TC3E] [hereinafter Paulson et al., *Additional ARC/PLC Payments for 2025*]; Henrique Monaco et al., *Farm Bill in Reconciliation: ARC/PLC Payment Projections; Policy Design Lab Update*, FARMDOC DAILY

expected to receive payments nearly 13 times larger than farmers with soybean base acres.[191]

Here, a brief detour into farm policy design helps. The two primary commodities programs, ARC and PLC, make payments to farmers on base acres, which are USDA records of historic average acres planted, but are not actual planted acres to a specific crop in a given crop year.[192] Base acres operate such that the payments from the programs are decoupled from the acres planted by the farmer, a feature of the policy since 1996.[193] Pursuant to this policy design, for example, a farmer with long grain rice base acres could plant soybeans but receive

(Dep't of Agric. & Consumer Econ., Univ. of Ill.), July 3, 2025, at 4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/07/fdd070325.pdf [https://perma.cc/YU9D-KZ7D]; Gary Schnitkey, Nick Paulson & Jonathan Coppess, *Impacts of the Commodity Title Changes Under the One Big Beautiful Bill Act (OBBBA) for Midwestern Farms in 2025*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), July 15, 2025, at 4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/07/fdd071525.pdf [https://perma.cc/SG6U-UW5F] [hereinafter Schnitkey, Paulson & Coppess, *Impacts of the Commodity Title Changes Under OBBA*]; *see generally 2025 Reconciliation Farm Bill*, POL'Y DESIGN LAB (Mar. 8, 2026, at 20:31 CT), https://policydesignlab.ncsa.illinois.edu/policy-lab/2025-reconciliation-farm-bill/title-i/arc-plc-payments [https://perma.cc/6GY3-2CAE] (providing more information and interactive visualization of payment projections by county for all crops and years).

191. Paulson et al., *Projected Payments for 2025*, *supra* note 190, at 2.

192. *See* 7 U.S.C. §§ 9011(4)(A), 9012 (defining base acres in the statute, meaning "the number of acres in effect under," previous iterations of the policy, and as adjusted); Jonathan Coppess, *Farm Bill 2023: Reviewing Pieces of the Base Acres Puzzle*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), July 20, 2023, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/07/fdd072023.pdf [https://perma.cc/HYQ2-PSXB] [hereinafter Coppess, *Farm Bill 2023: Reviewing Pieces of the Base Acres Puzzle*].

193. *See*, *e.g.*, COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 211.

long grain rice PLC payments, and vice versa.[194] The only farm operations with seed cotton, long grain rice, or peanut base acres, moreover, are in the South.[195]

The reference prices used in PLC are the result of political decisions.[196] These price-based payment thresholds are fixed by members of Congress on the agricultural committees and written into the statute.[197] Under modern budget policy, these political decisions benefit from large disparities in the total base acres available to enroll in the programs.[198] There are, for example, over 94 million base acres of corn, while less than 4 million base acres of long grain rice and 2.5 million base acres of peanuts; raising the reference price for corn costs substantially more in a 10-year CBO score than it does for long grain rice or peanuts.[199]

Prior to the Reconciliation Farm Bill, Congress had established reference prices for seed cotton, rice, and peanuts that were much higher relative to market prices for those crops, and as compared to the reference prices for corn and soybeans.[200] Congress increased the payment threshold in PLC for all program

194. *See* Jonathan Coppess et al., *Reference Price Disparities & Why It Matters to Farmers*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), May 16, 2024, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/05/fdd051624.pdf [https://perma.cc/B5JZ-3ZE8]; Jonathan Coppess, *Farm Bill 2023: Another Perspective on Reference Prices and Base Acres*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Aug. 17, 2023, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/08/fdd081723.pdf [https://perma.cc/Z6VW-5BZV] [hereinafter Coppess, *Farm Bill 2023: Another Perspective on Reference Prices and Base Acres*]; Jonathan Coppess, *Farm Bill 2023: Planted Acres and Additional Pieces of the Base Acres Puzzle*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Aug. 3, 2023, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/08/fdd080323.pdf [https://perma.cc/FEG9-UHSZ]; Coppess, *Farm Bill 2023: Reviewing Pieces of the Base Acres Puzzle*, *supra* note 192, at 1; Jonathan Coppess, *Farm Bill 2023: The Intersection of Base Acres and Reference Prices*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Aug. 10, 2023, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/08/fdd081023.pdf [https://perma.cc/C5FD-WFVG] [hereinafter Coppess, *Farm Bill 2023: The Intersection of Base Acres and Reference Prices*].

195. *See* POL'Y DESIGN LAB, *supra* note 190.

196. Coppess, *Farm Bill 2023: The Intersection of Base Acres and Reference Prices*, *supra* note 192, at 1.

197. *See id.*

198. *Id.* at 6; Coppess, *Farm Bill 2023: Reviewing Pieces of the Base Acres Puzzle*, *supra* note 192, at 6.

199. *See* Coppess, *Farm Bill 2023: Reviewing Pieces of the Base Acres Puzzle*, *supra* note 192, at 1.

200. *See* Coppess, *Farm Bill 2023: Another Perspective on Reference Prices and Base Acres*, *supra* note 194, at 1, 3.

crops in the Reconciliation Farm Bill but again, did not do so equitably.[201] The three Southern crops were provided threshold levels high enough to effectively guarantee payments each year and were provided some of the largest increases in the Reconciliation Farm Bill.[202]

Further evidence can be found in the changes to the Federal Crop Insurance Program, which are likely to over-insure high-risk areas and crops.[203] Based on historic performance of the program, these changes will concentrate benefits in Southern areas and for cotton, rice, and peanuts.[204] The most damning piece of evidence in crop insurance is that Congress provided a special subsidy to crop insurance companies to encourage them to continue writing and selling policies in high-risk areas and for crops with consistently high losses.[205] Given the historical experience with crop insurance losses and indemnities, these changes will direct more federally-subsidized insurance benefits to planters in the South and

201. *See generally* Schnitkey, Paulson & Coppess, *Impacts of the Commodity Title Changes Under OBBA*, *supra* note 190, at 3 (discussing OBBBA impacts on farming payments).

202. *See* Paulson et al., *Projected Payments for 2025*, *supra* note 190, at 2. Projected payments for the 2025 crop of long grain rice average $285.82 per base acre, while those for corn ($65.97 per base acre), soybeans ($22.45 per base acre), and wheat ($48.27 per base acre) are substantially less. *Id.*

203. *See* Jonathan Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #5*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), July 31, 2025, at 4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/07/fdd073125.pdf [https://perma.cc/DF5Y-UZYS] [hereinafter Coppess, *Problematic Changes #5*].

204. *See* Schnitkey et al., *The House Reconciliation Bill Proposal for SCO: Income Support for High-Risk Farmland*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), June 10, 2025, at 4, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/06/fdd061025.pdf [https://perma.cc/9VDZ-8MVC]. Included increases in premium subsidy for purchasing, and the insurance guarantee for indemnities, in the Supplemental Coverage Option (SCO). *Id.* at 1. That insurance option was created in the 2014 Farm Bill and allows a farmer to buy a policy that insures the crop at the county level but sits on top of or supplements the underlying insurance policy. *Id.* The taxpayer-funded premium subsidy that offsets the cost to the farmer for SCO went from a 65% subsidy rate to 80%, meaning the farmer only pays 20% of the cost of the policy. *See id.* at 2.

205. Coppess, *Problematic Changes #5*, *supra* note 203, at 1.

particularly in Texas.[206] Most losses indemnified by crop insurance are consistently in Southern counties and for cotton, rice, and peanuts.[207]

As strong as that evidence is against the Southern planter faction, it is not the most damning. That distinction belongs to another change to farm policy in the Reconciliation Farm Bill. Congress created a new category for farm operations defined as pass-through entities, expanding an existing loophole to allow legal fictional farm entities to maximize the payments they get from the federal treasury.[208] Importantly, the expanded loophole does not change any of the laws for creating or using fictional legal entities to manage farms, nor does it revise any laws having to do with intergenerational transitions of farms or estate planning for farms.[209] It does not remove any barriers to creating a legal fictional farm entity, nor does it fix any existing problems for farmers who seek to use entities in their farming operation.[210]

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206. Jonathan Coppess, *The Reconciliation Farm Bill: Top Five Most Problematic Changes to Farm Policy, #4*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Aug. 14, 2025, at 5–6, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/08/fdd081425.pdf [https://perma.cc/9BQE-FHNA] ("Texas, and especially the cotton growing regions, has suffered a combination of excessive heat and record drought . . . [and] indemnities in Texas have skyrocketed in recent years. Conditions were so bad that irrigation was unable to save cotton crops because the plants dried out before the pivot could return to them . . . [C]rop insurance companies were seeking to limit the losses . . . [but] USDA's Risk Management Agency (RMA) issued a "Notice to Cease and Desist Agent/Agency Contract Terminations" to the Approved Insurance Providers . . . Cotton is "extremely sensitive" to heat and drought stress . . . With climate change, heat and drought are likely to become more intense and destructive to crops.").

207. *See* Jonathon Coppess, *Another Round of Crop Insurance; Updating from the Policy Design Lab*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Mar. 26, 2026, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2026/03/fdd032626.pdf [https://perma.cc/3RJG-TCF9]; Carl Zulauf & Gary Schnitkey, *Crop Insurance as a Payment Program*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Sep. 4, 2024, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2024/09/fdd090424.pdf [https://perma.cc/TCU5-WK4G].

208. Jonathan Coppess, *The Farm Bill in Reconciliation: Loophole as Rosetta Stone; Review and Comment*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), July 17, 2025, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2025/07/fdd071725.pdf [https://perma.cc/UGN4-7CGT] [hereinafter Coppess, *The Farm Bill in Reconciliation*]; Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, *supra* note 71, at 1.

209. Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, *supra* note 71, at 5.

210. *Id.* at 1.

To be clear: nothing in the law prevents farmers from organizing their farms as legal fictional entities.[211] In fact, USDA statistics indicate that increasing numbers of farmers have been using these entity structures, demonstrating that they have not been prevented from doing so, again contrary to the claims of advocates for this provision.[212] The provision for pass-through entities is about farm subsidy payments only.[213] It amends the payment limit provisions in statute.[214] It does not alter any law with respect to the formation of a legal fictional entity for farmers.[215] No amount of obfuscation or misdirection should be permitted to hide that basic reality, and it is the most damning evidence against the Southern planter faction, a clarification necessary because proponents of the change tend to rely on those red herring or straw man arguments, along with other similar tactics.[216]

Instead, what Congress did in the Reconciliation Farm Bill was to expand an existing loophole that will most benefit the largest farm operations, and in particular planter entities.[217] Under this revision to law, planters can now use legal fictional entity structures to multiply payment limits, adding an additional payment limit for each additional qualified pass-through entity embedded in the operation.[218] The result will permit the largest farm entities to collect more and more payments, multiplying the payments the entity can harvest based on the

211. *Id.* at 2. *See generally* Kenneth D. Esch & Pamela L. Spaccarotella, *Limited Liability Companies as an Alternative Choice of Entity for Farming and Ranching Operations in the State of Nebraska*, 28 CREIGHTON L. REV. 19 (1994) (discussing available business forms); James L. Hall, Jr., *Agricultural Corporations: Their Utility and Legality*, 17 OKLA. L. REV. 389 (1964) (discussing incorporation); Mary Meehan-Strub & Philip E. Harris, *Limited Liability Company: A Farm Business Arrangement Alternative* (Univ. of Wis.-Madison Dep't of Agric. & Applied Econ., Working Paper No. 476, 2004), https://doi.org/10.22004/ag.econ.12628 (discussing LLCs); Jesse J. Richardson, Jr. & L. Leon Geyer, *Ten Limitations to Ponder on Farm Limited Liability Companies*, 4 DRAKE J. AGRIC. L. 197 (1999) (discussing LLCs).

212. Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, supra note 71, at 2.

213. *See id.* at 5.

214. *Id.* at 1.

215. *Id.* at 3.

216. *See*, *e.g.*, Shannon L. Ferrell et al., *Paved with Good Intentions: Unintended Impacts of Farm Bill Payment Limitations on Farm Risk Management and Farm Transitions*, 28 DRAKE J. AGRIC. L. 327, 355, 358–59, 363–64 (2023).

217. Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, *supra* note 71, at 4.

218. *Id.* at 5.

number of entities it creates.[219] In a simple example, a LLC with five embedded LLC's is allowed five separate payment limits, with each allowed to receive the maximum amount of payments, providing the entire operation with five times the individual payment limit.[220] It is a provision that combines the benefits of liability shields and favorable tax treatment that such entities already receive under law with an ability to maximize taxpayer-funded farm subsidies.[221]

The expanded loophole is further notable given the increased payment thresholds for PLC.[222] The two are related. For the largest planter entities, the loophole is necessary to enable them to capture the full benefit of the increased reference prices and PLC payments.[223] The increased PLC payment thresholds will result in higher payment rates per base acre.[224] A higher payment rate will result in

219. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, § 10306, § 10307, 139 Stat. 72, 91–92 (2025). Specifically, a farm entity known as a qualified pass through entity—partnerships, S corporations, limited liability companies (LLC), and joint ventures or general partnerships—are now permitted to receive payments up to "the amount determined by multiplying the maximum payment amount," or payment limit (now $155,000), by the number of persons or legal entities that comprise the ownership, attributed through four layers of legal entities. *Id.* §§ 10306, 10307; 7 U.S.C. § 1308(e)(B)(ii). Prior to this change, farms organized as joint ventures or general partnerships were allowed to receive payments up to "the amount determined by multiplying the maximum payment amount" by the number of persons or legal entities that comprise the ownership, attributed through no more than four layers of legal entities. 7 U.S.C. § 1308(e)(B)(ii). The reconciliation text strikes "except a joint venture or general partnership" and replaces it with "qualified pass-through entities," defined as: a partnership, an S corporation, a limited liability company (LLC), and a joint venture or general partnership. One Big Beautiful Bill Act, § 10306, 139 Stat. at 91–92.

220. *See* Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, *supra* note 71, at 2.

221. *See*, *e.g.*, Kenneth Ayotte & Henry Hansmann, *Legal Entities as Transferable Bundles of Contracts*, 111 MICH. L. REV. 715, 752 (2012); Esch & Spaccarotella, *supra* note 211, at 24; Hall, *supra* note 211, at 391; Susan Pace Hamill, *The Origins Behind the Limited Liability Company*, 59 OHIO ST. L.J. 1459, 1461 (1998); Robert W. Hamilton, *Corporate Entity*, 49 TEX. L. REV. 979, 994 (1971); Charles G. Kepler*, Closely Held Corporations: An Analysis of Subchapter S*, 13 WYO. L.J. 214, 228 (1959); Samantha J. Prince & Joshua P. Fershée, *An LLC by Any Other Name Is Still Not a Corporation*, 54 SETON HALL L. REV. 1105, 1152 (2024); Larry E. Ribstein, *The Emergence of the Limited Liability Company*, 51 BUS. LAW. 1, 5 (1995); Richardson & Geyer, *supra* note 211, at 213; Herbert N. Beller, *S Corporations as Shareholders, LLC Members, and Partners* (pt. 1); 172 *Tax Notes Fed.* 1713 (2021), 172 *Tax Notes Fed.* 1915 (2021), https://ssrn.com/abstract=3942475 [https://perma.cc/MXB3-VZ9Q].

222. *See* Agricultural Act of 2014, Pub. L. No. 113-79, § 1603, 118 Stat. 649, 705; One Big Beautiful Bill Act, § 10307, 139 Stat. at 92.

223. *See* Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, *supra* note 71, at 3.

224. Paulson et al., *Projected Payments for 2025*, *supra* note 190, at 3.

larger total payments, but the total depends on the total amount of base acres the farm operates—the more base acres, the more in total payments.[225] The largest farm entities in terms of base acres are more likely to reach or exceed the individual payment limit in any given year.[226] The larger the farm operation, the more it risks exceeding the payment limit; exceeding the limit will cause it to miss out on some payments or lose some of the benefit of the increased PLC reference price threshold.[227]

Therefore, the pass-through entity loophole is intended to allow the largest farm operations—the planters—to capture the maximum benefits of the increased reference prices for seed cotton, rice, and peanuts, and take in the most payments possible.[228] The loophole is how the planters get more farm payments out of the Farm Bill, exposing the more accurate meaning of the political slogan to put "more farm in the Farm Bill."[229] Combined, the two commodities programs (ARC and PLC) provide overwhelming evidence implicating the Southern planter faction in the death of the Farm Bill with a long history that supports that conclusion.

B. Substantial Supporting Evidence in a Long History

Skimming statutes offers scant history. Limits on farm support were originated in the Agricultural Adjustment Act of 1938, then disappeared for decades.[230] The upheavals and changes in the early 1970s re-created payment limits, first at $55,000 in the Agricultural Act of 1970 per person and crop, and then $20,000 per person and crop in the Agriculture and Consumer Protection Act

225. *Id.* at 4.

226. *See* Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1, supra* note 71, at 3.

227. *See* Paulson et al., *Projected Payments for 2025*, *supra* note 190, at 2; Paulson et al., *Additional ARC/PLC Payments for 2025*, *supra* note 190, at 2. For example, long grain rice base acres are projected to receive, on average, $285.82 per base acre, which means it would take only 542 base acres to reach the $155,000 payment limit. On the other end of the spectrum, for comparison, soybean base acres are projected to receive $22.45 per base acre on average, which would require 6,904 base acres to reach the payment limit. Moreover, an entity operating 2,500 base acres of long grain rice would need nearly 5 different embedded entities to avoid the payment limit. Paulson et al., *Projected Payments for 2025*, *supra* note 190, at 2; Paulson et al., *Additional ARC/PLC Payments for 2025*, *supra* note 190, at 2.

228. *See* Coppess, *The Reconciliation Farm Bill: The Top Five Most Problematic Changes to Farm Policy, #1*, *supra* note 71, at 4–5.

229. *Id.* at 3; Paulson et al., *Additional ARC/PLC Payments for 2025*, *supra* note 190, at 4.

230. *See* Agricultural Adjustment Act of 1938, Pub. L. No. 75-430, § 301(a)(8), 52 Stat. 31, 39 (codified as amended at 7 U.S.C. §§ 1281–1401); *see*, *e.g.*, 7 U.S.C. § 1301(a)(8) (including the same definition that is relied upon).

of 1973.[231] Then, the Food Security Act of 1985 provided a permanent statutory home for payment limits at $50,000 per crop, and $100,000 for disaster assistance payments.[232] With the advent of decoupled direct payments in 1996, the limits were set at $40,000 and, when counter-cyclical payments were added back to the policy suite, Congress attached a $65,000 limit on them.[233] When Congress eliminated direct payments in 2014 and replaced them with the current choice between ARC and PLC payments, the total limit per person or legal entity was set at $125,000 in the 2014 Farm Bill.[234] In the Reconciliation Farm Bill, Congress raised that limit to $155,000 per person or legal entity.[235]

Lost in the limit level fluctuations are the political drivers of the policy that provide important evidence when retracing history.[236] Payment limits were the direct result of Southern planters capturing outsized benefits from the early New Deal support programs,[237] exemplified by the notorious Oscar Johnston who, in addition to running one of the largest cotton plantations in the world, the Delta & Pine Land cotton plantation, was also a high-level political appointee in USDA with authority over the cotton programs.[238]

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231. Agricultural Act of 1970, Pub. L. No. 91-524, 84 Stat. 1358, 1358; Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221, 221.

232. Food Security Act of 1985, Pub. L. No. 99-198, § 1001, 99 Stat. 1354, 1444–45.

233. Agricultural Market Transition Act, Pub. L. No. 104-127, 110 Stat. 902; Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 134, 214. Congress specified that the term "person" for payments "means a natural person, and does not include a legal entity" in the 2008 Farm Bill, defining a "legal entity" as "an entity that is created under Federal or State law and that" either owns land or an agricultural commodity, or produces an agricultural commodity. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 1603(b), 122 Stat. 1651, 1730.

234. Agricultural Act of 2014, Pub. L. No. 113-79, § 1603, 128 Stat. 649, 705.

235. One Big Beautiful Bill Act, Pub. L. No. 119-21, § 10307, 139 Stat. 72, 92 (2025).

236. *See generally* Coppess, *High Cotton and the Low Road*, *supra* note 23, at 344 (exploring the history of farm program reforms to diagnose dysfunction in Congress).

237. The first Farm Bill, the Agricultural Adjustment Act of 1933, did not limit the assistance Congress authorized to address the Great Depression. *See generally* Agricultural Adjustment Act, Pub. L. No. 73-10, 48 Stat. 31 (1933).

238. *See* LAWRENCE J. NELSON, KING COTTON'S ADVOCATE: OSCAR G. JOHNSTON AND THE NEW DEAL 46–55 (1999); Lawrence J. Nelson, *Oscar Johnston, the New Deal, and the Cotton Subsidy Payments Controversy, 1936-1937*, 40 J. S. HIST. 399, 400 (1974) [hereinafter Nelson, *Oscar Johnson*]; Lawrence J. Nelson, *Welfare Capitalism on a Mississippi Plantation in the Great Depression*, 50 J.S. HIST. 225, 226 (1984); Lawrence J. Nelson, *Delta and Pine Land Company*, MISS. ENCYCLOPEDIA (Mar. 5, 2026, at 14:24 CT), https://mississippiencyclopedia.org/entries/delta-and-pine-land-company/ [https://perma.cc/UT2L-JDA7]; S. Realty Co. v. Tchula Coop. Stores, 75 So. 121, 121 (1917).

Far from simply appearing in the Agricultural Adjustment Act (AAA) of 1938, therefore, the origin of payment limits is rooted in the poisoned soils of this planter enclosure effort triggered by the 1933 AAA.[239] But it does not end there. The 1938 AAA's $10,000 payment limit provision applied only to the Soil Conservation Program, not the Price Support Program.[240] The 1938 AAA limit initiated a pattern of Congress treating conservation assistance different than farm price support assistance.[241]

Beginning in 1947, Congress consistently attached payment limits for conservation assistance that ranged from $500 per person, to $1,500 and $2,500 through the 1950s, with the limit reaching $3,500 by the end of the 1970s.[242] In

239. *See* Pete Daniel, *The Transformation of the Rural South: 1930 to the Present*, 55 AGRIC. HIST. 231, 236 (1981). Agricultural historians have referred to the efforts by Southern planters in the New Deal and after as an "enclosure movement," which is a concept that traces to England, and land tenure changes in the sixteenth to nineteenth centuries. *See id.*; Pete Daniel, *The Crossroads of Change: Cotton, Tobacco, and Rice Cultures in the Twentieth-Century South*, 50 J.S. HIST. 429, 441 (1984); *see generally* Eric T. Freyfogle, *The Enclosure of America* (Illinois Public Law Research Paper 07-10, 2007), http://papers.ssrn.com/abstract=1024846 (exploring how and why enclosure occurred).

240. *See* Agriculture Adjustment Act of 1938, Pub. L. No. 75-430, § 102, 52 Stat. 31, 34 ("Reductions and Increases in Payments Under Soil Conservation Program" and amending § 8 of the Soil Conservation and Domestic Allotment Act of 1936); see, e.*g*., Soil Conservation and Domestic Allotment Act of 1936, Pub. L. No. 74-461, § 8(b), 49 Stat. 1148, 1150 (describing how payments are based on the farmer's "treatment or use of their land . . . for soil restoration, soil conservation, or the prevention of erosion").

241. *See* Agricultural Adjustment Act of 1938, Pub. L. No. 75-430, 52 Stat. 31, 45 (codified as amended at 7 U.S.C. §§ 1281–1401). For example, when Congress began appropriating hundreds of millions annually for parity payments, authorized by section 303 of the AAA of 1938, it did not attach any payment limitations. *See* Department of Agriculture Appropriation Act, 1940, Pub. L. No. 76-159, 53 Stat. 939; Department of Agriculture Appropriation Act 1941, Pub. L. No 76-658, 54 Stat. 532; Department of Agriculture Appropriation Act 1942, Pub. L. No 77-144, 55 Stat. 408; Department of Agriculture Appropriation Act 1943, Pub. L. No. 77-674, 56 Stat. 664; Nelson, *Oscar Johnston, supra* note 236, at 414 n.66.

242. These payments were first authorized in the 1936 Act and then continued as the Agriculture Conservation Program (ACP) in successive reauthorizations. *See* David C. Knapp, *Congressional Control of Agricultural Conservation Policy: A Case Study of the Appropriations Process*, 71 POL. SCI. Q., 257, 272–73 n. 57 (1956) (describing how Congress capped the maximum payment at $500 in the FY 1948 Appropriations bill but got pushback from the South and Western farmers; raised to $750 in 1948 and $2,500 in 1949 (citing Agriculture Department Appropriation Bill 1949, H.R. 2321, 80th Cong. (1948)). Note that the $500 limit in 1947 (1948 appropriations) was added by the Senate Appropriations. *See* S. REPT. NO. 80-474, at 19 (1948). Senator C. Wayland Brooks (R-IL), chair of the agricultural subcommittee, explained that the reduction was "so that more of the smaller participants and those in the lower income groups on the farms may participate and may have the incentive

which we believe this program will provide." 93 CONG. REC. 8841 (1947). The FY 1948 USDA appropriations bill limited payments for conservation to $500 per participant. *See* Department of Agriculture Appropriation Act, 1948, Pub. L. No. 80-266, ch. 356, 61 Stat. 523, 542. The limit was raised to no more than $750 per participant in FY 1949 USDA appropriations bill. *See* Department of Agriculture Appropriation Act 1949, Pub. L. No. 80-712, ch. 543, 62 Stat. 507, 525. The FY 1950 USDA appropriations increased the limit to $2,500 per participant. *See* Department of Agriculture Appropriation Act, 1950, Pub. L. No. 81-146, ch. 280, 63 Stat. 324, 342. Same limit in FY 1951 appropriations bill (omnibus). *See* General Appropriations Act of 1951, Pub. L. No. 81-759, ch. 896, 64 Stat. 595, 670 (1950). That limit was continued in FY 1952 and FY 1953 USDA appropriations. *See* Department of Agriculture Appropriation Act, 1952, Pub. L. No. 82-135, ch. 374, 65 Stat. 225, 237; Department of Agriculture Appropriation Act, 1953, Pub. L. No. 82-451, ch. 574, 66 Stat. 335, 347. The FY 1954 through 1957 USDA appropriations laws all limited payments to $1,500 per participant. *See* Department of Agriculture Appropriation Act, 1954, Pub. L. No. 83-156, ch. 251, 67 Stat. 205, 216; Department of Agriculture and Farm Credit Administration Appropriation Act, 1955, Pub. L. No. 83-437, ch. 409, 68 Stat. 204, 312; Department of Agriculture and Farm Credit Administration Appropriation Act, 1956, Pub. L. No. 84-40, ch. 43, 69 Stat. 51, 55; Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, Pub. L. No. 84-554, ch. 355, 70 Stat. 229, 233. The FY 1958 USDA appropriations increased the limit to $2,500 per participant unless two or more were working together, which was continued in all appropriations laws through FY 1978. *See* Department of Agriculture and Farm Credit Administration Appropriation Act, 1958, Pub. L. No. 85-118, tit. I, 71 Stat. 329, 337; Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, Pub. L. No. 85-459, tit. I, 72 Stat. 188, 192; Department of Agriculture and Farm Credit Administration Appropriation Act, 1960, Pub. L. No. 86-80, tit. I, 73 Stat. 167, 171; Department of Agriculture and Farm Credit Administration Appropriation Act, 1961, Pub. L. No. 86-532, tit. I, 74 Stat. 232, 236; Department of Agriculture and Related Agencies Appropriation Act, 1962, Pub. L. No. 87-112, tit. I, 75 Stat. 225, 233; Department of Agriculture and Related Agencies Appropriation Act, 1962, Pub. L. No. 87-879, tit. I, 76 Stat. 1203, 1210; Department of Agriculture and Related Agencies Appropriation Act, 1964, Pub. L. No. 88-250, tit. I, 77 Stat. 820, 828; Department of Agriculture and Related Agencies Appropriation Act, 1965, Pub. L. No. 88-573, tit. I, 78 Stat. 862, 870; Department of Agriculture and Related Agencies Appropriation Act, 1966, Pub. L. No. 89-316, tit. I, 79 Stat. 1165, 1173; Department of Agriculture and Related Agencies Appropriation Act, 1967, Pub. L. No. 89-556, tit. I, 80 Stat. 689, 697; Department of Agriculture and Related Agencies Appropriation Act, 1968, Pub. L. No. 90-113, tit. I, 81 Stat. 319, 328; Department of Agriculture and Related Agencies Appropriation Act, 1969, Pub. L. No. 90-463, tit. I, 82 Stat. 639, 647; Department of Agriculture and Related Agencies Appropriations Act, 1970, Pub. L. No. 91-127, tit. I, 83 Stat. 244, 254; Agriculture-Environmental and Consumer Protection Appropriation Act, 1974, Pub. L. No. 93-135, tit. III, 87 Stat. 468, 486; Agriculture-Environmental and Consumer Protection Appropriation Act, 1975, Pub. L. No. 93-563, tit. III, 88 Stat. 1822, 1838; Agriculture and Related Agencies Appropriation Act, 1976, Pub. L. No. 94-122, tit. II, 89 Stat. 641, 661; Agriculture and Related Agencies Appropriations for Fiscal Year 1977, Pub. L. No. 94-351, tit. II, 90 Stat. 851, 864. The limit was increased to $3,500 per participant in FY 1979 through FY 1981 USDA appropriations laws. *See* Agriculture, Rural Development, and Related Agencies Programs, Fiscal Year 1979, Pub. L. No. 95-448, tit. II, 92 Stat. 1073, 1088; Agriculture, Rural Development, and Related Agencies Programs, Fiscal this disparate treatment between conservation assistance and economic assistance is evidence that any opposition to payment limits depended on the policy.[243]

The basic argument in favor of attaching limits was straightforward and politically salient, but the Southerners fighting against payment limits had a significant advantage in the complicated design of farm policy during this era, which they frequently used to great success.[244] Price supports worked through a nonrecourse loan on the harvested crop, with the farmer borrowing at a calculated loan rate and pledging the crop as collateral.[245] For one thing, this meant that it was always possible the farmer or planter would repay the loan and thus receive only

Year 1982, Pub. L. No. 97-103, tit. II, 95 Stat. 1467, 1482; Agriculture, Rural Development, and Related Agencies Programs, Fiscal Year 1983, Pub. L. No. 97-370, tit. II, 96 Stat. 1787, 1804.

243. *See* Knapp, *supra* note 242, at 272. Notably, Southerners in Congress, who consistently fought against payment limits, were openly comfortable with limits on conservation payments because they were not price supporting loans. *See* 102 CONG. REC. S4496 (1956) (showing that Senator Richard Russell (D-GA) was "perfectly willing to support the soil-bank payment limitation" of $25,000 on the acreage reserve as "reasonable" but thought the limit of $50,000 on price support loans was "inadequate"); 102 CONG. REC. 4612 (1956) (documenting Senator Allen Ellender discussion of the $5,000 limit on the conservation reserve payments). In the Agricultural Act of 1956, for example, the Senate easily added limits to the Soil Bank acreage reserve and conservation reserve payments, as well as placed a $100,000 limit on price supporting loans. *See* 102 CONG. REC. 4496–97, 4507 (1956) (showing that Senator Allen Ellender (D-LA), chair of the Senate Committee on Agriculture and Forestry, opposed the amendments based on concern that the amendments would cause the efforts to reduce acres and control surplus ineffective but conceded that he was "so badly defeated" in his efforts, as the amendment by Senator John Williams (D-DE) was agreed-to by a vote of 78 to 11). The Williams amendment went through a long debate and was amended by second-degree amendments, including one by Senator Richard Russell (D-GA) to increase the limit from $50,000 to $100,000. *Id*. at S4497–4501 (without recorded vote). Representative Jamie Whitten (D-MS), and chairman on the USDA appropriations subcommittee, provided the more extreme example. He was willing to apply payment limits to conservation assistance if it helped sabotage or undermine the Soil Bank. *See* COPPESS, BETWEEN SOIL AND SOCIETY, *supra* note 23, at 105–33.

244. Senator John Williams (D-DE) long took the lead in the fight for limitations challenging opponents of the policy to explain why "American taxpayers" should have to "underwrite these million-dollar operations" such as Delta and Pine Land. 102 CONG. REC. 4478 (1956)

245. John Braeman, *Roosevelt Creates the Commodity Credit Corporation*, EBSCO (2023), https://www.ebsco.com/research-starters/history/roosevelt-creates-commodity-credit-corporation [https://perma.cc/Q9GM-JZNT]. At the time for repayment (usually nine months), if market prices were above the loan rate, the farmer or planter repaid the loan with interest; if, however, market prices were below the loan rate they forfeited the crop to USDA (without penalty) and kept the loan proceeds. *Id.*

temporary assistance.[246] Of course, reality was quite the opposite given the staggering amount of crop forfeitures during this time, as well as the costs of the program.[247]

Price supports were also coupled with efforts to limit or control production and supplies.[248] Such limits were almost exclusively through acreage reductions, or allotments on how much a farmer could plant and be eligible.[249] This feature allowed Southerners in Congress to threaten that payment limits would destroy the entire program because large planters would refuse to participate and be able to plant without limits, effectively destroying any attempt at controlling supplies.[250] These were also examples of a form of legislative hostage taking with which the planter elite could threaten the entire policy for all farmers if their demands were not appeased.

246. *See id.*

247. By 1961, for example, the incoming Kennedy Administration inherited a massive surplus of forfeited commodities. *See*, *e.g.*, *Emergency Feed Grain Program: Hearing on H.R. 4510 Before the H. Subcomm. on Livestock and Feed Grains of the H. Comm. on Agric.*, 87th Cong. 5 (1961) (statement of Orville L. Freeman, Sec'y of Agric.) Secretary Freeman reported to Congress that the CCC held 2.7 million bushels of feed grains, costing $4 billion and that it would expect to acquire another 610 million bushels of feed grains from the 1961 crop, costing another $603 million; storage and handling would be $959 million on top, costing $1.5 billion for 1961 crop. *Id*.

248. Agricultural Act of 1956, Pub. L. No. 84-540, ch. 327, 70 Stat. 188, 189.

249. *Id.*

250. *See* 102 CONG. REC. 6127 (1956). In 1956, for example, House Agriculture Committee Chairman Harold Cooley (D-NC) opposed attaching limits to price supports arguing that the programs must "induce the big operators, those who are operating mechanized farms, to take out large acreages of wheat and cotton and other surplus crops" or the "program will miserably fail." *Id.*; *see also* 102 CONG. REC. 4481 (1956) (showing that Ellender argued the amendment was misplaced for the program because price support was "not to be considered a subsidy" program, and that it "would be folly to defeat the operation of this program by limiting the amount that a farmer can borrow on the commodity he produces by, in effect, treating this program as a subsidy"). In 1959, Representative Whitten pushed back against the effort to attach payment limits to price supports in the USDA appropriations bill. He claimed that any such limit would "destroy, in my opinion, the farm program that we have left" and that the "minute you put these big operators out from under the program, you are giving them the incentive to increase production, world without end," which would hurt all farmers, small farmers included. 105 CONG. REC. 8338–40 (1959) (documenting that Whitten beat it on a point of order as legislating on an appropriations bill); 105 CONG. REC. 8539 (1959) (recording House Ag Committee Chairman Cooley's argument that the limit would "destroy the farm program" and Representative W.R. Poage (D-TX) argued much the same).

Southern opponents of payment limits experienced early successes, but their efforts became more difficult over time as the issue refused to disappear.[251] In 1959, for example, Congress attached a $50,000 limitation on price supports in the agricultural appropriations bill for 1960.[252] At times, defense of the planters against payment limits went so far as to conjure more absurdly hypocritical arguments, such as claims of discrimination that were especially notable in the Jim Crow era.[253] The Southern-serving claims of discrimination against the planters also provided examples of the persistent victimhood or martyr complex of the planter

251. Often their defense strategy required losing a vote on the House or Senate floor but removing the limits quietly in conference. *See*, *e.g.*, 102 CONG. REC. 5070 (1956) (statement of Sen. Milton Young); 102 CONG. REC. 6127 (1956) (Conferees unanimously agreed to remove the payment limitation provisions from the Senate-passed bill but kept the limits on Acreage Reserve payments); H.R. REP. NO. 84-1986, at 37, 39 (1956) ("[C]onferees struck out of the Senate amendment a provision which would have limited payments to any one producer to not exceed $25,000 . . . A provision in the Senate bill which would have limited payments in any year to any producer to not more than $7,500 was removed from the bill by the conference."); 105 CONG. REC. 8341–42 (1959) (motion to recommit included attaching the $50,000 limit on loans); 105 CONG. REC. 8635–36 (1959) (motion to recommit with the payment limit added was agreed to by a vote of 261 to 165, with 7 not voting; Whitten stated that "by the adoption of this motion the benefits of the farm program are destroyed"). After 1956, farm payments controversies did not disappear and the issue of reforming farm policy and limiting price support assistance continued to roil debates in Congress with DPL often serving as a primary reason. *See*, *e.g.*, 104 CONG. REC. 6445 (1958) (Representative Dingell goes after price supports and introduces a bill for a $50,000 limit); 105 CONG. REC. 2811 (1959) (Williams enters a report of price support assistance over certain levels, including over $1 million for Delta & Pine Land Co. of Mississippi); 105 CONG. REC. 3006 (1959) (where Senator Williams again goes after payment limits and big payments for individual farms); *see also* 106 CONG. REC. 362 (1960) (showing Senator Williams again included a report in the record of price support loans above $100,000 in the 1958 program and asking why "our taxpayers support this British-owned corporation in its farming operations").

252. *See* Department of Agriculture and Farm Credit Administration Act, Pub. L. No. 86-80, 73 Stat. 171 (1960); *see also* 105 CONG. REC. 8337–38 (1959) (documenting how Representative Avery offered the amendment to limit loans to $50,000 and notes the February 23 report in the Senate record that listed million dollar loans to a corporate farm in Mississippi); 105 CONG. REC. 9318 (1959) (showing that the Senate attaches limit of $50,000 on price supports in the 1960 appropriations bill); S. REP. NO. 86-330, at 12–13 (1959) (reporting that the House had added an amendment limiting loans at $50,000 and the Senate bill included a revised $50,000 CCC loan limit for 1960).

253. In 1959, for example, Representative E.C. Gathings (D-AR) stated his "strong objection to any proposed violation of the principle of equal treatment under the law of all citizens" and that payment limits "does violence to that principle." 105 CONG. REC. 8341 (1959). He was echoing a line from the Delta Council back when the issue first appeared, when the primary lobbyist for the planters argued that payment limits amounted to discrimination. *See* Nelson, *Oscar Johnston, supra* note 238, at 410 (quoting from a 1936 letter from the Delta Council's William Rhea Blake).

elite.[254] Ultimately, however, a more cynical perspective probably proved most accurate.[255]

Whatever defenses against payment limits the parity policy design provided to the South dissipated as Congress shifted farm support policy towards payments as the parity system unraveled.[256] Southerners had long argued that limits were appropriate for payments (especially conservation payments) but not for the parity loan system.[257] The planters understood that "the history of any direct payment thing has been followed by more stringent controls of all types" and Southerners in Congress proved willing to go to absurd lengths to protect them from any limits on payments.[258]

254. In 1968, for example, Senator Herman Talmadge (D-GA) attacked payment limits based upon his belief that "all citizens of the United States must be treated alike, whether a farmer is a small farmer or a moderate-sized farmer or a large farmer." *See* 114 CONG. REC. 15547 (1968).

255. *See* 102 CONG. REC. 4485 (1956) (statement of Sen. Clinton Anderson) ("Corporation farms will find it is easy to have their farms in $25,000 sizes[,]" rendering limits ineffective. Planters were able to subdivide around the limit, overproduce the market and depress prices for all; Delta & Pine Land Co. was the example he used, and he explained further that such a planter can obtain capital to produce outside of the program, but a small farmer could not).

256. *See* DOUGLAS E. BOWERS, WAYNE D. RASMUSSEN & GLADYS L. BAKER, ECON. RSCH. SERV., U.S. DEP'T. OF AGRIC., AGRIC. INFO. BULL. NO. 485, HISTORY OF AGRICULTURAL PRICE-SUPPORT AND ADJUSTMENT PROGRAMS, 1933-84: BACKGROUND FOR 1985 FARM LEGISLATION 23 (1984), https://ers.usda.gov/sites/default/files/_laserfiche/publications/41988/50849_aib485.pdf?v=77593 [https://perma.cc/97WD-2GCY§].

257. 102 CONG. REC. 4485 (1956). For example, Delta cotton planters told the House Agriculture Committee in 1965 that they were "fearful that limitations are inevitable if you drop the loan down and make up the difference with a cash payment." *Cotton: Hearings on H.R. 8149 Before the H. Comm. on Agric.*, 89th Cong. 147–48 (1965) (testimony of C.B. Ray, Chairman, Cotton Producers Legislative Committee and B.F. Smith of the Delta Council).

258. *Cotton: Hearings on H.R. 8149 Before the H. Comm. on Agric.*, *supra* note 257, at 147–48 (testimony of C.B. Ray, Chairman, Cotton Producers Legislative Committee and B.F. Smith of the Delta Council). For example, Chairman Cooley assured cotton planters that the committee would "try to guard against" attaching limitations and that "there would not be any limitations." *Id.* at 148. On June 14, 1965, Ray responded that "[r]ecently, there has been talk of guarantees against limitations being imposed on direct payments . . . we are fully convinced that meaningful guarantees of this kind would be impossible." *Id.* at 404. Chairman Cooley clarified that the cotton planters "oppose direct payments to farmers because you are afraid limitations might be imposed . . . but if a limitation is imposed you can skip it and take the loan now in operation." *Id*. at 408–09. In the 1965 Farm Bill, the House Agriculture Committee concocted a novel "snap-back clause" should any future Congress attach limits to the Food and Agriculture Act of 1965. Food and Agriculture Act of 1965, Pub. L. 89-321, § 402, 79 Stat. 1187, 1194; H.R. REP. No. 89-1123, at 9–12 (1965) (Conf. Rep.); H.R. REP. NO.

That, therefore, is a more complete backstory to the inclusion of payment limits in the first title of the 1970 and 1973 Farm Bills.[259] By 1970, the writing was on the wall; or, to be more precise, Secretary of Agriculture Clifford Hardin made it clear in a letter to the committee that the Nixon Administration's support of the Farm Bill was contingent on "reasonable payment limitations."[260] The House Agriculture Committee reluctantly relented to "the psychological enthusiasm which has been built up for a limitation on farm payments."[261]

The historical evidence against the planters does not end there, however; the pass-through entity loophole also possesses a backstory that points to the planters. When Congress followed the 1933 AAA with the Bankhead Cotton Control Act of 1934, it defined a person as including partnerships, "joint-stock company,"

89-631, at 134 (Representatives Dague, Latta, Findley, and Burton objected to "the so-called snapback clause . . . if any limitations on cotton payments are hereafter enacted by Congress . . . to prevent large corporate cotton farms from receiving several hundred thousands of dollars a year in cash subsidies from the taxpayers, the snapback clause would be triggered"); S. REP. No. 89-687, at 7 (1965) (Conf. Rep.); 115 CONG. REC. 18457 (1969) (Senator Williams attacked the cotton snap-back provision during agricultural appropriations consideration in 1969); 115 CONG. REC. 22144–45 (1969) (Rep. Findley); 115 CONG. REC. 28181–82 (1969) (Rep. Findley); *see also* Willard W. Cochrane, *American Farm Policy in a Tumultuous World*, 52 AM. J. AGRIC. ECON. 645, 650 n. 3 (1970) (Agricultural Economist and former USDA official Willard Cochrane called for a $10,000 payment limit in the 1970 Farm Bill and noted "the problem of the so-called 'snap-back' provision . . . special treatment for cotton"). To be fair, it was not only Southerners in Congress because Secretary of Agriculture Orville Freeman had also reportedly assured Southerners on the committee that "every effort would be made to avoid limitations on such payments." H.R. REP. NO. 89-631, at 147 (1965). Finally, it is worth noting the timing of this provision in relation to the Billie Sol Estes controversy and as an area for further potential research. *See generally* S. REP. NO. 88-1607 (1964) (discussing investigations surrounding unusual concessions given by USDA to Billy Sol Estes).

259. Agricultural Act of 1970, Pub. L. 91-523, § 101, 84 Stat 1358, 1358–59 (establishing a $55,000 limit on the "total amount of payments which a person shall be entitled to receive under each of the annual programs"); Agriculture and Consumer Protection Act of 1973, Pub. L. 93-86, § 101, 87 Stat 221, 221 (limiting "total amount of payments which a person shall be entitled to receive under one or more of the annual programs" to $20,000); S. REP. NO. 93-173 at 2 (1973) (Senate Ag Committee held the line at a $55,000 payment limit); H.R. REP. NO. 93-337, at 1 (1973) (House Ag Committee lowered the payment limit from 1970 to $37,500 as a compromise); H.R. REP. NO. 93-427, at 33 (noting the different approaches of the House and Senate, and the adoption of the Senate version).

260. H.R. REP. NO. 91-1329, at 14–15 (1970).

261. *Id.* at 15–16 ("We believe that this is largely based on a misunderstanding of the problem . . . The committee recognizes that many Members wish to be 'on record' in favor of limitations" and this is why the committee "approved the amendment which appears as title I of the bill").

corporations and firms.[262] The 1938 AAA also defined a person as "an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State."[263] In the FY1960 USDA appropriations bill, Congress again defined person to include an "individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity . . . ."[264]

In the 1970 Farm Bill that created specific payment limits, Congress instructed USDA to "issue regulations defining the term 'person' and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation . . . ."[265] Thus, it was no surprise that when USDA issued its regulation in December 1970, it followed the earlier Congressional definitions and defined a person as "an individual, joint stock company, corporation, association, trust, estate, or other legal entity." [266] USDA also clarified that a corporation had to be separate and distinct from any other individual or entity to qualify as a separate person for purposes of payment limits.[267]

The 1970 rule treated partnerships, joint ventures, tenants-in-common, and joint tenants as different than corporations for payment limit purposes—each

262. *See* Bankhead Cotton Control Act, Pub. L. No. 73-169, § 23, 48 Stat. 598, 606–07 (1934) (repealed 1936). This definition was included at the beginning, in the introduced text by Representative William Bankhead (D-AL) in March. *See* H.R. 8402, 73d Cong. 2d Sess. § 24 (as introduced in the House on Mar. 1, 1934). And that definition was unchanged as the bill progressed through Congress. *See* H.R. 8402, 73d Cong., 2d Sess. § 23 (ordered to be printed in the House on Mar. 20, 1934); H.R. 8402, 73d Cong., 2d Sess. § 23 (ordered to be printed in the Senate on Mar. 28, 1934). The House Agriculture Committee did not explain this definition and the potential change it represented for farm policy, neither did the conference committee on the final legislative text. *See* H.R. REP. NO. 73-867, at 6 (1934); H.R. REP. NO. 73-1239 (Conf. Rep.). Note that the Agricultural Adjustment Act of 1933 did not include any definition of producer or person. *See* Agricultural Adjustment Act, Pub. L. No. 73-10, 48 Stat. 31 (1933).

263. Agricultural Adjustment Act of 1938, Pub. L. 75-430, § 301(a)(8), 52 Stat. 31, 39.

264. Department of Agriculture and Farm Credit Administration Act, 1960, Pub. L. 86-80, tit. 2, 73 Stat. 167, 178.

265. Agricultural Act of 1970, Pub. L. 91-524, § 101(4), 84 Stat. 1358, 1359 (1970).

266. 35 Fed. Reg. 19339, at 19340 (Dec. 22, 1970) ("In order to be considered a separate person for the purpose of the payment limitation, in addition to the other conditions of this part, the individual or other legal entity must . . . (a) Have a separate and distinct interest in the land or the crop involved, (b) Exercise separate responsibility for such interest, and (c) Be responsible for the cost of farming related to such interest from a fund or account separate from that of any other individual or entity."). By comparison, a corporation ("including a limited partnership") was to be "considered as one person, and an individual stockholder of the corporation may be considered as a separate person" if engaged in farming, unless that individual owns more than 50% of the stock in which case they are one person. *Id.*

267. *Id.*

partner was an individual with its own payment limit.[268] That definition adhered to the general understanding in corporation law that upon forming a corporation, "the law immediately recognizes the existence of a new legal entity that is separate from the organizers and investors, an entity that can carry out certain business activities as a 'person.'"[269] This artificial personhood dates back to the earliest days of the United States.[270] The concept of a "distinct and separate legal entity" applied to small or closely held corporations, such as farms, as well as large multinational corporations.[271]

For the next seven Farm Bills, Congress incorporated the definitions USDA promulgated in 1970.[272] During that time, reformers repeatedly struggled to craft

268. *Id.* (stating that entities "shall not be considered as a person" with "each individual or other legal entity who shares in the proceeds derived from farming by such joint operation shall be considered a separate person" and payments shared according to share of proceeds). In 1972, USDA modified payment limits to clarify that "[e]ach member of a bona-fide partnership is considered as a separate person for payment limitation purposes[,]" and put requirements on each partner's contribution for land, labor, equipment or capital. *Agriculture-Environmental and Consumer Protection Appropriations for Fiscal Year 1973: Hearings Before a Subcomm. of the H. Comm on Appropriations*, 92d Cong. 183–84 (statement of USDA officials) (In response to questions from Representative Michel (R-IL), USDA explained that the "most significant change deals with how we treat corporations participating in the programs" such that "any stockholder owning more than 20[%] of the stock in a participating corporation will have his pro-rata share of corporation program payments attributed to him for payment limitation purposes").

269. Margaret M. Blair, *Corporate Personhood and the Corporate Persona*, 2013 U. ILL. L. REV. 785, 786 (2013).

270. *Id.* (discussing Dartmouth College v. Woodward, 17 U.S. 518, 636 (1819)). "[A] corporation was an artificial person that owed its existence more to government than to its corporators and, as a creature of positive law, had only the rights and privileges that obtained from the government's grant." Gregory A. Mark, *The Personification of the Business Corporation in American Law*, 54 U. CHI. L. REV. 1441, 1441 (1987) (discussing Dartmouth College v. Woodward, 17 U.S. 518 (1819)).

271. Donald H. Kelley, *The Farm Corporation as an Estate Planning Device*, 54 NEB. L. REV. 217, 221 (1975) ("The properly formed close or family corporation is a distinct and separate legal entity from its shareholders. The corporate assets are owned, not by the shareholders, but by the corporation.").

272. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, § 101(4), 87 Stat. 221, 222 ("The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970."); Food and Agricultural Act of 1977, Pub. L. No. 95-113, § 101(4), 91 Stat. 913, 918; Agricultural and Food Act of 1981, Pub. L. No. 97-98, § 1101(5), 95 Stat. 1213, 1263; Food Security Act of 1985, Pub. L. No. 99-198, § 1001(5)(B), 99 Stat. 1354, 1445 (stating that the 1970 regulation "shall be used to establish the percentage ownership of a corporation by the stockholders of such corporation for the purpose of determining whether such corporation and stockholders are separate persons under this

policy effective at limiting payments for the largest operations, working against Southerners who included loopholes in the provisions or tried to dodge legislation by requiring USDA to study the issue.[273] Each study, however, added to the evidence that payment limits impacted cotton planters more than other farmers.[274] One infamous example was known as the "Mississippi Christmas tree" in which creating new entities would permit a farm entity with six actual people to increase the number of fictional persons in the operation to 15 or 21—each with their own payment and payment limitation—without adding another actual person.[275] The entity shell game added payments without adding farmers.[276]

In the wake of a massive increase in payments during the farm economic crisis of the 1980s, and the continued abuse of payment limitations through the use of legal fictional entities, reformers sought to address the problem further.[277]

section"); Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. No. 101-624, § 1111(c)–(e), 104 Stat. 3359, 3498–99 (adding spouses, growers of hybrid seed, and irrevocable trusts but otherwise continuing the existing provisions); Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104-127, § 115(b), 110 Stat. 888, 902 (applying 7 U.S.C. § 1308 to the new contract payments at a limit of $40,000 per person); Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, § 1603(b), 116 Stat. 134, 214 (establishing clerical and conforming amendments to the statute renamed the paragraph).

273. *See* U.S. DEP'T OF AGRIC., 92D CONG., FARM PAYMENT LIMITATIONS: USDA STUDY OF THE EFFECT OF PAYMENT LIMITATIONS ON THE SET-ASIDE PROGRAMS, PURSUANT TO S. RES. 153 at 5 (Comm. Print 1972).

274. *Id.*

275. U.S. GOV'T ACCOUNTABILITY OFF., GAO/RCED-87-120BR, FARM PAYMENTS: FARM REORGANIZATIONS AND THEIR IMPACT ON USDA PROGRAM COSTS 10–11 (1987); U.S. GOV'T ACCOUNTABILITY OFF., GAO/RCED-87-176, FARM PAYMENTS: BASIC CHANGES NEEDED TO AVOID ABUSE OF THE $50,000 PAYMENT LIMIT 46 (1987) [hereinafter BASIC CHANGES NEEDED TO AVOID ABUSE OF THE $50,000 PAYMENT LIMIT]; U.S. GOV'T ACCOUNTABILITY OFF., GAO/RCED-87-190, FARM PAYMENTS: USDA'S PROPOSED CHANGES TO THE $50,000 PAYMENT LIMIT COULD BE IMPROVED 3 (1987); *Payment Limitation Provisions: Hearing on the Administration and Enforcement of the $50,000 Per Person Payment Limitation for Farm Programs Before the Subcomm. on Nutrition & Investigations of the S. Comm. on Agric., Nutrition, & Forestry*, 100th Cong. 4 (1987) (statement of Robert W. Beuley, Inspector Gen., U.S. Dep't of Agric.); *U.S. Department of Agriculture's Recommendations and GAO Report on Farm Program Payment Limitations: Hearing Before Subcomm. on Cotton, Rice, & Sugar of the H. Comm. on Agric.*, 100th Cong. 7, 107 (1987); *see also* J.W. Looney & Lonnie R. Beard, *Farm Business Planning: Coordinating Farm Program Payment Rules with Tax Law*, 57 UMKC L. REV. 157, 172 n.84 (1989) (citing U.S. DEP'T OF AGRIC., REPORT TO THE CONGRESS BY THE SECRETARY OF AGRICULTURE WITH RESPECT TO THE IMPLEMENTATION OF THE MAXIMUM PAYMENT LIMITATION 14 (1987)).

276. *See* Looney & Beard, *supra* note 275, at 172.

277. During this era, Congress continued payment limits at $50,000 per person and disaster payments limited to $100,000 but altered requirements for the percentage of

Congress added the requirement that a person must be actively engaged in farming to be eligible for federal farm payments in the Omnibus Reconciliation Act of 1987 and limited the number of entities through which an individual could receive payments to three.[278] These changes did not fix the matter, in part because Congress included a loophole that permitted managers to qualify as actively engaged in farming and eligible for farm program payments.[279] Reformers could tinker with payment limits but could not stop abuses of the farm payment programs by fictional legal entities.[280]

ownership in a corporation for determining whether the corporation counted as a separate person for payment limit purposes. *See* Agricultural and Food Act of 1981, Pub. L. No. 97-98, § 1101, 95 Stat. 1213, 1263; Food Security Act of 1985, Pub. L. No. 99-198, § 1001, 99 Stat. 1354, 1444–45.

278. *See* Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, §§ 1301–1302, 101 Stat. 1330, 1330-12–1330-15; *Payment Limitation Provisions: Hearing on the Administration and Enforcement of the $50,000 Per Person Payment Limitation for Farm Programs Before the Subcomm. on Nutrition & Investigations of the S. Comm. on Agric., Nutrition, & Forestry*, 100th Cong. 1 (1987) (statement of Sen. Tom Harkin, Chairman, S. Subcomm. on Nutrition and Investigations); *U.S. General Accounting Office Report and U.S. Department of Agriculture Report Concerning the Maximum Payment Limitation: Hearing on Wheat, Soybeans, & Feed Grains Before the Subcomm. of the H. Comm. on Agric.*, 100th Cong. 2 (1987) (Representatives Dan Glickman (D-KS) and Glenn English (D-OK); H.R. Rep. 100-391, at 14–16 (1987) (intending to address "methods to legally circumvent" payment limitations and "schemes [that] have been developed that allow passive investors to qualify for benefits intended for legitimate farming operations"); Jonathan Coppess, *Reviewing the USDA Proposal to Limit Farm Program Payment Eligibility*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Apr. 8, 2015, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2016/03/fdd080415.pdf [https://perma.cc/7U4S-9XJX] [hereinafter Coppess, *Reviewing the USDA Proposal*].

279. In a 2002 USDA report required by Congress, the agency again found that reorganization remained an effective strategy for avoiding payment limits and GAO continued to uncover schemes to avoid payment limits through entity organization. *See* COMM'N ON THE APPLICATION OF PAYMENT LIMITATIONS FOR AGRIC., REPORT OF THE COMMISSION ON THE APPLICATION OF PAYMENT LIMITATIONS FOR AGRICULTURE 9 (2003), https://www.govinfo.gov/content/pkg/GOVPUB-A-PURL-LPS36005/pdf/GOVPUB-A-PURL-LPS36005.pdf [https://perma.cc/48F3-WEF8].

280. *See* Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. No. 101-624, § 1111, 104 Stat. 3359, 3497–99; Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104-127, § 115, 110 Stat. 888, 902 (lowered the payment limit to $40,000 for the annual direct contract payments with a limit on marketing loan gains or loan deficiency payments of $75,000); Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, § 1603, 116 Stat. 134, 213–14 (noting a $40,000 limit for annual direct payments and a $65,000 limit for counter-cyclical payments, with separate limits for peanuts; marketing loan gains and loan deficiency payments were also limited to $75,000); Dan Morgan, Gilbert M. Gaul & Sarah Cohen, *Harvesting Cash*, WASH. POST (2006), http://www.washingtonpost.com/wp-srv/nation/interactives/farmaid/; Dan Morgan, Gilbert M.

In the 2008 Farm Bill, Congress revised this definitional arrangement, specifying that the term "person" for payments "means a natural person, and does not include a legal entity," while also requiring direct attribution to a person through four levels of embedded legal entities and excluding joint ventures and general partnerships.[281] Congress expected that the changes would be "less susceptible to manipulation by changing the farming structure to introduce multiple farming entities."[282]Again, that proved not to be the case. In 2013, the United States Government Accountability Office (GAO) found problems yet again, including that farms organized as general partnerships or joint ventures were able to maximize payments because the entities included many people claiming to be managers of the farm.[283]

Rather than close the loophole in 2014, Congress delegated the task to the USDA, which revised regulations limiting payments to no more than three managers per entity.[284] In 2018, GAO again reported that general partnerships

Gaul & Sarah Cohen, *Farm Program Pays $1.3 Billion to People Who Don't Farm*, WASH. POST (July 2, 2006), http://www.washingtonpost.com/wp-dyn/content/article/2006/07/01/AR2006070100962.html [https://perma.cc/6VD3-QZ4J].

281. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 1603(b), 122 Stat. 1651, 1730–33 (2008) (defining a "legal entity" as "an entity that is created under Federal or State law and that . . . (A) owns land or an agricultural commodity; or . . . (B) produces an agricultural commodity"). In addition to splitting out legal entities from the definition of person, Congress also required direct attribution of all payments to legal entities such that any payment "made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person." *Id.* at 1732. Congress also dictated that the limits on payments were for persons or legal entities, but excluded joint ventures and general partnerships and permitting such entities a separate payment limit for each person or legal entity that "comprise the ownership of the joint venture or general partnership." *Id.* at 1733. This definitional arrangement was generally continued by Congress in the 2014 and 2018 Farm Bills, before being expanded in the Reconciliation Farm Bill. Agricultural Act of 2014, Pub. L. No. 113-79, § 1603, 128 Stat. 649, 705–06; Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 1703, 132 Stat. 4490, 4525–26; One Big Beautiful Bill Act, Pub. L. No. 119-21, § 10307, 139 Stat. 72, 92 (2025).

282. H.R. REP. NO. 110-627, at 696–97 (2008) (Conf. Rep.) ("It is the intent of the Managers that, consistent with the action taken by the Congress with the passage of the significant changes in farm program participation in 1987, that during the 2008 and 2009 program years, persons should not be penalized for changing their farming operation structure given such a significant change in the law administering payment limitations.").

283. U.S. GOV'T ACCOUNTABILITY OFF., GAO-13-781, FARM PROGRAMS: CHANGES ARE NEEDED TO ELIGIBILITY REQUIREMENTS FOR BEING ACTIVELY INVOLVED IN FARMING 11 (2013).

284. *See* Agricultural Act of 2014, Pub. L. No. 113-79, §§ 1603, 1605, 128 Stat. 649, 705, 707 (2014); Coppess, *Reviewing the USDA Proposal*, *supra* note 278, at 3.

continued to receive outsize payments despite being less than a quarter of all farm entities.[285] That year, the House Agriculture Committee responded counterintuitively and attempted to expand the loophole to include pass-through entities in addition to general partnerships and joint ventures, although had to concede to Senate opposition in conference.[286] Southerners in Congress finally succeeded with the 2025 Reconciliation Farm Bill. Going forward all pass-through entity farm operations will be able to abuse the loophole just as joint ventures and general partnerships have been found to have done historically, thereby effectively avoiding payment limits.[287]

Throughout history, each policy of limiting payments to large farm entities was weakened, if not eviscerated, by the loopholes built for legal fictional entities. The realities should not be lost in history. The loopholes made it possible, maybe even easy, to create entities and embed them in an organizational structure that would create multiple new "persons" for payments, allowing entities sophisticated enough to get lawyers and accountants to proliferate their way around the payment limit.[288] A planter entity can simply add multiple legal fictional persons and get more payments (and additional limits) for each.[289] A farm family, by comparison, would have to add actual people to the operation (and the costs associated with each real person) to increase payment limits and payments.[290] The loopholes create artificial advantages for planter entities with real consequences in the competitive environment of farming, where neighbors compete against each other for land, while also competing against farmers across the Nation and around the world.[291]

285. *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-384R, FARM PROGRAMS: INFORMATION ON PAYMENTS 5–6 (2018).

286. *See*, *e.g.*, Coppess, *High Cotton and the Low Road*, *supra* note 23, at 359.

287. *See* One Big Beautiful Bill Act, Pub. L. No. 119-21, § 10306, 139 Stat. 72, 91 (2025).

288. *See*, *e.g.*, 118 CONG. REC. 8535–36 (1972) (statement of Rep. Paul Findley (R-IL), who argued that the "payment limit so far is a no limit at all" but a "cruel joke on taxpayers[,]" and that "Congress itself must accept much of the blame for failing to write a payment limit without any loopholes"). GAO concluded it was relatively easy to do and found one instance in which a "management firm" used reorganization to create additional entities "to increase the payment limit from $50,000 to $1,400,000 by leasing land it managed to 28 investors." BASIC CHANGES NEEDED TO AVOID ABUSE OF THE $50,000 PAYMENT LIMIT, *supra* note 275, at 25–26 (1987) (including Figure 3.3).

289. Coppess, *The Farm Bill in Reconciliation*, *supra* note 208, at 3.

290. *Id.*

291. *Id.* at 6.

But a family farmer may have to compete against planter entities that can avoid limits and maximize federal payments with relative ease.[292]

The loopholes link back to the design of farm payments, which are based on both acres and payment rates per acre.[293] The more acres under operation and the higher the payment rate, the larger the payment.[294] Using legal fictional entities to maximize payments requires having enough base acres to make it worth the time and costs.[295] This further reinforces the advantage of the largest planter entities over an individual or family farm.[296] Additional payments, in turn, are used to bid up cash rents and land prices in an area, driving other farmers out of farming.[297] It should be of little surprise what has unfolded in the era of direct cash payments. While a payment limit is a policy response that seeks to prevent or reduce this advantage, it also encourages the largest operations that approach the limit to avoid limitations, including through the deployment of de facto political power in Congress.[298]

292. *See*, *e.g.*, Taylor, *supra* note 165, at 151–52; Gregor, *supra* note 166, at 152. This is not exactly an easy matter for researchers and especially economists to figure out—there are challenges with aggregated data and averages, as well as with the local realities of land markets and a lack of transparency—but many try, and some do better than others applying logic, intuition, and experiences to the question. *See*, *e.g.*, Marlene Kionka et al., *Experimental Evidence of Bargaining Power in Agricultural Land Markets*, 51 EUR. REV. AGRIC. ECON. 1273, 1275 (2025); Sergio H. Lence & Ashok K. Mishra, *The Impacts of Different Farm Programs on Cash Rents*, 85 AM. J. AGRIC. ECON. 753 (2003); Sheila Bhalla, *Tenancy Today: New Factors in Determination of Mode and Level of Rent Payments for Agricultural Land*, 18 ECON. & POL. WKLY. 835 (1983); Barrett E. Kirwan, *The Incidence of U.S. Agricultural Subsidies on Farmland Rental Rates*, 117 J. POL. ECON. 138 (2009); Myles Patton et. al., *Assessing the Influence of Direct Payments on the Rental Value of Agricultural Land*, 33 FOOD POL'Y 397 (2008); Feng Qui, Barry K. Goodwin & Jean-Phillippe Gervais, *An Empirical Investigation of the Linkages Between Government Payments and Farmland Leasing Arrangements*, 36 J. AGRIC. & RES. ECON. 536 (2011); Barrett E. Kirwan & Michael J. Roberts, *Who* Really *Benefits from Agricultural Subsidies? Evidence from Field-Level Data*, 98 AM. J. AGRIC. ECON. 1095 (2016); Nathan P. Hendricks, Joseph P. Janzen & Kevin C. Dhuyvetter, *Subsidy Incidence and Inertia in Farmland Rental Markets: Estimates from a Dynamic Panel*, 37 J. AGRIC. & RES. ECON. 361 (2012).

293. Coppess, *The Farm Bill in Reconciliation*, *supra* note 208, at 1, 5.

294. *Id.*

295. *Id.*

296. *See id.* at 6.

297. *See supra* Part III.B.

298. Coppess, *The Farm Bill in Reconciliation*, *supra* note 208, at 1–4.

C. Evidence and Motive Combine to Complete the Case

The only missing piece in this whodunnit is the motive, or motives, that drove the suspects to deploy political power in Congress and terminate the Farm Bill. The potential payouts on their base acres from the increased reference prices, as well as the likelihood of additional insurance indemnities for their crops, supports possibly the simplest motivation and one of the oldest: greed. The economic formula on political power supports this contention, while also pointing to further evidence in recent Farm Bill history.[299]

The 2008 Farm Bill was the last reauthorization in which the coalition functioned in a traditionally normal fashion, managing to override a presidential veto on its way to achieving enactment.[300] The troubled 2014 Farm Bill reauthorization did not only feature the first defeat on the House floor since 1962, it also delivered important losses to the Southern planter elite.[301] First, that Farm Bill eliminated the annual direct payments that had been in place since 1996 but were politically unsustainable in the post-2008 economic crisis political environment, nor acceptable to the ascendant Tea Party faction in Congress.[302] Second, upland cotton base acres were removed from the farm payment programs in response to the overwhelming loss to Brazil in a World Trade Organization dispute.[303] Thus, while cotton planters received a new area-wide insurance policy option and a temporary continuation of direct payments, their base acres were no longer eligible to receive payments for upland cotton.[304]

As motive, this experience fits the political economy formula in which factional elites react to having lost benefits because the public, or the democratic features, have turned against them.[305] It also fits the mentality of the Southern

299. *See supra* Part III.B.

300. *See* COPPESS, FAULT LINES, *supra* note 23, at 223–32; Coppess, *History and the 2024 House Farm Bill*, *supra* note 144.

301. *See* COPPESS, FAULT LINES, *supra* note 23, at 270–280.

302. *Id.* at 240–276; Agricultural Act of 2014, Pub. L. 113-79 § 1101, 128 Stat 649, 658.

303. *See* COPPESS, FAULT LINES, *supra* note 23, at 219–221; S. REP. NO. 113-88, at 23 (2013); S. REP. NO. 112-203, at 20–23 (2012).

304. *See*, *e.g.*, Jonathan Coppess, Gary Schnitkey & Nick Paulson, *Beneath the Label: A Look at Generic Base Acres*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Apr. 13, 2017, at 1, https://farmdocdaily.illinois.edu/wp-content/uploads/2017/04/fdd130417.pdf [https://perma.cc/97D3-MN7A].

305. Acemoglu & Robinson, *De Facto Political Power and Institutional Persistence*, *supra* note 128, at 326 (explaining that when the elites who dominate "de jure political power lose this privilege, they may still exert disproportionate influence in politics by increasing the intensity of their collective action" to "ensure the continuation of the previous set of economic institutions").

planter elite and their lobbyists, as they have made clear publicly.[306] While cotton interests were able to have base acres restored by Congress in 2018, they were unable to get the pass-through entity loophole enacted.[307] As discussed earlier, since 2018, Southern planters have fared particularly well under the extraordinary ad hoc or supplemental payments, including a special ad hoc payment just to rice farmers in 2023.[308] In the inflationary years since the COVID-19 pandemic, farmers of the supported commodities experienced increased crop prices, pushing prices above the reference price thresholds in the statute and decreasing or eliminating payments, but with different impacts on the base acres for southern program crops.[309] These matters, coupled with changes to (and increased spending

306. THE FAULT LINES OF FARM POLICY, *supra* note 23, at 244 ("the most pointed example of the increasingly tense regional conflict can be found in reported comments from the cotton industry that 'some grains and oil seeds are trying to take your money… the money that's in the baseline for rice and peanuts and cotton in order to enrich their revenue programs.' Taken at face value these comments exposed the real dispute was over interest group preferences for the distribution of estimated federal expenditures rather than policy or farmer needs.").

307. *See* Bipartisan Budget Act of 2018, Pub. L. No. 115-123, § 60101(e)(4), 132 Stat. 64, 309; Jonathan Coppess, Nick Paulson & Gary Schnitkey, *Farm Bill Round 1: Dairy, Cotton and the President's Budget*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Feb. 14, 2018, at 2, https://farmdocdaily.illinois.edu/wp-content/uploads/2018/04/fdd140218.pdf [https://perma.cc/LA7A-9UYL]; Coppess, *High Cotton and the Low Road*, *supra* note 23, at 356. *See generally* Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490.

308. *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-700R, *supra* note 59, at 4; U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-468, USDA MARKET FACILITATION PROGRAM: STRONGER ADHERENCE TO QUALITY GUIDELINES WOULD IMPROVE FUTURE ECONOMIC ANALYSES 39 (2021); U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-104259, USDA MARKET FACILITATION PROGRAM: OVERSIGHT OF FUTURE SUPPLEMENTAL ASSISTANCE TO FARMERS COULD BE IMPROVED 10 (2022); U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-104397, CORONAVIRUS FOOD ASSISTANCE PROGRAM: USDA SHOULD CONDUCT MORE RIGOROUS REVIEWS OF PAYMENTS TO PRODUCERS 14–16 (2022); U.S. GOV'T ACCOUNTABILITY OFF., GAO-25-107174, FARM PROGRAMS: USDA FINANCIAL ASSISTANCE TO AGRICULTURAL PRODUCERS FOR FISCAL YEARS 2019–2023 at 10 (2024); Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, § 602, 136 Stat. 4459, 5995–96 (2022) (appropriating $250 million in assistance for rice producers); Press Release, U.S. Dep't of Agric., USDA Announces Signup for New Rice Production Program (May 8, 2023) https://www.fsa.usda.gov/news-events/news/05-08-2023/usda-announces-signup-new-rice-production-program [https://perma.cc/Q2LD-GZ6M].

309. *See*, *e.g.*, Jonathan Coppess, *Farm Bill 2023: Don't Look Now, but Reference Prices Will Increase*, FARMDOC DAILY (Dep't of Agric. & Consumer Econ., Univ. of Ill.), Oct. 5, 2023, at 2–5, https://farmdocdaily.illinois.edu/wp-content/uploads/2023/10/fdd100523.pdf [https://perma.cc/LA7K-QQLR] [hereinafter Coppess, *Farm Bill 2023: Don't Look Now, but Reference Prices Will Increase*].

from) SNAP during these years, likely added further motivation.[310] The political slogan to put "more farm in the Farm Bill" effectively confesses as much.[311]

VI. Conclusion

To conclude is to come full circle with the point made at the start: that the Farm Bill, as it has been known and understood for more than 50 years, is now dead. The black-and-white text of the United States Code etches what passes as an epitaph for this once-formidable legislative coalition. Payments to a select subset of American farmers are authorized to 2031; assistance to low-income households for the purchase of food retains an expiration date of 2023, as does the Conservation Reserve Program.[312] Different expiration dates for the three factional pillars of the Farm Bill coalition are more symbolic than operational—Congress can continue programs with extensions and appropriations in a relatively perfunctory manner—but the symbolism in matters of politics and policy should not be easily dismissed. Technical differences in statutory sunsets expose the breaking of the legislative coalition, a political separation of constituencies critical to what was the Farm Bill.

Pronouncing the Farm Bill's political death is also symbolic. It is not a prediction about a future that cannot be known. Few things are permanent in Congressional politics because the actions of one Congress cannot bind future Congresses.[313] Factional reconciliation will remain possible. The barriers should

310. *See* Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 4002, 132 Stat. 4490, 4624 (2018). Congress in the 2018 Farm Bill instructed USDA to re-evaluate what is known as the "Thrifty Food Plan" which estimates food prices and helps establish SNAP benefit amounts. *Id.* USDA under the Biden Administration undertook the re-evaluation and updated food costs for SNAP. *See Thrifty Food Plan, 2021*, FOOD & NUTRITION SERV., U.S. DEPT. OF AGRIC. (2021), https://www.fns.usda.gov/cnpp/thrifty-food-plan-2021 [https://perma.cc/DX27-PAHE]; U.S. GOV'T ACCOUNTABILITY OFF., GAO-23-105450, THRIFTY FOOD PLAN: BETTER PLANNING AND ACCOUNTABILITY COULD HELP ENSURE QUALITY OF FUTURE REEVALUATIONS (2022). This caused considerable controversy. *See*, *e.g.*, Press Release, House Comm. on Agric., Biden's USDA Violated Federal Budget Laws in SNAP Fund Allocation (Feb. 12, 2025), https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=7845 [https://perma.cc/8RSV-V25B]; U.S. GOV'T ACCOUNTABILITY OFF., GAO-B-336036, U.S. DEPARTMENT OF AGRICULTURE—APPLICATION OF RECORDING STATUTE, BONA FIDE NEEDS STATUTE, AND ANTIDEFICIENCY ACT TO SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS 4 (2025).

311. *See supra* Part IV.A.

312. *See supra* Part I.

313. *See*, *e.g.*, ESKRIDGE ET AL., LEGISLATION AND STATUTORY INTERPRETATION, *supra* note 74, at 81–83.

not be underestimated either. Under budget rules, for example, repairing the damage to SNAP from the Reconciliation Farm Bill would require hundreds of billions in offsets unless those rules are changed or disregarded.[314] Supporters of food assistance would also have to knowingly acquiesce. That would require reconciling with a coalitional partner who purposefully broke the cardinal rule binding the coalition together after twice using the policy as a legislative hostage; a factional partner, moreover, that benefitted immensely from doing so and would retain the means and motivation for doing it again. The amount of appeasement necessary might be worse than no coalition or will at least necessitate extraordinarily difficult political calculations.

The point of the pronouncement, therefore, is not predictive. It is neither to praise nor to celebrate. Leveling the indictment is the point, analyzing the bill of particulars to sort out answers to the whodunit for the Farm Bill. The reasons for that are familiar and standard. They begin with an attempt to understand what the episode means, or what meanings it may hold, especially with respect to Congress and the American system of self-government. There is also the necessary work of assigning responsibility and accountability. Any political reaction, repercussions, or even retribution, should be tied to culpability; while many farm factional interests bear some level of complicity, they are not all equally responsible or accountable, just as they won't all benefit equally and some will be harmed. All of that, in turn, should inform future directions for future policies, and the deliberations that will determine them.

Acknowledging the victims is also important. The Reconciliation Farm Bill was done at the expense of the hungry by making it more difficult for millions of poor people to access assistance for buying food.[315] But the poor and the hungry are not the only victims here, because this version of "more farm in the Farm Bill" is likely to result in fewer farmers, as planters gorging on federal payments will drive farmers out of business. Large payments could accelerate consolidation, begetting larger planter pass-through entities and fewer farmers. Rural communities already hollowed out could be further decimated and the food system could become weaker and less resilient. Loaded with federal cash, planter pass-through entities will control more land and resources while building higher barriers against other farmers, especially those seeking to get started, are younger, conservation-minded, or entrepreneurial. A weaker, less resilient agriculture will carry more risk and become more dependent on payments, with less innovation,

314. 2 U.S.C. §§ 931–39.
315. *See supra* Part III.B.

flexibility, or ability to adapt.[316] It is a cycle that feeds on itself until it collapses, like an allegory or parable about eating the seed needed for future crops or killing the goose that laid the golden eggs.[317]

These are some among many potential outcomes, less prognostication than application of logic and reason, informed by history. What is more important than considering the accuracy or likelihood of these potential outcomes is the reckoning with difficult questions they force. Slim majorities in Congress achieved this without regard to the risks or the consequences, including to their own constituents desperate to put food on the table of those who struggle to hang on in an agricultural economy further and further rigged in favor of the largest fictional planter entities.

From political economics, a formula explaining the operation of political power provides a valuable guide.[318] The political slogan to "put more farm in the Farm Bill" operates as a confession. The evidence in the Reconciliation Farm Bill, supported by additional evidence from the long history of farm policy and politics, incriminates a factional elite defined as the planter class: large farm entities operating substantial base acres, especially of seed cotton, long grain rice, and peanuts.[319] The bottom line turned out to be that putting "more farm in the Farm Bill" meant the most payments for the smallest factional interests—the largest planter operations—an outcome likely to be to the competitive detriment of family farms and smaller farms.[320]

316. If needed, further proof was provided by the Trump Administration at the end of 2025. *See* Press Release, U.S. Dep't of Agric., Trump Administration Announces $12 Billion Farmer Bridge Payments for American Farmers Impacted by Unfair Market Disruptions (Dec. 8, 2025), https://www.usda.gov/about-usda/news/press-releases/2025/12/08/trump-administration-announces-12-billion-farmer-bridge-payments-american-farmers-impacted-unfair [https://perma.cc/3QM6-KFPB]. After securing a potential payment windfall of $13.5 billion for the 2025 crop, USDA announced a "bridge" payment of $12 billion because the increased payments are delayed until October 2026 and the Trump tariff policy harms export markets. *Id.*; Paulson et al, *Projected ARC and PLC Payments for 2025*, *supra* note 190, at 4. This follows on the heels of the $10 billion in ECAP payments made in 2025. *See Emergency Commodity Assistance Program (ECAP) Dashboard*, U.S. DEP'T OF AGRIC.: FARM SERV. AGENCY (Mar. 27, 2026, at 9:36 CT), https://www.fsa.usda.gov/resources/programs/emergency-commodity-assistance-program/dashboard [https://perma.cc/TF2D-P6GY].

317. *See*, *e.g.*, *The Goose with the Golden Eggs*, THE AESOP FOR CHILDREN (Mar. 8, 2026, at 18:00 CT), https://read.gov/aesop/091.html [https://perma.cc/4ABC-B2TW].

318. *See supra* Part III.B.

319. *See supra* Part V.A, Part V.B.

320. *See supra* notes 115–17 and accompanying text.

That long history of farm policy and politics also serves plenty of reminders that the planter faction has always operated this way. It is one of the defining characteristics of planter philosophy, to extract the most—to take as much as possible without regard to the consequences—using means of political power to maximize the benefits of policy at the expense of others, oftentimes even other farmers. In the past, and in the regular order for legislating, the narrow ends of the planter faction were forced to compete for outcomes and sometimes they were checked or thwarted by deliberation and exposure, or at least forced to compromise.[321] In Madison's memorable phrasing, the planter philosophy epitomizes the "clamors of an impatient avidity for immediate and immoderate gain" that "too often drown[s]" the "mild voice of reason, pleading the cause of an enlarged and permanent interest."[322]

The Madisonian lens focuses on arguably the most important lesson in the Farm Bill's demise: the weaponized budget process was the weapon of choice, putting more farm in the Fam Bill for the planter faction without the competition for outcomes in the normal process. Budget reconciliation made all the difference and that is the critical point.[323] Weaponized budgeting has warped and distorted Congress and the legislative process. The "cause of an enlarged and permanent interest" is too expensive in a weaponized budget, but the smaller and elite factional interest does not suffer the same challenges, and is able to easily achieve its "immediate and immoderate gain[s]" protected by a process that favors it at every step and stage.[324] Whatever "mild voice of reason" might have existed in the Constitutional design, the weaponized budget process has silenced it almost completely.[325] That is the point that should be heard in the Farm Bill's death.

The weaponized budget process greatly assists de jure (influential) political power in the use of de facto (institutional) political power to achieve its narrow ends.[326] The death of an effective and powerful 50-year legislative coalition is not just a story about the death of the Farm Bill, it is a lesson in the drastic damage to the legislative process, as well as the resulting diminishment of legislative power. Instructing on the potentially lethal damages to the system of self-government, the

321. *See*, *e.g.*, COPPESS, THE FAULT LINES OF FARM POLICY, *supra* note 23, at 116–23. Primary examples in farm bill history often involved Midwestern Republicans in Congress who frequently fought Southern planter efforts including the first defeat in 1962. *Id.*

322. THE FEDERALIST NO. 42, *supra* note 180.

323. *See supra* Part III.B.

324. THE FEDERALIST NO. 42, *supra* note 180.

325. *Id.*

326. *See supra* Part III.B.

episode offers lessons on the mortal disease of republican government.[327] The death of the Farm Bill is an important case study for researchers and others interested in politics, power, policy, and the potential consequences for the entire system.

The Farm Bill's death should not be in vain, and a clever political slogan should not be permitted to obscure fundamental realities. All payments are made by public agencies and funded by the public's dollars. The question is not what the factional interests want or demand, it is what the public supports or approves. Therefore, any path out of the Reconciliation Farm Bill will be built on understanding and accountability. Farmers will need to be part of any remedy, including defeating the biggest barriers to changes, reforms, or other policy innovations. The Farm Bill is dead. While it's death should not be celebrated, it should also not be mourned; it is possible that its death clears the way for better policies. If so, good riddance to it.

327. *See* THE FEDERALIST NO. 10, at 1 (James Madison); THE FEDERALIST NO. 9, at 1 (Alexander Hamilton).