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United States Senate

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October 19, 2017

The Honorable Sonny Perdue
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Perdue:

We are writing with regard to the currently pending nomination of an individual to the position of Under Secretary for Farm and Foreign Agricultural Services. A question has arisen regarding the U.S. Department of Agriculture's (USDA) authority, pursuant to a recent Department reorganization proposed in May, to change the duties and title of an official confirmed by the Senate. This confusion arises from the Department's suggestion that it intends to have the nominee serve in a different position, that of Under Secretary for Farm Production and Conservation, after confirmation. Under the Senate's advice-and-consent role in the appointment process established by the Constitution, officers serving in Senate-confirmed positions created by law with accompanying designated duties may not be moved to a different office that requires Senate confirmation, unless the officer is nominated for the new position and receives Senate confirmation to that position.

As you know, the position of Under Secretary for Farm and Foreign Agricultural Services was established pursuant to section 225 of Pub. L. No. 103-354 (1994), and assigned duties related to farm and foreign agricultural services. Subsequently, section 3208 of the 2014 Farm Bill, Pub. L. No. 113-79, authorized the creation of an Under Secretary for Trade and Foreign Agricultural Affairs, which the Department recently established. We recognize that these two provisions and duties may contribute to the confusion surrounding this nomination and the mission area that it oversees. Accordingly, we commit to working with the Department to advance legislation which provides clarity about the titles of the Under Secretaries and their positions and duties at USDA, including the interrelation between Pub. L. No. 103-354, § 225, and Pub. L. No. 113-79, § 3208. Until such clarity is available, we ask that the nominee, if confirmed, serve the mission area in the position to which the individual was nominated.

We look forward to your response to this letter and to working collaboratively with the USDA to address necessary changes. We understand the need to move expeditiously to confirm the nominee, and we will endeavor to do so.



Pat Roberts
Chairman



Debbie Stabenow
Ranking Member