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# THE BIDEN PRESIDENTIAL ERA: TEN POTENTIAL BIPARTISAN AREAS OF COOPERATION IN AGRICULTURE POLICY

CHAD G. MARZEN\*

## I. INTRODUCTION

President Joe Biden took the oath of office as President of the United States on January 20, 2021, following a highly contentious 2020 presidential election.<sup>1</sup> In his inaugural address, President Biden focused on unity, mentioning unity on eight separate occasions, and remarking that “this is our historic moment of crisis and challenge, and unity is the path forward.”<sup>2</sup>

However, within weeks of this call for unity, the lines of division emerged. These divisions have ranged from the passage of the \$1.9 trillion COVID-19 relief legislation without a single Republican vote,<sup>3</sup> to the debate over COVID-19 vaccine mandates,<sup>4</sup> to President Biden’s proposed \$3.5 trillion social spending plan during the fall of 2021.<sup>5</sup> In President Biden’s

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<sup>1</sup> See Molly Nagle, *Biden Assumes Presidency at Capitol Saying ‘Democracy Has Prevailed,’* ABC NEWS (Jan. 20, 2021), <https://abcnews.go.com/Politics/biden-takes-office-turn-page-rolling-back-trump/story?id=75343545>.

<sup>2</sup> President Joseph R. Biden, Jr., *Inaugural Address by President Joseph R. Biden, Jr.*, THE WHITE HOUSE (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/20/inaugural-address-by-president-joseph-r-biden-jr/>.

<sup>3</sup> See Cristina Marcos, *No Republicans Back \$1.9T COVID-19 Relief Bill*, THE HILL (Mar. 10, 2021), <https://thehill.com/homenews/house/542581-no-republicans-back-19t-covid-19-relief-bill>.

<sup>4</sup> See Diane Bartz, Nandita Bose & Andrea Shalal, *Biden Vaccine Mandates: Republicans Angry, Business Groups Muted*, REUTERS (Sept. 10, 2021), <https://www.reuters.com/world/us/bidens-covid-vaccine-mandate-angers-republicans-libertarians-2021-09-10/>.

<sup>5</sup> See Jordain Carney, *Democrats Brace for Battle on Biden’s \$3.5 Trillion Spending Plan*, THE HILL (Sept. 13, 2021), <https://thehill.com/homenews/senate/571905-democrats-brace-for-battle-on-bidens-35-spending-plan>.

first 100 days in office, divisions started to emerge,<sup>6</sup> and through the summer and fall of 2021, as well as 2022, these divisions have seemingly widened.<sup>7</sup>

In the Catholic intellectual tradition, law is viewed with a purpose to advance the common good.<sup>8</sup> This commitment to the common good and public good has been expressed by all of the recent Popes, including His Holiness Saint Pope John Paul II,<sup>9</sup> His Holiness Pope Benedict XVI,<sup>10</sup> and His Holiness Pope Francis.<sup>11</sup>

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<sup>6</sup> See Amie Parnes & Alexander Bolton, *Partisan Divides Widen in Biden's First 100 days*, THE HILL (Apr. 28, 2021), <https://thehill.com/homenews/administration/550557-partisan-divides-widen-in-bidens-first-100-days>.

<sup>7</sup> See Ronald Brownstein, *America's Partisan Fireworks Will Be Hard for Anyone to Put Out*, CNN (July 6, 2021), <https://www.cnn.com/2021/07/05/politics/america-partisan-divisions-widen/index.html>; Leo Shane III, *Biden Boots Trump Appointees from Military Academy Advisory Boards*, MILITARY TIMES (Sept. 8, 2021), <https://www.militarytimes.com/news/pentagon-congress/2021/09/08/biden-boots-trump-appointees-from-west-point-advisory-board/>.

<sup>8</sup> See Lee J. Strang, *The Role of the Common Good in Legal and Constitutional Interpretation*, 3 U. ST. THOMAS L.J. 48, 55 (2005) (“The common good is central to the nature of law [in the Catholic intellectual tradition]. The legislator determines what the common good of society requires and molds legislation to enable society to effectively pursue that good.”).

<sup>9</sup> See His Holiness Saint Pope John Paul II, *Address of the Holy Father John Paul II at the Jubilee of Government Leaders, Members of Parliament and Politicians* (Nov. 4, 2000), [https://www.vatican.va/content/john-paul-ii/en/speeches/2000/oct-dec/documents/hf\\_jp-ii\\_spe\\_20001104\\_jubil-parlgov.html](https://www.vatican.va/content/john-paul-ii/en/speeches/2000/oct-dec/documents/hf_jp-ii_spe_20001104_jubil-parlgov.html) (“Politics is the use of legitimate authority in order to attain the common good of society.”).

<sup>10</sup> See His Holiness Pope Benedict XVI, *Encyclical Letter Caritas in Veritate of the Supreme Pontiff Benedict XVI to the Bishops, Priests and Deacons, Men and Women Religious, the Lay Faithful, and All People of Good Will on Integral Human Development in Charity and Truth* (June 29, 2009), [https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf\\_ben-xvi\\_enc\\_20090629\\_caritas-in-veritate.html](https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html) (“To desire the common good and strive towards it is a requirement of justice and charity. To take a stand for the common good is on the one hand to be solicitous for, and on the other hand to avail oneself of, that complex of institutions that give structure to the life of society, juridically, civilly, politically and culturally, making it the *polis*, or ‘city.’ The more we strive to secure a common good corresponding to the real needs of our neighbours, the more effectively we love them. Every Christian is called to practise this charity, in a manner corresponding to his vocation and according to the degree of influence he wields in the *polis*.”).

<sup>11</sup> See His Holiness Pope Francis, *Message of His Holiness Pope Francis for the Celebration of the 52nd World Day of Peace* (Jan. 1, 2019), [https://www.vatican.va/content/francesco/en/messages/peace/documents/papa-francesco\\_20181208\\_messaggio-52giornatamondiale-pace2019.html](https://www.vatican.va/content/francesco/en/messages/peace/documents/papa-francesco_20181208_messaggio-52giornatamondiale-pace2019.html) (“Political office and political

In this symposium on “Revitalizing Public Goods,” the University of St. Thomas has the unique opportunity as a Catholic institution of higher learning to foster discussion of how academics, policymakers, and citizens can promote the public good. As one looks at policymaking in the Biden era, in an age of contentious debates agricultural policy is an area where common ground can be found. In recent Congresses, the Farm Bill has brought members of both parties together in compromise to help foster the common good.<sup>12</sup> At the outset of the Biden administration, President Biden’s nominee for United States Secretary of Agriculture, Tom Vilsack, overwhelmingly won bipartisan support for confirmation.<sup>13</sup> In building on this bipartisan spirit, this Article suggests ten potential bipartisan areas of cooperation in agricultural policy where policymakers may find it easier to work together toward the common good and public good.

## II. TEN POTENTIAL BIPARTISAN AREAS OF COOPERATION IN AGRICULTURAL POLICY

### A. Encouraging Cover Crops

Climate risk is one that is an emerging and insidious risk to agricultural interests.<sup>14</sup> Climate risk, and the overarching discussion of climate change, has evoked many strong opinions, from policymakers who have aggressively advocated for a “Green New Deal” to address climate change<sup>15</sup> to policymakers who have called for measures to help address

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responsibility thus constantly challenge those called to the service of their country to make every effort to protect those who live there and to create the conditions for a worthy and just future. If exercised with basic respect for the life, freedom and dignity of persons, political life can indeed become an outstanding form of charity.”).

<sup>12</sup> See e.g., Chad G. Marzen, *The 2018 Farm Bill: Legislative Compromise in the Trump Era*, 38 *FORDHAM ENV'T. L. REV.* 49 (2018) (discussing the legislative compromise reached with the 2018 farm bill); Neil D. Hamilton, *The 2014 Farm Bill: Lessons in Patience, Politics & Persuasion*, 19 *DRAKE J. AGRIC. L.* 1 (2014) (analyzing the 2013-2014 farm bill).

<sup>13</sup> See Helena Bottemiller Evich, *Vilsack Confirmed as Agriculture Secretary*, *POLITICO* (Feb. 23, 2021), <https://www.politico.com/news/2021/02/23/vilsack-confirmed-agriculture-secretary-471178>.

<sup>14</sup> See e.g., Dr. Steve Suppan, *Agricultural Finance for Climate Resilience: An Assessment with Policy Options*, *INSTITUTE FOR AGRICULTURE & TRADE POLICY* (Sept. 8, 2020), <https://www.iatp.org/ag-finance-climate>.

<sup>15</sup> See Danielle Kurtzleben, *Rep. Alexandria Ocasio-Cortez Releases Green New Deal Outline*, *NPR* (Feb. 7, 2019), <https://www.npr.org/2019/02/07/691997301/rep-alexandria-ocasio-cortez-releases-green-new-deal-outline>.

climate risk, and at the same time not heavily burden economic and business interests.<sup>16</sup>

Amidst this larger debate on how to address the emerging challenge of climate risk, it is generally understood that the utilization of cover crops helps build the resiliency of agricultural soil.<sup>17</sup> Cover crops have the ability to “slow erosion, improve soil health, enhance water filtration, smother weeds, control pests and diseases, and increase biodiversity.”<sup>18</sup> In addition, the utilization of a cover crop can increase nitrogen levels in the soil as well.<sup>19</sup>

In the past, the usage of cover crops potentially presented a roadblock for agricultural producers to keep their multi-peril crop insurance coverage for the main crop.<sup>20</sup> The reason for this was strict guidelines for producers to terminate the cover crop.<sup>21</sup> The 2018 Farm Bill relaxed these guidelines and now cover crops are reviewed under the United States Department of Agriculture’s Risk Management Agency’s “good farming practices” determinations.<sup>22</sup> Most recently, as a result of the COVID-19 pandemic the United States Department of Agriculture’s Risk Management Agency implemented a Pandemic Cover Crop Program.<sup>23</sup> The purpose of the Pandemic Cover Crop Program is to provide financial assistance to producers in the form of a premium support of five dollars per acre in the event the producer insured their cash crop and utilized a qualifying cover crop.<sup>24</sup> The program seeks to promote the continuation of cover crops despite the financial challenges and disruptions of the pandemic.<sup>25</sup>

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<sup>16</sup> See Matthew Daly, *In Break with Trump, House GOP Forms Group on Climate Change*, ASSOCIATED PRESS (June 23, 2021), <https://apnews.com/article/donald-trump-business-climate-climate-change-e1f0f572a7b5841bb6141456776bafec>.

<sup>17</sup> See Leigh Archer, et al., *Cover Crops*, U.C. DAVIS SUSTAINABLE AGRIC. RSCH. & EDUC. PROGRAM (2017), <https://sarep.ucdavis.edu/sustainable-ag/cover-crops>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> See *USDA Updates Options for Cover Crop Termination*, NAT’L. SUSTAINABLE AGRIC. COALITION: NSAC’S BLOG (June 17, 2019), <https://sustainableagriculture.net/blog/usda-updates-cover-crop-termination/>.

<sup>21</sup> *Id.*

<sup>22</sup> Washington National Office, *Cover Crops and Federal Crop Insurance*, U.S. DEP’T. OF AGRIC. RISK MGMT. AGENCY (June 2019), <https://www.rma.usda.gov/en/Fact-Sheets/National-Fact-Sheets/Cover-Crops-and-Crop-Insurance>.

<sup>23</sup> See *Pandemic Cover Crop Program FAQ*, U.S. DEP’T. OF AGRIC. (Sept. 1, 2021), <https://www.farmers.gov/cover-crops/faq>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

One congressional proposal to encourage the utilization of cover crops, the Cover Crop Flexibility Act of 2021, has already garnered bipartisan support and provides a strong area of possible bipartisan cooperation in agricultural policy.<sup>26</sup> The legislation, sponsored by Republican Senator John Thune,<sup>27</sup> is co-sponsored by Democratic Senator Debbie Stabenow, the chairwoman of the Senate Agriculture Committee.<sup>28</sup> Currently, there is a prohibition on harvesting or grazing cover crops prior to November 1 on prevented plant acres.<sup>29</sup> Prevented plant acres are those farmland acres so affected by adverse weather events that a producer cannot plant their crop prior to the final date allowed for insurance eligibility for the crop.<sup>30</sup> The Cover Crop Flexibility Act of 2021 removes this restriction, thus encouraging the utilization of cover crops.<sup>31</sup> As Senator Stabenow noted, “When extreme weather causes farmers to miss a planting season, farmers aren’t able to grow beneficial cover crops without facing a crop insurance penalty. This commonsense change permanently fixes that problem and is a win for the environment and for farmers.”<sup>32</sup> The bill is endorsed by groups as varied as the National Farmers Union as well as the American Farm Bureau Federation.<sup>33</sup> Support for cover crop incentives is a clear area of common ground for diverse policymakers to pursue in the Biden era without debating the controversy of proposals such as the “Green New Deal.”

## B. Promoting Farmers’ Markets and Eliminating Food Deserts

According to a 2017 United States Department of Agriculture report, approximately 12.8 percent of the U.S. population (nearly 40 million) people

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<sup>26</sup> See S. 1458, 117th Cong. (2021).

<sup>27</sup> See *Biography*, JOHN THUNE U.S. SENATOR FOR SOUTH DAKOTA: ABOUT (2021), <https://www.thune.senate.gov/public/index.cfm/biography>.

<sup>28</sup> See *Biography*, DEBBIE STABENOW UNITED STATES SENATOR: ABOUT (2021), <https://www.stabenow.senate.gov/about/biography>.

<sup>29</sup> See *Thune, Stabenow Reintroduce Cover Crop Legislation*, JOHN THUNE U.S. SENATOR FOR SOUTH DAKOTA: PRESS RELEASES (Apr. 29, 2021), <https://www.thune.senate.gov/public/index.cfm/2021/4/thune-stabenow-reintroduce-cover-crop-legislation> [hereinafter *Cover Crop Flexibility Act of 2021 Press Release*]; *Prevented Planting*, U.S. DEP’T. OF AGRIC. RISK MGMT. AGENCY (2021), <https://www.rma.usda.gov/en/Topics/Prevented-Planting>.

<sup>30</sup> *Prevented Planting*, *supra* note 29.

<sup>31</sup> *Cover Crop Flexibility Act of 2021 Press Release*, *supra* note 29.

<sup>32</sup> *Cover Crop Flexibility Act of 2021 Press Release*, *supra* note 29.

<sup>33</sup> *Cover Crop Flexibility Act of 2021 Press Release*, *supra* note 29.

live in a “food desert.”<sup>34</sup> “Food deserts” are areas where individuals lack convenient options for access to healthy and affordable food, either through geographic limitations or living in areas with higher poverty.<sup>35</sup> The lack of convenient access to healthy food has arguably led to higher rates of obesity and diabetes for individuals living within a food desert.<sup>36</sup>

The COVID-19 pandemic greatly worsened the problem of food deserts, as states and municipalities implemented quarantines and stay-at-home orders and many families faced financial challenges with job losses.<sup>37</sup> With all of the challenges that the COVID-19 pandemic brought, such as food supply disruptions<sup>38</sup> and the fear of the spread of the virus through indoor grocery stores,<sup>39</sup> farmers’ markets enjoyed a resurgence as an option to secure healthy food and provide an outdoor setting where the virus appeared less transmissible.<sup>40</sup> Farmers’ markets also support small farmers and promote the consumption of healthy food.<sup>41</sup> In general, farmers’ markets can help address issues of food insecurity created by the presence of food deserts.

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<sup>34</sup> See The Annie E. Casey Foundation, *Food Deserts in the United States*, The Annie E. Casey Foundation: Blog (Feb. 13, 2021), <https://www.aecf.org/blog/exploring-americas-food-deserts>.

<sup>35</sup> *Id.*

<sup>36</sup> See Jessica Caporuscio, *What Are Food Deserts, And How Do They Impact Health?*, MED. NEWS TODAY (June 22, 2020), <https://www.medicalnewstoday.com/articles/what-are-food-deserts#definition>.

<sup>37</sup> See Nathaniel Meyerson, *Groceries Were Hard to Find for Millions. Now It's Getting Worse*, CNN (June 9, 2020), <https://www.cnn.com/2020/06/09/business/food-deserts-coronavirus-grocery-stores/index.html>.

<sup>38</sup> See Dan Nosowitz, *USDA to Invest Billions to Fix Food Supply Chain Disruptions*, MODERN FARMER (June 8, 2021), <https://modernfarmer.com/2021/06/usda-to-invest-billions-to-fix-food-supply-chain-disruptions/>.

<sup>39</sup> See Amy Jamieson, *Grocery Store Shopping Amid the COVID-19 Variants: Some Ways to Stay Safe*, HEALTHLINE (Feb. 20, 2021), <https://www.healthline.com/health-news/grocery-store-shopping-amid-the-covid-19-variants-some-ways-to-stay-safe>.

<sup>40</sup> See Edna Ledesma & Alfonso Morales, *Farmers Markets Are Growing Their Role as Essential Sources of Healthy Food for Rich and Poor*, THE CONVERSATION (July 30, 2021), <https://theconversation.com/farmers-markets-are-growing-their-role-as-essential-sources-of-healthy-food-for-rich-and-poor-157009>.

<sup>41</sup> See Janet Forgrieve, *Farmers’ Markets Played a Bigger Role in Feeding America in the Pandemic*, SMART BRIEF (Apr. 14, 2021), <https://www.smartbrief.com/original/2021/04/farmers-markets-played-bigger-role-feeding-america-pandemic>.

In response to the challenges of food deserts and food insecurities, Democratic Senators Mark Warner of Virginia<sup>42</sup> and Senator Bob Casey of Pennsylvania,<sup>43</sup> along with Republican Senators Jerry Moran of Kansas<sup>44</sup> and Senator Shelley Moore Capito of West Virginia,<sup>45</sup> introduced the Healthy Food Access for All Americans Act.<sup>46</sup> The Healthy Food Access for All Americans Act provides for tax credits for operating a new grocery store as well as renovating a grocery store in food desert areas that have a poverty rate tract of twenty percent or higher as well as areas that have a median family income less than eighty percent of the median for the state or metropolitan area.<sup>47</sup> The Healthy Food Access for All Americans Act also provides for grants for the construction of food banks in the desert areas just described as well as grants for special access food providers, such as farmers' markets, which have 26 U.S.C. § 501(c)(3)<sup>48</sup> status.<sup>49</sup>

The Healthy Food Access for All Americans Act, similar to the Cover Crop Flexibility Act of 2021, represents a strong bipartisan effort to help alleviate a pressing challenge faced by the United States. The Healthy Food Access for All Americans Act also has some real momentum, as the House version of the bill, sponsored by Ohio Congressman Tim Ryan,<sup>50</sup> has eighteen co-sponsors.<sup>51</sup> As access to food remains an issue in many communities, the Healthy Food Access for All Americans Act is legislation

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<sup>42</sup> See *Biography*, MARK R. WARNER U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA: BIOGRAPHY (2021), <https://www.warner.senate.gov/public/index.cfm/biography>.

<sup>43</sup> See Deb Erdley, *U.S. Sen. Bob Casey Pitches Infrastructure, Services for the Elderly and Children*, TRIB. LIVE (Aug. 16, 2021), <https://triblive.com/local/valley-news-dispatch/u-s-sen-bob-casey-pitches-infrastructure-services-for-the-elderly-and-children/>.

<sup>44</sup> See *Biography*, U.S. SENATOR FOR KANSAS JERRY MORAN: BIOGRAPHY (2021), <https://www.moran.senate.gov/public/index.cfm/biography>.

<sup>45</sup> See *About Shelley*, SHELLEY MOORE CAPITO: ABOUT (2021), <https://www.capito.senate.gov/about/about-shelley>.

<sup>46</sup> See S. 203, 117th Cong. (2021).

<sup>47</sup> *Id.*

<sup>48</sup> See 26 U.S.C. § 501(c)(3); see also *What is a 501(c)(3)?*, FOUNDATION GROUP (2021), <https://www.501c3.org/what-is-a-501c3/> (“Section 501(c)(3) is the portion of the US Internal Revenue Code that allows for federal tax exemption of nonprofit organizations, specifically those that are considered public charities, private foundations or private operating foundations.”).

<sup>49</sup> See S. 203, 117th Cong., *supra* note 46.

<sup>50</sup> See *About*, CONGRESSMAN TIM RYAN (2021), <https://timryan.house.gov/about>.

<sup>51</sup> See H.R. 1313, 117th Cong. (2021).



which can help promote the common good to provide access to healthy food for more individuals in more impoverished areas.

### C. Re-Establishing a House Select Committee on Hunger

While the COVID-19 pandemic not only presented difficulties with access to healthy food in food deserts, it also brought to the forefront of the public mind the reality of hunger in America.<sup>52</sup> One of the haunting images of the pandemic was lines and lines of cars at food banks at cities throughout the United States.<sup>53</sup> Up to forty-two million Americans may face hunger in America today, including approximately thirteen million children.<sup>54</sup>

From 1984 until 1993, the United States House of Representatives had among its committees a Select Committee on Hunger to critically examine the issue of hunger in the United States and throughout the world.<sup>55</sup> However, in 1993, the Committee was not reauthorized, and it remains a committee of the past.<sup>56</sup>

With the rising challenge of hunger in the wake of the COVID-19 pandemic, the issue of hunger is garnering increased congressional attention. A group of House Democrats in August 2021 called for President Biden to convene a White House conference on hunger to bring together stakeholders to formulate possible solutions to alleviating hunger in the United States.<sup>57</sup> The fight against hunger can certainly bring together policymakers across the political spectrum and the establishment of a bipartisan House Committee on Hunger, with Republicans and Democrats working together to establish it, can be another potential step of bipartisanship in the Biden era.

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<sup>52</sup> See *Hunger in America*, Feeding America (2021), <https://www.feedingamerica.org/hunger-in-america>.

<sup>53</sup> See Nina Lakhani & Maanvi Singh, 'No End in Sight': *Hunger Surges in America Amid a Spiraling Pandemic*, THE GUARDIAN (Nov. 25, 2020), <https://www.theguardian.com/food/2020/nov/25/us-hunger-surges-spiraling-pandemic>.

<sup>54</sup> *Id.*

<sup>55</sup> See Susan Cortis Hill, *Hunger Organizations Ask Congress to Create House Select Committee on Hunger*, RISE AGAINST HUNGER (May 16, 2019), <https://www.riseagainsthunger.org/hunger-organizations-ask-congress-to-create-house-select-committee-on-hunger/>.

<sup>56</sup> See Colman McCarthy, *A Congressman's Taste of Hunger*, WASH. POST (Apr. 20, 1993), <https://www.washingtonpost.com/archive/business/1993/04/20/a-congressmans-taste-of-hunger/ff36290e-4ac2-4a3a-ac10-88b06f931c98/>.

<sup>57</sup> See Mike Lillis, *Democrats Press Biden to Step Up Fight Against Domestic Hunger*, THE HILL (Sept. 1, 2021), <https://thehill.com/homenews/house/570423-democrats-press-biden-to-step-up-fight-against-domestic-hunger>.

#### D. Student Loan Relief for Farmers and Ranchers

Approximately forty-five million Americans today hold an aggregate amount of \$1.7 trillion in student loan debt – a staggering figure.<sup>58</sup> The consequences of student loan debt for some individuals have been life-changing. Some borrowers owe hundreds of thousands of dollars even into their 60s;<sup>59</sup> some have declared bankruptcy;<sup>60</sup> and for others, massive student loan debt has delayed landmark life events such as getting married<sup>61</sup> and purchasing a home.<sup>62</sup>

With the ever-growing issue of student debt, a number of politicians have called for cancellation of student loan debt. For example, Senator Charles Schumer<sup>63</sup> and Senator Elizabeth Warren<sup>64</sup> have called for the United States Secretary of Education to utilize the Department to cancel \$50,000 per borrower in federal student loan debt. President Joe Biden<sup>65</sup> and Speaker of

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<sup>58</sup> See Zack Friedman, *Student Loan Debt Statistics in 2021: A Record \$1.7 Trillion*, FORBES (Feb. 20, 2021), <https://www.forbes.com/sites/zackfriedman/2021/02/20/student-loan-debt-statistics-in-2021-a-record-17trillion/?sh=5b64a6bc1431>.

<sup>59</sup> See Erin Arvedlund & Bob Fernandez, *Student Loans Stretch Across Generations, Survey Says; Boomers Pay the Most Monthly*, THE PHILA. INQUIRER (Oct. 26, 2021), <https://www.inquirer.com/business/student-loans-fidelity-calculator-boomers-generation-z-20211026.html>.

<sup>60</sup> See Chris Arnold, *Myth Busted: Turns Out Bankruptcy Can Wipe Out Student Loan Debt After All*, NPR (Jan. 22, 2020), <https://www.npr.org/2020/01/22/797330613/myth-busted-turns-out-bankruptcy-can-wipe-out-student-loan-debt-after-all>.

<sup>61</sup> See Jessica Menton, *In Sickness and in Health, But Not in Debt: Young Americans Avoid ‘I do’ Until Student Loans are Paid Off*, USA TODAY (Jan. 31, 2020), <https://www.usatoday.com/story/money/2020/01/31/student-loans-more-millennials-gen-zers-delay-marriage-reduce-debt/4612295002/>.

<sup>62</sup> See Yuki Noguchi, *Heavy Student Loan Debt Forces Many Millennials To Delay Buying Homes*, NPR (Feb. 1, 2019), <https://www.npr.org/2019/02/01/689660957/heavy-student-loan-debt-forces-many-millennials-to-delay-buying-homes>.

<sup>63</sup> See Annie Nova, *Schumer Calls on Biden to Cancel \$50,000 in Student Debt for All*, CNBC (Sept. 21, 2021), <https://www.cnbc.com/2021/09/21/schumer-calls-on-biden-to-cancel-50000-in-student-debt-for-all-.html>.

<sup>64</sup> See Jacob Pramuk, *Warren Pushes Biden to Forgive Student Debt as White House Considers His Legal Authority*, CNBC (May 6, 2021), <https://www.cnbc.com/2021/05/06/student-loan-forgiveness-elizabeth-warren-pushes-joe-biden-to-cancel-debt.html>.

<sup>65</sup> See Eric Levitz, *Has Biden Abandoned Wide-Scale Student-Loan Forgiveness?*, INTELLIGENCER (Aug. 20, 2021), <https://nymag.com/intelligencer/article/biden-student-loan-forgiveness.html>.

the House of Representatives Nancy Pelosi<sup>66</sup> have expressed the belief that Congress must act to cancel student loan debt and that power lies with congressional action. In general, most Republicans oppose large scale cancellation of student loan debt.<sup>67</sup> One reason for this opposition is fairness in that such a proposal would benefit those with student loan balances while not assisting those who have already paid their student loan debt.<sup>68</sup>

While there are stark differences between Republicans and Democrats, generally, regarding large scale student loan relief, there is common ground in the field of agricultural policy with targeted relief for farmers and ranchers. Currently, the Public Service Loan Forgiveness program will forgive the student loan debt of certain borrowers who work in public service careers after making 120 qualifying payments on their student loans.<sup>69</sup> This program has assisted hundreds of individuals, from teachers<sup>70</sup> to police officers<sup>71</sup> to other public sector workers.<sup>72</sup> The United States Department of Education in October 2021 announced changes to the program to make eligible thousands of additional borrowers who had previously ineligible loans for forgiveness.<sup>73</sup>

A bipartisan effort to address student loan debt for young farmers and ranchers has developed in Congress through the proposed Young Farmers Success Act.<sup>74</sup> Groups like the National Young Farmers Coalition

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<sup>66</sup> See Annie Nova, *Pelosi Says Biden Doesn't Have Power to Cancel Student Debt*, CNBC (Jul. 28, 2021), <https://www.cnbc.com/2021/07/28/pelosi-says-biden-doesnt-have-authority-to-cancel-student-debt-.html>.

<sup>67</sup> See Sylvan Lane, *GOP Lawmakers Urge Cardona Against Executive Student Loan Wipeout*, THE HILL (Sept. 8, 2021), <https://thehill.com/policy/finance/571410-gop-lawmakers-urge-cardona-against-executive-student-loan-wipeout>.

<sup>68</sup> *Id.*

<sup>69</sup> See *Public Service Loan Forgiveness*, FED. STUDENT AID (2021), <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service>.

<sup>70</sup> See Cory Turner, *NPR Exclusive: Troubled Public Service Loan Forgiveness Program will get Overhaul*, NPR (Oct. 1, 2021), <https://www.npr.org/2021/10/01/1041872045/education-dept-plans-to-overhaul-the-troubled-public-service-loan-forgiveness-pr>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> See Press Office, *U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness*, U.S. DEP'T. OF EDUC. (Oct. 6, 2021), <https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness>.

<sup>74</sup> See H.R. 3232, 116th Cong. (2019).

have asserted that student loan debt remains a substantial obstacle for beginning farmers.<sup>75</sup> Amidst the partisan divide on cancellation of student loan debt, the Young Farmers Success Act stands as legislation that presents a bipartisan opportunity to make a positive difference for beginning farmers and ranchers. The Young Farmers Success Act would encompass farming and ranching within the “public service” occupations eligible for student loan forgiveness through the Public Service Loan Forgiveness program.<sup>76</sup> In the 116th Congress, the legislation was sponsored by eight Democrats and two Republicans.<sup>77</sup> If there is common ground to be found on student loans, relief for young farmers and ranchers can be the area where that ground can be discovered in the Biden era.

#### E. Providing Greater Access for Bond Loan Programs

In addition to the hurdle of student loan debt that many beginning farmers must overcome, first-time farmers must also compete with larger, more established purchasers to rent or purchase farmland. In this era of low interest rates in 2021, farmland prices, particularly in the Midwest, are surging.<sup>78</sup> In October 2021, a parcel of land sold in excess of \$26,000 per acre in Johnson County, Iowa, an Iowa record.<sup>79</sup> The growth in farmland prices has been spurred by investors seeking returns and so first-time buyers in some areas are left at a serious disadvantage.<sup>80</sup>

One of the financial mechanisms to help first-time farmers become competitive to purchase farmland are bonds for lenders to incentivize loans for beginning farmers.<sup>81</sup> These bonds are commonly known as “Aggie

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<sup>75</sup> See *Student Loan Campaign*, NAT’L. YOUNG FARMERS COALITION, <https://www.youngfarmers.org/studentloans/> (last visited July 15, 2022).

<sup>76</sup> See H.R. 3232, 116th Cong. (2019).

<sup>77</sup> *Id.*

<sup>78</sup> See Bill Spiegel, *Report: Some Midwest Land Prices Are Up 20% in Last Year*, SUCCESSFUL FARMING (Oct. 27, 2021), <https://www.agriculture.com/news/business/report-some-midwest-land-prices-are-up-20-in-last-year>.

<sup>79</sup> See Tyne Morgan, *New Record \$26,000/Acre Iowa Farmland Sale, Record Amount of Land Could Flood Market in Next 60 Days*, AG WEB (Oct. 7, 2021), <https://www.agweb.com/news/business/farmland/new-record-26000/acre-iowa-farmland-sale-record-amount-land-could-flood>.

<sup>80</sup> See Dan Charles, *Big-Money Investors Gear Up for A Trillion-Dollar Bet on Farmland*, NPR (July 30, 2020), <https://www.npr.org/2020/07/30/892366385/big-money-investors-gear-up-for-a-trillion-dollar-bet-on-farm-land>.

<sup>81</sup> See Stan Provus, *CDFFA Spotlight: Beginning Farmer Aggie Bond Programs*, COUNCIL OF DEVELOPMENT FINANCE AGENCIES (May 2003), <https://www.cdfa.net/cdfa/cdfaweb.nsf/ord/may2003tlc.html>.

Bonds,” and the federal program allows for state issuers to issue tax-exempt bonds to private entities.<sup>82</sup> Typically agricultural lenders invest in these tax-exempt bonds.<sup>83</sup> There is a section of the Internal Revenue Code that only permits up to twenty-five percent of the bonds to be utilized for farmland acquisition,<sup>84</sup> but there is a significant exception for first-time farmers.<sup>85</sup> The exception for first-time farmers is that a private activity bond can be utilized for farmland acquisition expenditures of up to \$450,000.<sup>86</sup>

A number of states have programs to issue Aggie Bonds, including the state of Minnesota.<sup>87</sup> In Minnesota, a beginning farmer must have a net worth of less than \$851,000 and be a Minnesota resident.<sup>88</sup> There are several additional qualifications for eligibility, and a beginning farmer must also participate in a Minnesota Commissioner of Agriculture approved farm business management program.<sup>89</sup>

During a time of rapidly rising farmland prices, the Modernizing Agriculture and Manufacturing Bonds Act further promotes the issuance of bonds which will ultimately assist first-time farmers.<sup>90</sup> This bipartisan legislation, introduced by Democratic Congresswoman Stephanie Murphy<sup>91</sup> and Republican Congressman Darin LaHood,<sup>92</sup> promotes the issuance of bonds by substantially raising the maximum bond size limitation from \$10 million to \$50 million and also significantly raising the maximum amount of bond proceeds a first-time farmer can utilize (raising the maximum from \$450,000 to \$552,500) for farmland acquisition purposes.<sup>93</sup> This increase in the maximum amount is especially important given rapidly raising farmland prices – for example, let’s assume there is a forty-acre parcel of farmland available through a farm auction in Iowa. At \$10,000 per acre, which is a

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<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> See 26 U.S.C. § 147(c)(1)(A) (2021).

<sup>85</sup> See *Id.* § 147(c)(2) (2021).

<sup>86</sup> *Id.*

<sup>87</sup> See *Aggie Bond Beginning Farmer Loan Program*, MINN. DEP’T. OF AGRIC. (2021), <https://www.mda.state.mn.us/business-dev-loans-grants/aggie-bond-beginning-farmer-loan-program>.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> See H.R. 2737, 117th Cong. (2021).

<sup>91</sup> See Biography, U.S. CONGRESSWOMAN STEPHANIE MURPHY (2021), <https://murphy.house.gov/biography/>.

<sup>92</sup> See About, CONGRESSMAN DARIN LAHOOD (2021), <https://lahood.house.gov/about>.

<sup>93</sup> See H.R. 2737, 117th Cong. (2021).

very reasonable price, it would cost the first-time farmer approximately \$400,000 total to purchase the forty-acre parcel. And since the first-time farmer can only obtain financing with bond proceeds for the maximum amount limited under current law (\$450,000), suddenly the \$12,000 per acre price launches the total purchase price to \$480,000, which is in excess of current federal law. With the Modernizing Agriculture and Manufacturing Bonds Act, the forty-acre purchase of farmland for the first-time farmer at \$12,000 per acre utilizing the bond process becomes a possibility (and this is a conservative price for farmland, with a solid potential for increased prices if market conditions remain favorable). The Modernizing Agriculture and Manufacturing Bonds Act is a bipartisan bill that has the potential to greatly assist first-time farmers in an era of rising farmland prices and helps first-time farmers obtain the financing necessary to become competitive with farmland purchasing. As such, it presents a terrific opportunity for Republicans and Democrats to work toward the common good in the Biden era.

#### F. Promotion of Student Agriculturalists

Another mechanism to inspire individuals to pursue the pathway of agriculture is through involvement in a 4-H Club or through an FFA (Future Farmers of America) program in a high school. Through 4-H programs and activities, “kids and teens complete hands-on projects in areas like health, science, agriculture and civic engagement in a positive environment where they receive guidance from adult mentors and are encouraged to take on proactive leadership roles.”<sup>94</sup> FFA is a well-known program in high schools throughout the United States that introduces students to agricultural education and careers.<sup>95</sup> FFA has an established record of helping to foster the development of first-time farmers.<sup>96</sup>

A strongly bipartisan bill, the Student Agriculture Protection Act of 2021, promotes student agricultural involvement through tax policy. The proposed legislation would allow a student agriculturalist to exclude up to

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<sup>94</sup> *What is 4-H?*, 4-H (2021), <https://4-h.org/about/what-is-4-h/> (last visited July 16, 2022).

<sup>95</sup> *See About FFA*, NAT'L. FFA ORG. (2021), <https://www.ffa.org/about/> (“FFA is a dynamic youth organization that changes lives and prepares members for premier leadership, personal growth and career success through agricultural education.”).

<sup>96</sup> *See* Darcy Maulsby, *Here's How to Get Started in Farming*, PROGRESSIVE FARMER (Oct. 20, 2021), <https://www.dtnpf.com/agriculture/web/ag/news/farm-life/article/2021/10/20/first-generation-farmer-offers-want>.

\$5,000 in gains from the sale of livestock, crops, or agricultural mechanics products from their gross income.<sup>97</sup> A “student agriculturist” in the proposed legislation is defined as an individual under twenty-two years of age who is enrolled in an FFA program, FHA program, or other program under the guidance of an agricultural educator, advisor, or club leader.<sup>98</sup> The bill,<sup>99</sup> introduced by Republican Congressman Michael McCaul of Texas,<sup>100</sup> has four Democratic co-sponsors (Representative Henry Cuellar of Texas,<sup>101</sup> Representative Cynthia Axne of Iowa,<sup>102</sup> Representative David Scott of Georgia,<sup>103</sup> and Representative Antonio Delgado of New York<sup>104</sup>) along with two Republican co-sponsors (Representative Rick Crawford of Arkansas<sup>105</sup> and Representative Tracey Mann of Kansas).<sup>106</sup> The Student Agriculture Protection Act appears to be a fairly noncontroversial piece of legislation that could gain traction in the Biden era.

### G. Promotion of Biofuels

Infrastructure and proposed improvements to transportation systems and the electric grid, as well as an increased investment in renewable energy,

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<sup>97</sup> See H.R. 3420, 117th Cong. (2021).

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> See Biography, CONGRESSMAN MICHAEL MCCAUL (2021), <https://mccaul.house.gov/about/full-biography>.

<sup>101</sup> See Biography, U.S. CONGRESSMAN HENRY CUELLAR (2021), <https://cuellar.house.gov/biography/>.

<sup>102</sup> See O. Kay Henderson, *Axne Says Reports of Turmoil Among House Democrats are Exaggerated*, RADIO IOWA (Oct. 4, 2021), <https://www.radioiowa.com/2021/10/04/axne-says-reports-of-turmoil-among-house-democrats-are-exaggerated/>.

<sup>103</sup> See My Biography, CONGRESSMAN DAVID SCOTT (2021), <https://davidscott.house.gov/about/>.

<sup>104</sup> See Rebecca C. Lewis, *Rep. Antonio Delgado Walks an Ideological Tightrope to Reelection*, CITY & STATE NEW YORK (Sept. 27, 2021), <https://www.cityandstateny.com/personality/2021/09/rep-antonio-delgado-walks-ideological-tightrope-reelection/185624/>.

<sup>105</sup> See Kaitlin Barger, *Arkansas Republican Rick Crawford Re-elected to Congress*, KATV (Nov. 3, 2020), <https://katv.com/news/local/rick-crawford-us-congress-district-1>.

<sup>106</sup> See KWCH Staff, *Tracey Mann wins ‘Big 1st’ Congressional Race*, KWCH (Nov. 3, 2020), <https://www.kwch.com/2020/11/04/battle-for-big-1st-to-replace-roger-marshall/>.

was a priority of the Biden administration in 2021.<sup>107</sup> While infrastructure improvement and infrastructure legislation has a solid amount of bipartisan support, there is some opposition to a larger infrastructure bill by some policymakers who have the belief an infrastructure bill is just a precursor to larger spending bills.<sup>108</sup>

One of the hallmarks of President Biden's agenda in the first year of his presidency was a comprehensive energy framework which focuses on incentives for clean energy and emissions-reducing technologies in a variety of industries, including agriculture.<sup>109</sup> This clean energy framework encountered substantial difficulties with congressional negotiations until the late summer of 2022.<sup>110</sup> During the summer of 2022, congressional negotiations resulted in a breakthrough and eventual passage of the Inflation Reduction Act, a significant climate bill which includes \$369 billion in spending on climate and energy initiatives.<sup>111</sup> Within this legislation, there is approximately \$13.3 billion allocated for farm title energy programs, including support for renewable energy technologies and biofuels grants.<sup>112</sup>

Outside of the Inflation Reduction Act, Republicans and Democrats potentially can find common ground with one aspect of a clean energy program – increased support of biofuels and ethanol. In particular, biofuels

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<sup>107</sup> See Katie Lobosco & Tami Luhby, *Here's What's in the Bipartisan Infrastructure Bill*, CNN POLITICS (Oct. 31, 2021), <https://www.cnn.com/2021/07/28/politics/infrastructure-bill-explained/index.html>.

<sup>108</sup> See Jonathan Weisman, *Republicans at Odds Over Infrastructure Bill as Vote Approaches*, THE N.Y. TIMES (Sept. 29, 2021), <https://www.nytimes.com/2021/09/29/us/politics/republicans-infrastructure-bill.html>.

<sup>109</sup> See Pippa Stevens, *Biden's New Spending Framework has \$555 Billion for Clean Energy, Focused on Incentives, not Punishment*, CNBC (Oct. 28, 2021), <https://www.cnbc.com/2021/10/28/biden-spending-framework-includes-555-billion-in-climate-incentives.html>.

<sup>110</sup> See James Politi, *Biden Faces Battle in Support on Climate Action*, FIN. TIMES (Oct. 31, 2021), <https://www.ft.com/content/b7046c6f-aa9d-460b-acfe-9c759e9d3695>.

<sup>111</sup> See Kevin Breuninger, *House passes massive climate, tax and health bill, sending Biden a core piece of his agenda to sign*, CNBC (Aug. 12, 2022), <https://www.cnbc.com/2022/08/12/house-to-vote-on-inflation-reduction-act-tax-and-climate-bill.html>

<sup>112</sup> See Inflation Reduction Act: Agricultural Conservation and Credit, Renewable Energy, and Forestry, Congressional Research Service (Aug. 10, 2022), <https://crsreports.congress.gov/product/pdf/IN/IN11978>



and ethanol help to reduce harmful emissions.<sup>113</sup> Biofuels have solid support from both Midwestern Democrats<sup>114</sup> as well as Republicans.<sup>115</sup>

Former Democratic Congresswoman, Abby Finkenauer,<sup>116</sup> introduced the Clean Fuels Deployment Act during the 116th Congress.<sup>117</sup> This bill would direct the United States Department of Transportation to award grants to states to assist them in the development of fueling infrastructure to increase biofuel utilization.<sup>118</sup> Co-sponsored by Democratic Congresswoman Angie Craig of Minnesota,<sup>119</sup> Republican Congressman Roger Marshall of Kansas,<sup>120</sup> and Republican Congressman Don Bacon of Nebraska,<sup>121</sup> the Clean Fuels Deployment Act provides an excellent opportunity for policymakers to work together in a bipartisan manner toward incentivizing biofuels and ethanol, which are helpful for the environment.

## H. Promoting Rural Resilience

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<sup>113</sup> See *Economics of Biofuels*, U.S. ENV'T. PROT. AGENCY (Mar. 4, 2021), <https://www.epa.gov/environmental-economics/economics-biofuels> (“Biofuels may reduce some pollutant emissions. Ethanol, in particular, can ensure complete combustion, reducing carbon monoxide emissions.”).

<sup>114</sup> See Mark Dorenkamp, *Midwest Democrats Want Biofuels Included in Reconciliation*, BROWNFIELD AG NEWS (Sept. 2, 2021), <https://brownfielddagnews.com/news/midwest-democrats-want-biofuels-included-in-reconciliation/>.

<sup>115</sup> See Ben Nuelle, *Farm-State Republicans to Count on Biofuel Democrats in Infrastructure Spending*, AGRI-PULSE (Apr. 14, 2021), <https://www.agripulse.com/articles/15668-farm-state-republicans-to-count-on-biofuel-democrats-in-infrastructure-spending>.

<sup>116</sup> See Katie Akin, *Analyst: Finkenauer Faces ‘Uphill Battle’ Against Grassley Despite Strong Fundraising*, IOWA CAPITAL DISPATCH (Oct. 18, 2021), <https://iowacapitaldispatch.com/2021/10/18/analyst-finkenauer-faces-uphill-battle-against-grassley-despite-strong-fundraising/>.

<sup>117</sup> See H.R. 6671, 116th Cong. (2020).

<sup>118</sup> *Id.*

<sup>119</sup> See Jessie Van Berkel, *Rep. Angie Craig Wins Minnesota’s 2nd District, Turning Back GOP Challenger Tyler Kistner*, STAR TRIB. (Nov. 5, 2020), <https://www.startribune.com/minnesota-u-s-rep-angie-craig-wins-in-second-district-over-gop-challenger-tyler-kistner/572969752/>.

<sup>120</sup> See Caroline Elliott & Hailey Tucker, *Roger Marshall Wins U.S. Senate Race*, KWCH (Nov. 3, 2020), <https://www.kwch.com/2020/11/03/race-to-the-us-senate-remains-tight-in-kansas/>.

<sup>121</sup> See Don Walton, *Bacon Says he is Considering Race for Governor*, LINCOLN J. STAR (Mar. 9, 2021), [https://journalstar.com/news/state-and-regional/govt-and-politics/bacon-says-he-is-considering-race-for-governor/article\\_80ad7e23-dd37-53b7-8289-0ba49947e849.html](https://journalstar.com/news/state-and-regional/govt-and-politics/bacon-says-he-is-considering-race-for-governor/article_80ad7e23-dd37-53b7-8289-0ba49947e849.html).

The early days of the COVID-19 pandemic exacerbated many challenges with mental health in the United States – depression afflicted thousands who were faced with social distancing and lockdowns.<sup>122</sup> Job layoffs and a struggling economy led to an increase in economic anxiety.<sup>123</sup> Many families have faced the pain of divorce during the pandemic<sup>124</sup> as well as the pain of losing family members to the virus.<sup>125</sup> Tragically, even doctors who battled the virus on the front lines of the pandemic have succumbed to suicide with the mental and emotional toll of suffering.<sup>126</sup>

Mental health challenges also afflict rural America and America's farmers.<sup>127</sup> Rates of depression and suicide are higher in rural America.<sup>128</sup> Despite these challenges, bipartisanship can help in the efforts to provide better mental health resources for farmers and those in rural areas. One such bipartisan bill is the FARMERS First Act, sponsored by Democratic Senator Tammy Baldwin of Wisconsin<sup>129</sup> and co-sponsored by five Democratic and six Republican Senators in the 115th Congress.<sup>130</sup> The FARMERS First Act would require the United States Department of Agriculture to issue grants to

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<sup>122</sup> See Nirmita Panchal, Rabah Kamal, Cynthia Cox & Rachel Garfield, *The Implications of COVID-19 for Mental Health and Substance Use*, KFF (Feb. 10, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/>.

<sup>123</sup> See Stephanie Pappas, *The Toll of Job Loss*, AM. PSYCH. ASSOC. (Oct. 1, 2020), <https://www.apa.org/monitor/2020/10/toll-job-loss>.

<sup>124</sup> See Valerie Tocci, *Why Divorce Rates Could Spike After the Pandemic Ends, According to a Family and Divorce Lawyer*, BUS. INSIDER (May 4, 2021), <https://www.businessinsider.com/why-divorces-may-spike-after-covid-19-according-divorce-lawyer-2020-7>.

<sup>125</sup> See Stephanie Pappas, *Helping Patients Cope with COVID-19 Grief*, AM. PSYCH. ASSOC. (June 1, 2021), <https://www.apa.org/monitor/2021/06/ce-covid-grief>.

<sup>126</sup> See Taylor Romine, *An ER Doctor who Continued to Treat Patients After She Recovered from COVID-19 has Died by Suicide*, CNN (Apr. 28, 2020), <https://www.cnn.com/2020/04/28/us/er-doctor-coronavirus-help-death-by-suicide-trnd/index.html>.

<sup>127</sup> See Theresa Capriotti, Tiffany Pearson & Lillian Dufour, *Health Disparities in Rural America: Current Challenges and Future Solutions*, PSYCHIATRY ADVISOR (Feb. 18, 2020), <https://www.psychiatryadvisor.com/home/practice-management/health-disparities-in-rural-america-current-challenges-and-future-solutions/3/>.

<sup>128</sup> *Id.*

<sup>129</sup> See Matthew Yglesias, *Democrats Should Learn the Wisdom of Tammy Baldwin*, VOX (Aug. 24, 2020), <https://www.vox.com/2020/8/24/21395668/wisconsin-elections-senate-tammy-baldwin>.

<sup>130</sup> See S. 2712, 115th Cong. (2018).

help establish farm and ranch stress assistance networks.<sup>131</sup> Another bipartisan bill is the Seeding Rural Resilience Act, introduced by former Democratic Representative Anthony Brindisi<sup>132</sup> during the 116th Congress.<sup>133</sup> This legislation was co-sponsored by twenty-seven Democratic members of the House of Representatives and six Republican members.<sup>134</sup> The bill would require the United States Department of Agriculture to develop and implement a public service announcement campaign highlighting the mental health of farmers and ranchers.<sup>135</sup>

### I. Providing Judicial Remedies for Farmers in Crop Insurance Disputes Involving Multi-Peril Insurance Company Contracts

There is a distinction between crop-hail insurance policies, which are privately insured,<sup>136</sup> and multi-peril crop insurance policies, which are insurance policies reinsured by the federal government.<sup>137</sup> If a farmer has their crop insurance claim vexatiously denied by an insurance company, with the crop-hail policy there may be a remedy (assuming the state recognizes first-party bad faith claims) to deter insurer misconduct with a first-party bad faith claim.<sup>138</sup>

However, that same first-party bad faith remedy may not be available for that same farmer with the same fact pattern if the policy is a federally-reinsured multi-peril crop insurance policy. The reason why the remedies may be inconsistent is that there is a growing amount of judicial authority which in essence enables preemption of state law bad faith claims.<sup>139</sup>

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<sup>131</sup> *Id.*

<sup>132</sup> See Mark Weiner, *Anthony Brindisi Concedes Loss to Claudia Tenney in NY-22 House Race*, SYRACUSE.COM (Feb. 8, 2021), <https://www.syracuse.com/politics/2021/02/anthony-brindisi-concedes-loss-to-claudia-tenney-in-ny-22-house-race.html>.

<sup>133</sup> See H.R. 4820, 116th Cong. (2019).

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> See Lucas Downey, *Crop-Hail Insurance*, INVESTOPEDIA (Jan. 31, 2020), <https://www.investopedia.com/terms/c/crophail-insurance.asp>.

<sup>137</sup> See Bethan Moorcraft, *Crop Insurance – Everything You Need to Know*, INSURANCE BUS. AM. (Apr. 5, 2019), <https://www.insurancebusinessmag.com/us/guides/crop-insurance--everything-you-need-to-know-164119.aspx>.

<sup>138</sup> See generally Chad Marzen, *Crop Insurance Bad Faith: Protection for America's Farmers*, 46 CREIGHTON L. REV. 619 (2013).

<sup>139</sup> See, e.g., *Sunset Ranches, Inc. v. NAU Country Insurance Company*, No. F078916, 2021 WL 3614417 (Cal. Ct. App. 5th Dist. Aug. 16, 2021).

While an examination of the details of the current preemption issue is beyond the scope of this Article, one potential equitable solution for farmers would be federal legislation creating a uniform standard of liability with regard to multi-peril crop insurance claims. An effort to allow for judicial remedies is likely to be one that could allow legislators from across the aisle to join together. For example, with regard to cruise ship liability, there is bipartisan legislation to allow for the recovery of nonpecuniary losses in wrongful death cases.<sup>140</sup>

#### J. Legislation to Help Prevent Future Pandemics

One of the lessons from the COVID-19 pandemic is that better preparation for the next pandemic is necessary. Throughout various times during the COVID-19 pandemic, the United States has seen a shortage of personal protective equipment (PPE),<sup>141</sup> surgical and N95 masks,<sup>142</sup> as well as COVID-19 tests.<sup>143</sup> All of these shortcomings, particularly the lack of testing early on, led to a rapid escalation of cases and further spread of the virus.<sup>144</sup>

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<sup>140</sup> See *Introducing the Hammers' Law*, U.S. SENATOR DEB FISCHER FOR NEBRASKA (Apr. 8, 2019), <https://www.fischer.senate.gov/public/index.cfm/2019/4/introducing-the-hammers-law>.

<sup>141</sup> See Robert King, *Hospitals Struggle with PPE Shortages Amid New COVID-19 Surges*, FIERCE HEALTHCARE (July 10, 2020), <https://www.fiercehealthcare.com/hospitals/hospitals-turn-to-reprocessing-to-shore-up-ppe-stockpile-as-covid-19-cases-rise>.

<sup>142</sup> See Yuki Noguchi, *Why N95 Masks Are Still in Short Supply in The U.S.*, NPR (Jan. 27, 2021), <https://www.npr.org/sections/health-shots/2021/01/27/960336778/why-n95-masks-are-still-in-short-supply-in-the-u-s>.

<sup>143</sup> See Carl O'Donnell, *Rapid COVID-19 Tests Increasingly Scarce, Pricey as Demand from Employers Jumps*, REUTERS (Oct. 5, 2021), <https://www.reuters.com/business/healthcare-pharmaceuticals/rapid-covid-19-tests-increasingly-scarce-pricey-demand-employers-jumps-2021-10-05/>.

<sup>144</sup> See Matthew Vann, *How Falling Levels of COVID-19 Tests Could Threaten Pandemic Fight*, ABC NEWS (Mar. 2, 2021), <https://abcnews.go.com/Politics/falling-levels-covid-19-tests-threaten-pandemic-fight/story?id=76138263>.

With the advent of vaccines<sup>145</sup> and promising therapeutics like monoclonal antibodies<sup>146</sup> and possibly antiviral drugs,<sup>147</sup> the COVID-19 pandemic may finally be in the endgame. However, the risk of the next pandemic is ever present – whether it be through an avian flu virus<sup>148</sup> or another zoonotic virus.<sup>149</sup> Researchers are already sounding words of caution that preparation for the next pandemic, from developing vaccines to stockpiling medical equipment, commence now.<sup>150</sup>

Much attention now has been raised to the health and safety risks posed by commercial wildlife markets and the possibility that these markets can cause a pandemic.<sup>151</sup> There is bipartisan legislation currently in Congress that helps address these risks. The Preventing Future Pandemics Act would prohibit the purchase, sale, importation or exportation of live wild animals for food or medicine within the United States.<sup>152</sup> In addition, the proposed legislation requires the State Department to conduct a study and submit a report on the issue of consumption of live terrestrial wildlife and how that consumption can lead to the transmission of pathogens from animals to humans.<sup>153</sup> This bipartisan bill, introduced by Democratic Congressman

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<sup>145</sup> See Monica Gandhi, *It's Time to Contemplate the End of the Crisis*, THE ATLANTIC (Nov. 3, 2021),

<https://www.theatlantic.com/ideas/archive/2021/11/children-vaccines-pandemic-endemic/620594/>.

<sup>146</sup> See Elizabeth Cohen, *Doctors Are Often Unaware of the Only Treatment for Early COVID-19*, CNN HEALTH (Oct. 25, 2021), <https://www.cnn.com/2021/10/25/health/covid-antibody-treatment-doctors/index.html>.

<sup>147</sup> See Bill Chappell, *The U.K. Approves Merck's COVID-19 Antiviral Pill, Calling it a World First*, NPR (Nov. 4, 2021), <https://www.npr.org/sections/coronavirus-live-updates/2021/11/04/1052281073/uk-merck-molnupiravir-covid-drug>.

<sup>148</sup> See Kess Rowe, *The Next Pandemic: H5N1 and H7N9 Influenza?*, GAVI, THE VACCINE ALLIANCE (Mar. 26, 2021), <https://www.gavi.org/vaccineswork/next-pandemic/h5n1-and-h7n9-influenza>.

<sup>149</sup> See Vanda Felbab-Brown, *Preventing the Next Zoonotic Pandemic*, BROOKINGS (Oct. 6, 2020), <https://www.brookings.edu/articles/preventing-the-next-zoonotic-pandemic/>.

<sup>150</sup> See Roz Plater, *What We Need to Do Now to Get Ready for the Next Pandemic*, HEALTHLINE (Aug. 1, 2021), <https://www.healthline.com/health-news/what-we-need-to-do-now-to-get-ready-for-the-next-pandemic>.

<sup>151</sup> See EJF Staff, *To Prevent the Next Pandemic, Ban Commercial Wildlife Markets*, ENV'T. JUST. FOUND. (Sept. 29, 2020), <https://ejfoundation.org/news-media/ban-commercial-wildlife-markets>.

<sup>152</sup> See H.R. 151, 117th Cong. (2021).

<sup>153</sup> *Id.*

Mike Quigley of Illinois,<sup>154</sup> has 143 co-sponsors, including both Democratic and Republican numbers.<sup>155</sup> With such a broad base of support in the United States House of Representatives, the Preventing Future Pandemics Act would constitute a strong step toward becoming more proactive in helping to prevent another future pandemic. While the COVID-19 pandemic has not ended, it is certainly not too early for Congress to take bipartisan action to work toward preventing another devastating virus.

### III. CONCLUSION

Bipartisanship among Democrat and Republican policymakers is highly elusive in Congress today. More than ever, with the pernicious threats of stagflation,<sup>156</sup> an economic downturn,<sup>157</sup> and the COVID-19 pandemic<sup>158</sup> looming, cooperation between Democrats and Republicans on some policy matters is necessary to work toward the common good of all. Agricultural policy, while not typically as headline-eliciting as other policy matters, certainly yields much opportunity for common ground. As the United States faces many challenges in 2022, bipartisan cooperation in agricultural policy can be a positive start for all policymakers to look toward the public good and away from the partisan politics of the moment.

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<sup>154</sup> See Nic Meister, *Rep. Mike Quigley's Campaign Spending Drops, Democratic Party Still Benefits*, CU-CITIZEN ACCESS (Oct. 29, 2021), <https://www.cu-citizenaccess.org/2021/10/rep-mike-quigleys-campaign-spending-drops-democratic-party-still-benefits/>.

<sup>155</sup> See H.R. 151, 117th Cong., *supra* note 152.

<sup>156</sup> See Vivien Lou Chen, 'Stagflation is Here,' *Following Months of Rising Prices, BofA Analysts Say*, MARKETWATCH (Oct. 1, 2021), <https://www.marketwatch.com/story/stagflation-is-here-following-months-of-rising-prices-bofa-analysts-say-11633110365>.

<sup>157</sup> See Mark Hurlbert, *Opinion: U.S. Consumers are Gloomy About Their Finances and that Means a Recession Could be Near*, MARKETWATCH (Sept. 28, 2021), <https://www.marketwatch.com/story/u-s-consumers-are-gloomy-about-their-finances-and-that-means-a-recession-could-be-near-11632815496>.

<sup>158</sup> See Tammy Webber & Heather Hollingsworth, *COVID-19 Deaths Eclipse 700,000 in US as Delta Variant Rages*, AP NEWS (Oct. 2, 2021), <https://apnews.com/article/coronavirus-pandemic-dead-us-milestone-80209c66802902e42adfb075ff5272b>.