

117TH CONGRESS  
1ST SESSION

# H. R. 4169

To increase market access for Black farmers and socially disadvantaged farmers and ranchers, to ensure civil rights accountability, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2021

Mr. DAVID SCOTT of Georgia introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To increase market access for Black farmers and socially disadvantaged farmers and ranchers, to ensure civil rights accountability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Black Farmers and  
5 Socially Disadvantaged Farmers Increased Market Share  
6 Act”.

1 **SEC. 2. FOOD HUB GRANTS TO INCREASE MARKET ACCESS**  
2 **FOR SOCIALLY DISADVANTAGED FARMERS**  
3 **AND RANCHERS.**

4 (a) DEFINITIONS.—In this section:

5 (1) AGRICULTURAL FOOD PRODUCT.—The term  
6 “agricultural food product” means a raw, cooked, or  
7 a processed edible substance, beverage, or ingredient  
8 produced and otherwise prepared for sale in the  
9 United States (including any insular area (as de-  
10 fined in section 1404 of the National Agricultural,  
11 Research, Extension, and Teaching Policy Act of  
12 1977 (7 U.S.C. 3103))), derived from one or more  
13 agricultural commodities of United States origin,  
14 and used or intended for use or for sale in whole or  
15 in part for human consumption.

16 (2) DONATED FOOD.—The term “donated  
17 food” has the meaning given the term in section  
18 250.2 of title 7 of the Code of Federal Regulations  
19 (or any successor regulation).

20 (3) ELIGIBLE ENTITY.—The term “eligible enti-  
21 ty” means—

22 (A) an entity formed by two or more agri-  
23 cultural producers, not less than half of whom  
24 are members of a socially disadvantaged group;  
25 or

1 (B) a non-profit organization or Tribal or-  
2 ganization with demonstrated experience work-  
3 ing with socially disadvantaged farmers or  
4 ranchers.

5 (4) ELIGIBLE PARTNER.—The term “eligible  
6 partner” means a non-profit organization, a State  
7 cooperative extension service or a college or univer-  
8 sity (as such terms are defined in section 1404 of  
9 the National Agricultural Research, Extension, and  
10 Teaching Policy Act of 1977 (7 U.S.C. 3103)), Trib-  
11 al organization, or other State or local government  
12 entities with demonstrated experience in providing  
13 assistance such as grants management, technical as-  
14 sistance, and business plan development, to agricul-  
15 tural producers.

16 (5) FOOD HUB.—The term “food hub” means  
17 a business or organization that actively manages the  
18 aggregation, distribution, and marketing of source-  
19 identified agricultural food products from producers  
20 for wholesale, retail, or institutional markets.

21 (6) SECRETARY.—The term “Secretary” means  
22 the Secretary of Agriculture.

23 (7) SOCIALLY DISADVANTAGED FARMER OR  
24 RANCHER.—The term “socially disadvantaged farm-  
25 er or rancher” has the meaning given the term in

1 section 2501(a) of the Food, Agriculture, Conserva-  
2 tion, and Trade Act of 1990 (7 U.S.C. 2279(a)).

3 (8) SOCIALLY DISADVANTAGED GROUP.—The  
4 term “socially disadvantaged group” has the mean-  
5 ing given the term in section 2501(a) of the Food,  
6 Agriculture, Conservation, and Trade Act of 1990 (7  
7 U.S.C. 2279(a)).

8 (9) TRIBAL ORGANIZATION.—The term “Tribal  
9 organization” has the meaning given the term in  
10 section 3 of the Food and Nutrition Act of 2008 (7  
11 U.S.C. 2012).

12 (b) GRANTS TO INCREASE MARKET ACCESS.—

13 (1) IN GENERAL.—The Secretary shall establish  
14 a program to make grants on a competitive basis to  
15 eligible entities to support new or expanding food  
16 hubs designed to increase market access for socially  
17 disadvantaged farmers and ranchers, but may also  
18 increase market access for other farmers and ranch-  
19 ers.

20 (2) USE OF FUNDS.—An eligible entity selected  
21 to receive a grants under this subsection may use  
22 grants funds—

23 (A) to purchase and develop land, build-  
24 ings, and associated infrastructure for commer-  
25 cial or industrial properties, including expansion

1 or modernization, for use in processing, distrib-  
2 uting, aggregating, storing, transporting, or  
3 marketing agricultural food products;

4 (B) to construct or equip facilities for use  
5 in processing, distributing, aggregating, storing,  
6 transporting, or marketing agricultural food  
7 products;

8 (C) to purchase machinery and equipment  
9 for use in processing, distributing, aggregating,  
10 storing, transporting, or marketing agricultural  
11 food products;

12 (D) for general operating expenses directly  
13 related to a food hub, including planning and  
14 development related to the establishment or ex-  
15 pansion of any food hub;

16 (E) to provide marketing services for agri-  
17 cultural food products, including providing plat-  
18 forms (such as electronic or web-based plat-  
19 forms) for sales, inventory, and aggregation;  
20 and

21 (F) to conduct other activities supporting  
22 the development or expansion of a food hub, as  
23 determined by the Secretary.

24 (3) APPLICATION.—

1 (A) IN GENERAL.—An eligible entity seek-  
2 ing a grant under this subsection shall submit  
3 to the Secretary an application that contains—

4 (i) a description of the activities the  
5 eligible entity will carry out to support one  
6 or more new or existing food hubs, includ-  
7 ing a plan for each such food hub to proc-  
8 ess, distribute, store, or market agricul-  
9 tural food products for wholesale, retail, or  
10 institutional markets;

11 (ii) a description of the ways in which  
12 each such food hub that the eligible entity  
13 is proposing to establish or expand is de-  
14 signed to increase market access for so-  
15 cially disadvantaged farmers or ranchers;

16 (iii) except as provided in subpara-  
17 graph (B), a description of the eligible en-  
18 tity’s demonstrated competency to develop  
19 and manage each such food hub, provide  
20 fiscal accountability, collect data, and pre-  
21 pare reports and other necessary docu-  
22 mentation; and

23 (iv) any other information, as deter-  
24 mined by the Secretary.

1 (B) REQUIREMENT TO INCLUDE ELIGIBLE  
2 PARTNERS.—An eligible entity that does not  
3 have one or more of the demonstrated com-  
4 petencies described in clause (iii) of subpara-  
5 graph (A) shall submit to the Secretary in its  
6 application—

7 (i) a list of one or more eligible part-  
8 ners such eligible entity is partnering with;

9 (ii) the responsibilities of each eligible  
10 partner in supporting such eligible entity;

11 and

12 (iii) a description of the demonstrated  
13 competencies of the eligible partner or  
14 partners in performing such responsibil-  
15 ities.

16 (C) ELIGIBLE ENTITIES SERVING AS ELI-  
17 GIBLE PARTNERS.—An eligible entity specified  
18 in subparagraph (B) of subsection (a)(3) seek-  
19 ing a grant under this section may serve as an  
20 eligible partner for other eligible entities in one  
21 or more grant applications under this sub-  
22 section.

23 (4) PRIORITY.—In making grants under this  
24 subsection, the Secretary may give priority to grant  
25 applications for food hubs that—

1 (A) benefit underserved communities, as  
2 defined in section 310B(g)(9)(A)(ii) of the Con-  
3 solidated Farm and Rural Development Act (7  
4 U.S.C. 1932(g)(9)(A)(ii));

5 (B) aggregate, distribute, and market agri-  
6 cultural food products that meet the standards  
7 for donated foods, as determined by the Sec-  
8 retary; or

9 (C) have not been awarded a Department  
10 of Agriculture grant, including a grant under  
11 section 210A of the Agricultural Marketing Act  
12 of 1946 (7 U.S.C. 1627c), in the preceding or  
13 current fiscal year.

14 (5) MAXIMUM GRANT TERM.—The term of a  
15 grant under this subsection may not exceed 5 years.

16 (6) NO MATCHING FUNDS.—An eligible entity  
17 receiving a grant under this section shall not be re-  
18 quired to provide non-Federal matching funds with  
19 respect to such grant.

20 (c) PRIORITIZING PURCHASES FOR USDA DOMESTIC  
21 FOOD ASSISTANCE PROGRAMS.—

22 (1) IN GENERAL.—The Secretary shall establish  
23 a process—

24 (A) to prioritize the purchase of agricul-  
25 tural food products from socially disadvantaged



1 farmers and ranchers, including from food hubs  
2 developed or expanded under this section, for  
3 use in Department of Agriculture programs  
4 that distribute agricultural food products within  
5 the United States (including any insular area  
6 (as defined in section 1404 of the National Ag-  
7 ricultural, Research, Extension, and Teaching  
8 Policy Act of 1977 (7 U.S.C. 3103))); and

9 (B) that is designed to account for barriers  
10 to market entry faced by socially disadvantaged  
11 farmers and ranchers while maintaining the in-  
12 tegrity of the purchasing process established  
13 under this subsection, including ensuring that  
14 any entity that is suspended or debarred from  
15 participation in any Federal program is not eli-  
16 gible to participate in the purchasing process  
17 established under this subsection.

18 (2) WAIVERS.—

19 (A) IN GENERAL.—In establishing the  
20 process described in paragraph (1), the Sec-  
21 retary may provide for the waiver of the full  
22 and open competition procedures for the award  
23 of Federal contracts, section 3324 of title 31,  
24 United States Code, and section 725 of the Ag-  
25 riculture, Rural Development, Food and Drug

1 Administration, and Related Agencies Appro-  
2 priations Act, 2001 (7 U.S.C. 2209f), if the  
3 Secretary identifies requirements under such  
4 sections and procedures as presenting barriers  
5 to market entry for socially disadvantaged  
6 farmers and ranchers.

7 (B) NOTIFICATION.—Not later than 10  
8 days after providing for any waiver under sub-  
9 paragraph (A), the Secretary shall notify the  
10 Committee on Agriculture of the House of Rep-  
11 resentatives and the Committee on Agriculture,  
12 Nutrition, and Forestry of the Senate of such  
13 waivers and provide a description of how such  
14 waivers would address barriers to market entry  
15 for socially disadvantaged farmers and ranchers  
16 for a particular agricultural food product.

17 (d) REPORTS.—Not later than December 31, 2022,  
18 and each December thereafter until the completion of the  
19 grants awarded under subsection (b), the Secretary shall  
20 make publicly available on the Department of Agri-  
21 culture’s website and submit to the Committee on Agri-  
22 culture of the House of Representatives and the Com-  
23 mittee on Agriculture, Nutrition, and Forestry of the Sen-  
24 ate, a report that includes—

1           (1) a description of the status of each grant  
2 awarded under subsection (b);

3           (2) the number of socially disadvantaged farm-  
4 ers and ranchers participating in the food hub sup-  
5 ported by such grant in the previous fiscal year;

6           (3) to the maximum extent practicable, the  
7 amount of agricultural food products produced by  
8 socially disadvantaged farmers and ranchers proc-  
9 essed, distributed, aggregated, stored, or marketed  
10 by the food hub supported by such grant in the pre-  
11 vious fiscal year; and

12           (4) the total amount of donated food purchased  
13 by the Secretary from food hubs supported with  
14 grants awarded under this section in the previous  
15 fiscal year.

16       (e) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated to carry out subsection  
18 (b) \$100,000,000 for fiscal year 2022, to remain available  
19 until expended.

20 **SEC. 3. AGRICULTURE HUB CREDIT.**

21       (a) IN GENERAL.—Subpart D of part IV of sub-  
22 chapter A of chapter 1 of the Internal Revenue Code of  
23 1986 is amended by adding at the end the following new  
24 section:

1 **“SEC. 45U. AGRICULTURE HUB CREDIT.**

2       “(a) IN GENERAL.—For purposes of section 38, the  
3 agriculture hub credit determined under this section for  
4 any taxable year is an amount equal to 25 percent of the  
5 qualified food hub expenses for the taxable year.

6       “(b) QUALIFIED FOOD HUB EXPENSES.—For pur-  
7 poses of this section, the term ‘qualified food hub ex-  
8 penses’ means amounts paid or incurred by the taxpayer  
9 during the taxable year—

10               “(1) for agricultural food products from a food  
11 hub developed or expanded under section 2 of the  
12 Black Farmers and Socially Disadvantaged Farmers  
13 Increased Market Share Act, and

14               “(2) in accordance with a contract certified by  
15 the Secretary of Agriculture under section 3(c) of  
16 the Black Farmers and Socially Disadvantaged  
17 Farmers Increased Market Share Act.

18       “(c) FOOD HUB.—The term ‘food hub’ has the mean-  
19 ing given such term in section 2 of the Black Farmers  
20 and Socially Disadvantaged Farmers Increased Market  
21 Share Act.

22       “(d) TERMINATION.—This section shall not apply to  
23 taxable years beginning after the Secretary determines the  
24 grant program under section 2 of the Black Farmers and  
25 Socially Disadvantaged Farmers Increased Market Share  
26 Act has ended.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 38(b) of the Internal Revenue Code  
3 of 1986 is amended—

4 (A) in paragraph (32), by striking “plus”  
5 at the end,

6 (B) in paragraph (33), by striking the pe-  
7 riod at the end and inserting “, plus”, and

8 (C) by adding at the end the following new  
9 paragraph:

10 “(34) the agriculture hub credit determined  
11 under section 45U(a).”.

12 (2) The table of sections for subpart D of part  
13 IV of subchapter A of chapter 1 of such Code is  
14 amended by adding at the end the following new  
15 item:

“Sec. 45U. Agriculture hub credit.”.

16 (3) Section 280C of such Code is amended by  
17 adding at the end the following new subsection:

18 “(i) AGRICULTURE HUB CREDIT.—Any deduction or  
19 other credit otherwise allowable with respect to an expense  
20 for which a credit is allowed under section 45U(a) shall  
21 be reduced by the amount of the credit under section  
22 45U(a) with respect to such expense. If a credit is allowed  
23 under section 45U(a) with respect to property of a kind  
24 which would properly be included in the inventory of the  
25 taxpayer if on hand at the close of the taxable year or

1 property held by the taxpayer primarily for sale to cus-  
2 tomers in the ordinary course of the trade or business of  
3 such taxpayer, opening inventory or purchases shall be re-  
4 duced by the amount of the credit so allowed.”.

5 (c) CERTIFICATION PROCESS.—Not later than 1 year  
6 after the date of enactment of this section, the Secretary  
7 of Agriculture shall issue regulations to establish a process  
8 to certify, at the request of entities seeking an agriculture  
9 hub credit section 45U of the Internal Revenue Code of  
10 1986, as added by subsection (b), that a contract under  
11 which expenditures referred to in such section 45U are  
12 made—

13 (1) is not between related parties;

14 (2) is the result of arm’s length negotiations;

15 and

16 (3) meets any other requirements, as deter-  
17 mined by the Secretary of Agriculture, in consulta-  
18 tion with the Secretary of Treasury.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to expenses paid or incurred in  
21 taxable years beginning after December 31, 2021.

22 **SEC. 4. CIVIL RIGHTS ACCOUNTABILITY FOR USDA EM-**  
23 **PLOYEES.**

24 (a) IN GENERAL.—The Secretary of Agriculture shall  
25 ensure that officials and employees of the Department of

1 Agriculture are held accountable in accordance with sub-  
2 section (b) if, while in the course of their employment or  
3 in administering a Department of Agriculture program,  
4 such officials and employees are found to have engaged  
5 in any discriminatory actions, retaliatory actions, harass-  
6 ment, civil rights violations, or related misconduct, includ-  
7 ing any such actions or misconduct involving any of the  
8 following:

9           (1) Failure to provide a receipt for service in  
10 accordance with section 2501A(e) of the Food, Agri-  
11 culture, Conservation or Trade Act of 1990 (7  
12 U.S.C. 2279–1(e)) to any current or prospective ap-  
13 plicants of or participants in Department of Agri-  
14 culture programs.

15           (2) Providing an inaccurate receipt for service  
16 under such section 2501A(e) to any current or pro-  
17 spective applicants of or participants in Department  
18 of Agriculture programs.

19           (3) Failure to provide appropriate information  
20 regarding relevant programs and services at the De-  
21 partment of Agriculture, when requested by any cur-  
22 rent or prospective applicants of or participants in  
23 Department of Agriculture programs.

24           (4) Failure to timely process applications or  
25 otherwise delaying program services to any current

1 or prospective applicants of or participants in, De-  
2 partment of Agriculture programs.

3 (b) TAKING CORRECTIVE ACTION.—The Secretary  
4 shall ensure that appropriate corrective action is taken  
5 with respect to any official or employee of the Department  
6 of Agriculture who has been found to have engaged in any  
7 of the actions, violations, or misconduct referred to in sub-  
8 section (a) while in the course of such official’s or employ-  
9 ee’s employment or in administering a Department of Ag-  
10 riculture program—

11 (1) in any administrative finding by the Depart-  
12 ment of Agriculture, including any final agency deci-  
13 sion issued by the Assistant Secretary of Agriculture  
14 for Civil Rights and any civil rights compliance re-  
15 view or misconduct investigation conducted by the  
16 Department of Agriculture;

17 (2) in any administrative or judicial proceeding;

18 (3) in any civil rights settlement;

19 (4) in any audit or investigation conducted by  
20 the Office of the Inspector General of the Depart-  
21 ment of Agriculture; or

22 (5) in any investigation conducted by the Office  
23 of the Special Counsel.

24 (c) CORRECTIVE ACTION DEFINED.—In this section,  
25 the term “corrective action” means any action taken to



1 respond to any of the actions, violations, or misconduct  
2 referred to in subsection (a) that—

3           (1) would enhance civil rights at the Depart-  
4           ment of Agriculture, including any policy or pro-  
5           grammatic changes to prevent similar misconduct  
6           from occurring in the future; and

7           (2) may include disciplinary actions, includ-  
8           ing—

9                   (A) removal from Federal service;

10                   (B) suspension without pay;

11                   (C) any reduction in grade or pay; and

12                   (D) letter of reprimand.

13 **SEC. 5. EQUITABLE RELIEF.**

14           (a) **EQUITABLE RELIEF FROM INELIGIBILITY FOR**  
15 **LOANS, PAYMENTS, OR OTHER BENEFITS.**—Section 1613  
16 of the Farm Security and Rural Investment Act of 2002  
17 (7 U.S.C. 7996) is amended—

18                   (1) by redesignating subsections (f) through (j)  
19                   as subsections (g) through (k), respectively;

20                   (2) by inserting after subsection (e) the fol-  
21                   lowing:

22                   “(f) **EQUITABLE RELIEF BY THE ASSISTANT SEC-**  
23 **RETARY OF AGRICULTURE FOR CIVIL RIGHTS.**—

24                   “(1) **IN GENERAL.**—The Assistant Secretary of  
25                   Agriculture for Civil Rights (or a designee of the

1 Secretary in the Office of the Assistant Secretary for  
2 Civil Rights, if no Assistant Secretary of Agriculture  
3 for Civil Rights is confirmed in accordance with sec-  
4 tion 218(b) of the Department of Agriculture Reor-  
5 ganization Act of 1994 (7 U.S.C. 6918(b))) may  
6 grant relief in accordance with subsections (b)  
7 through (d) to a participant who files a civil rights  
8 program complaint.

9 “(2) DECISIONS.—The decision by the Assist-  
10 ant Secretary of Agriculture for Civil Rights (or the  
11 designee of the Secretary) to grant relief under this  
12 subsection—

13 “(A) shall not require prior approval by  
14 any officer or employee of the Department of  
15 Agriculture; and

16 “(B) is subject to reversal only by the Sec-  
17 retary (who may not delegate the reversal au-  
18 thority).

19 “(3) OTHER AUTHORITY.—The authority pro-  
20 vided to the Assistant Secretary of Agriculture for  
21 Civil Rights (or the designee of the Secretary) under  
22 this subsection is in addition to any other applicable  
23 authority and does not limit other authority provided  
24 by law or the Secretary.”;

1           (3) in subsection (g), as so redesignated, by  
2 striking “or the State Conservationist” and inserting  
3 “the State Conservationist, or the Assistant Sec-  
4 retary of Agriculture for Civil Rights (or the des-  
5 ignee of the Secretary)”; and

6           (4) in paragraph (1) of subsection (h), as so re-  
7 designated, by striking “and (e)” and inserting “(e),  
8 and (f)”.

9           (b) **EQUITABLE RELIEF FOR ACTIONS TAKEN IN**  
10 **GOOD FAITH.**—Section 366 of the Consolidated Farm and  
11 Rural Development Act (7 U.S.C. 2008a) is amended—

12           (1) by amending subsection (b) to read as fol-  
13 lows:

14           “(b) **LIMITATION.**—The Secretary may only provide  
15 relief to a farmer or rancher under subsection (a) if the  
16 Secretary determines that the farmer or rancher—

17           “(1) acting in good faith, relied on an action of,  
18 or the advice of, the Secretary (including any au-  
19 thorized representative of the Secretary) to the det-  
20 riment of the farming or ranching operation of the  
21 farmer or rancher; or

22           “(2) failed to comply fully with the require-  
23 ments of a program described in subsection (a)(1),  
24 but made a good faith effort to comply with the re-  
25 quirements.”;

1           (2) by inserting after subsection (d) the fol-  
2           lowing:

3           “(e) **EQUITABLE RELIEF BY THE ASSISTANT SEC-**  
4 **RETARY OF AGRICULTURE FOR CIVIL RIGHTS.—**

5           “(1) **IN GENERAL.—**The Assistant Secretary of  
6           Agriculture for Civil Rights (or a designee of the  
7           Secretary in the Office of the Assistant Secretary for  
8           Civil Rights, if no Assistant Secretary of Agriculture  
9           for Civil Rights is confirmed in accordance with sec-  
10          tion 218(b) of the Department of Agriculture Reor-  
11          ganization Act of 1994 (7 U.S.C. 6918(b))) may  
12          grant relief in accordance with subsections (a)  
13          through (d) to an individual who files a civil rights  
14          program complaint.

15          “(2) **DECISIONS.—**The decision by the Assist-  
16          ant Secretary of Agriculture for Civil Rights (or the  
17          designee of the Secretary) to grant relief under this  
18          subsection—

19                 “(A) shall not require prior approval by  
20                 any officer or employee of the Department of  
21                 Agriculture; and

22                 “(B) is subject to reversal only by the Sec-  
23                 retary (who may not delegate the reversal au-  
24                 thority).

1           “(3) OTHER AUTHORITY.—The authority pro-  
2           vided to the Assistant Secretary of Agriculture for  
3           Civil Rights (or the designee of the Secretary) under  
4           this subsection is in addition to any other applicable  
5           authority and does not limit other authority provided  
6           by law or the Secretary.”;

7           (3) by redesignating subsection (e) as sub-  
8           section (f); and

9           (4) in subsection (f), as so redesignated, by  
10          striking “Secretary” and inserting “Secretary, or  
11          the Assistant Secretary of Agriculture for Civil  
12          Rights (or the designee of the Secretary)”.

13 **SEC. 6. BURDEN OF PROOF FOR NATIONAL APPEALS DIVI-**  
14 **SION HEARINGS.**

15          Section 277(c)(4) of the Department of Agriculture  
16          Reorganization Act of 1994 (7 U.S.C. 6997(c)(4)) is  
17          amended to read as follows:

18               “(4) BURDEN OF PROOF.—The agency shall  
19               bear the burden of proving by substantial evidence  
20               that the adverse decision of the agency was valid.”.

○