CCC Charter Act: A Case Study in Congressional Abdication

TAXPAYERS for COMMON SENSE

Lawmakers and agricultural special interests are responding to the economic fallout of the COVID-19 pandemic by proposing a dramatic and permanent increase in the size and reach of farm subsidies. These elements want to increase the power of the Secretary of Agriculture to bypass Congress and distribute subsidies via the authorities vested in the USDA's Commodity Credit Corporation (CCC). Doing so could permanently increase farm safety net spending to aggregate levels and extend farm subsidies to new beneficiaries far from the farm gate. Vesting increased power in this and all future executives undermines bipartisan efforts to create a more cost-effective farm safety net focused on managing risk instead of maximizing government payments for the politically favored.

Origins and Operations of the Commodity Credit Corporation

The Commodity Credit Corporation (CCC) is a wholly owned corporation of the United States government. Created during the Great Depression and reconfigured during the Truman Administration, the CCC is mostly an accounting vehicle to cut and track checks for mandatory farm bill programs, including income subsidy, conservation, and foreign aid programs. It has permanent indefinite authority to borrow up to $30 billion from the Treasury to finance these programs. Every year, as part of the appropriations process, Congress reimburses the CCC for its "borrowing" (reimbursement of net realized losses) effectively making the $30 billion a cap on spending for programs under the CCC's jurisdiction.

The Commodity Credit Corporation Charter Act of 1948 (15 U.S.C. 714), however, also makes it a source of nearly unrestrained power. The Charter Act articulates a number of specific authorities granted to the the CCC. Exercise of these authorities is at the discretion of the Secretary of Agriculture. The authorities include the ability to create programs aimed at increasing domestic consumption, removing "surplus" commodities, assisting in production and marketing, aiding in exports, purchasing crops for federal programs and supporting prices through loans, purchases, payments, and other operations. Exercise of CCC Charter Act authority requires no additional authorization or appropriation from Congress. The only potential limits are 1) the $30 billion cap on total borrowing authority, 2) limitations and restrictions articulated in appropriations bills, and 3) political humility and respect for markets.

Previous Abuses of CCC Charter Act Authority

This broad authority is dangerous and undemocratic as the CCC has a history of politicization.

- In 2010 the Obama Administration directed half a billion dollars to farmers in Arkansas, in a bid to secure the reelection of Senate Agriculture Committee Chair Blanche Lincoln (D-AR).
- In 2018 it was tapped for $218 million to assuage cotton farmers upset that high prices and bountiful harvests negated the need for government subsidies under the STAX program.
- USDA Secretary Vilsack in 2015 used the CCC to spend $100 million to pay for new gas station pumps that the 2014 farm bill prohibited (Secretary Perdue tapped the CCC to do this as well.)
- The greatest example is the $28 billion the Trump Administration deployed to compensate farmers and ranchers economically harmed by the administration's trade war with China.

Proposed Expansions of Executive Power via the CCC

Pointing to economic disruption from COVID-19, special interests and lawmakers are proposing to increase the power of the Secretary of Agriculture and the CCC. Proposals include permanently increasing the borrowing limit and expanding Charter Act authorities. Potential increases are to an annual $50 billion -- Sen. Hoeven (R-ND) -- or $68 billion – Scott (R-GA). Charter Act expansions include the ability to: 1) subsidize the disposal of livestock and poultry caused by supply chain disruption, and 2) subsidize agricultural processing plants to ensure supply chain continuity.

These are solutions looking for a problem. The deliberate shift of the farm safety net away from reliance on direct government subsidies and toward risk management (subsidized crop insurance) has made the $30 billion annual limit, set by law since 1987, effectively moot. Spending on Farm Bill authorized programs comes nowhere near breaching the borrowing limit. Over the last three farm bills (2008, 2014, 2018) the only year total borrowing approached the limit was in 2019 due almost entirely to unbudgeted ad hoc payments made under the Trump Administration's programs to mitigate the damage from its trade war. The CARES act makes it unlikely such a situation will occur in 2020 as it includes a $14 billion reimbursement for net realized losses (Sec. 11002 P.L. 116-136), providing an $44 billion CCC borrowing limit for FY2020.

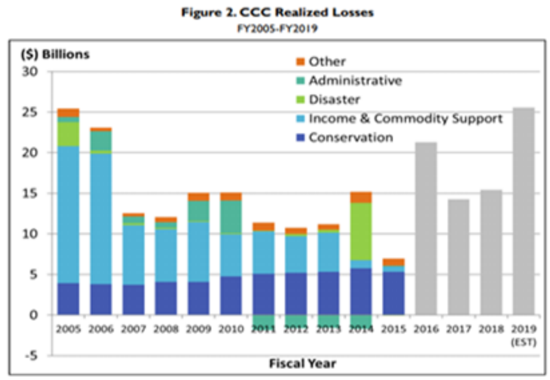

Figure 2: Source CRS Report R4406: The Commodity Credit Corporation: In Brief

If Congress finds the $44 billion in CCC spending an insufficient amount to aid farming and ranching businesses affected by COVID-19, they have a powerful tool to deploy: emergency appropriations. The CARES Act, adopted on March 27, provided $9.5 billion in emergency assistance for agricultural operations experiencing economic losses. Additional funds have been proposed: $50 billion in H.R. 6611 and $16.5 billion in the HEROES Act (H.R. 6800). The HEROES Act also included directives for the Secretary of Agriculture to make payments for livestock and poultry euthanized because of slaughterhouse closures (Sec. 60101) and to assist ethanol producers and textile manufacturers (Sec. 60305 - “agricultural processors” affected by COVID-19. As “emergency” appropriations, none of these funds, which were authorized as “such sums as necessary” count against the CCC’s borrowing limit.

Permanently increasing the CCC borrowing authority by 67 or 125 percent is an attempt to increase the size and scope of the farm safety net without having to justify that spending to taxpayers and pay for it in the farm bill process.

Conclusion

Expanding the Secretary’s authority to dole out funding without consulting Congress is an especially egregious attempt to undermine Congressional intent while permanently increasing Washington’s role in the balance sheet for farming and ranching businesses. Lawmakers should be more deliberate in their response to COVID-19. If existing farm safety net programs fail to provide an adequate safety net for agricultural businesses, Congress can supplement the safety net with temporary emergency appropriations. Distributing subsidies through the CCC, both this year and in perpetuity, undercuts Congress’ constitutional power of the purse. Congress must ensure a federal farm safety net focused on helping farmers and ranchers manage the risks of today and tomorrow, not expand executive power to maximize government payments indefinitely for a select few.

For more information contact, Joshua Sewell, 202.546.8500 x116
josh@taxpayer.net