

(A) the Secretary of Agriculture, in conjunction with the Administrator, shall submit a report to Congress regarding the outreach plan developed under paragraph (1); and

(B) the Administrator shall submit to Congress a report regarding the findings of the study conducted under paragraph (2).

Subtitle F—Facilitating Farm Fairness

SEC. 761. CAP ON RATE OF RETURN FOR CROP INSURANCE PROVIDERS.

(a) In general.—Section 508(k) of the Federal Crop Insurance Act ([7 U.S.C. 1508\(k\)](#)) is amended—

(1) in paragraph (3)—

(A) by striking the paragraph designation and heading and all that follows through "The" and inserting the following:

"(3) Risk.—

"(A) Share of risk.—The"; and

(B) by adding at the end the following:

"(B) Limitation on average rate of return.—The target average rate of return for reinsured companies for the first reinsurance year beginning after the date of enactment of this Act and each subsequent reinsurance year shall be 6.7 percent of retained premiums."; and

(2) in paragraph (8), by striking subparagraph (F).

SEC. 762. REFORM OF FEDERAL CROP INSURANCE PREMIUM SUBSIDIES.

(a) Amendment.—Section 508(e) of the Federal Crop Insurance Act ([7 U.S.C. 1508\(e\)](#)), as amended by this Act, is further amended—

(1) in paragraph (2)(C)(i), by striking "69" and inserting "64";

(2) in paragraph (2)(D)(i), by striking "64" and inserting "60";

(3) in paragraph (2)(E)(i), by striking "60" and inserting "55"; and

(4) by adding at the end the following:

"(11) Prohibition on premium subsidy for inactive producers.—

"(A) In general.—Notwithstanding any other provision of law, beginning with the first reinsurance year beginning after the date of enactment of this Act, the Corporation shall not pay any amount of premium subsidy to a producer that is not engaged in active personal labor or active personal management with respect to the farming operation pursuant to which such subsidy would apply.

"(B) Definitions.—In this paragraph:

"(i) Active personal labor.—The term 'active personal labor' means, with respect to a producer, physical labor and activities personally performed by the producer on a farming operation—

"(I) that—

"(aa) are necessary to such farming operation, including land preparation, planting, cultivating, harvesting and marketing of agricultural commodities;

"(bb) establish or maintain conserving cover crops or conserving use acreages; or

"(cc) are required for livestock operations; and

"(II) with respect to a crop year, for a period of at least—

"(aa) 1,000 hours; or

"(bb) 50 percent of the total hours that would be required to conduct a farming operation comparable in size to the producer's share in the farming operation, as determined by the Corporation.

"(ii) Active personal management.—The term 'active personal management' means management activities personally performed on a farming operation—

"(I) by a person with a direct or indirect ownership interest in that farming operation;

"(II) on a regular, continuous, and substantial basis; and

"(III) with respect to a crop year, for a period of at least—

"(aa) 500 hours; or

"(bb) 50 percent of the total management hours required for that farming operation on an annual basis, as determined by the Corporation.

"(C) Legal entities.—For purposes of subparagraph (A), the Corporation shall prescribe rules applying, as appropriate, the ownership-attribution, proportional-reduction, trust-beneficiary, and estate principles under sections 1400.204 through 1400.206 of title 7, Code of Federal Regulations, as in effect on the date of enactment of the POPULIST Act, except that—

"(i) eligibility under this paragraph shall be determined solely by whether the natural persons attributed to the producer satisfy clause (i) or (ii) of subparagraph (B);

"(ii) references in such sections to a payment or benefit shall be treated as references to premium subsidy under this title; and

"(iii) the Corporation may make such conforming adjustments as are necessary to apply those principles to crop insurance policies and farming operations under this title.

"(12) Limitation on total premium subsidy.—

"(A) In general.—Notwithstanding any other provision of this title, the total amount of premium paid by the Corporation on behalf of a person or legal entity, directly or indirectly, with respect to all policies issued to the person or legal entity under this title for a crop year shall not exceed \$50,000.

"(B) Aggregation.—For purposes of this paragraph, the limitation shall apply on an aggregate basis across all policies, plans of insurance, coverage levels, crops, and insurable units issued to the person or legal entity for the crop year.

"(C) Relationship to other law.—To the maximum extent practicable, the Corporation shall carry out this paragraph in accordance with section 1001 of the Food Security Act of 1985 ([7 U.S.C. 1308](#)).

"(13) First-dollar premium assistance.—

"(A) In general.—In addition to any other provision of this subsection, the Corporation shall increase the percentage of the premium paid under paragraphs (2) (except subparagraph (A)), (5), (6), and (7) by 15 percentage points with respect to the first \$500,000 of aggregate insured liability of a person or legal entity for a crop year.

"(B) Aggregation.—For purposes of this paragraph, insured liability shall be aggregated across all policies, plans of insurance, coverage levels, and insurable units issued to the person or legal entity for the crop year.

"(C) Determination.—Insured liability shall be determined by the Corporation in accordance with its actuarial and premium rating methodologies under this title."

SEC. 763. RESTRICTING CHECKOFF PROGRAMS.

(a) Definitions.—

(1) Board.—The term "Board" means a board, committee, or similar entity established to carry out a checkoff program or an order issued by the Secretary under a checkoff program.

(2) Checkoff program.—The term "checkoff program" means a program to promote and provide research and information for a particular agricultural commodity without reference to specific producers or brands, including a program carried out under any of the following:

(A) The Cotton Research and Promotion Act ([7 U.S.C. 2101 et seq.](#)).

(B) The Potato Research and Promotion Act ([7 U.S.C. 2611 et seq.](#)).

(C) The Egg Research and Consumer Information Act ([7 U.S.C. 2701 et seq.](#)).

(D) The Beef Research and Information Act ([7 U.S.C. 2901 et seq.](#)).

(E) The Wheat and Wheat Foods Research and Nutrition Education Act ([7 U.S.C. 3401 et seq.](#)).

(F) The Floral Research and Consumer Information Act ([7 U.S.C. 4301 et seq.](#)).

(G) Subtitle B of the Dairy Production Stabilization Act of 1983 ([7 U.S.C. 4501 et seq.](#)).

(H) The Honey Research, Promotion, and Consumer Information Act ([7 U.S.C. 4601 et seq.](#)).

(I) The Pork Promotion, Research, and Consumer Information Act of 1985 ([7 U.S.C. 4801 et seq.](#)).

(J) The Watermelon Research and Promotion Act ([7 U.S.C. 4901 et seq.](#)).

(K) The Pecan Promotion and Research Act of 1990 ([7 U.S.C. 6001 et seq.](#)).

(L) The Mushroom Promotion, Research, and Consumer Information Act of 1990 ([7 U.S.C. 6101 et seq.](#)).

(M) The Lime Research, Promotion, and Consumer Information Act of 1990 ([7 U.S.C. 6201 et seq.](#)).

(N) The Soybean Promotion, Research, and Consumer Information Act ([7 U.S.C. 6301 et seq.](#)).

(O) The Fluid Milk Promotion Act of 1990 ([7 U.S.C. 6401 et seq.](#)).

(P) The Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 ([7 U.S.C. 6801 et seq.](#)).

(Q) The Sheep Promotion, Research, and Information Act of 1994 ([7 U.S.C. 7101 et seq.](#)).

(R) Section 501 of the Federal Agriculture Improvement and Reform Act of 1996 ([7 U.S.C. 7401 et seq.](#)).

(S) The Commodity Promotion, Research, and Information Act of 1996 ([7 U.S.C. 7411 et seq.](#)).

(T) The Canola and Rapeseed Research, Promotion, and Consumer Information Act ([7 U.S.C. 7441 et seq.](#)).

(U) The National Kiwifruit Research, Promotion, and Consumer Information Act ([7 U.S.C. 7461 et seq.](#)).

(V) The Popcorn Promotion, Research, and Consumer Information Act ([7 U.S.C. 7481 et seq.](#)).

(W) The Hass Avocado Promotion, Research, and Information Act of 2000 ([7 U.S.C. 7801 et seq.](#)).

(3) Conflict of interest.—The term "conflict of interest" means a direct or indirect financial interest in a person or entity that performs a service for, or enters into a contract or agreement with, a Board for anything of economic value.

(4) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(b) Prohibitions.—

(1) In general.—Except as provided in paragraph (4), a Board shall not enter into any contract or agreement to carry out checkoff program activities with a party that engages in activities for the purpose of influencing any government policy or action that relates to agriculture.

(2) Conflict of interest.—A Board shall not engage in, and shall prohibit the employees and agents of the Board, acting in their official capacity, from engaging in, any act that may involve a conflict of interest.

(3) Other prohibitions.—A Board shall not engage in, and shall prohibit the employees and agents of the Board, acting in their official capacity, from engaging in—

(A) any conduct that constitutes, facilitates, or materially supports a violation of the antitrust laws (as defined in section 1 of the Clayton Act ([15 U.S.C. 12](#)));

(B) any unfair or deceptive act or practice; or

(C) any act that may be disparaging to, or in any way negatively portray, another agricultural commodity or product.

(4) Exceptions for certain contracts with institutions of higher education.—Paragraph (1) shall not apply to a contract or agreement entered into between a Board and an institution of higher education for the purpose of research.

(c) Authority to enter into contracts.—Notwithstanding any other provision of law, on approval of the Secretary, a Board may enter directly into contracts and agreements to carry out generic promotion, research, or other activities authorized by law.

(d) Production of records.—

(1) In general.—Each contract or agreement of a checkoff program shall provide that the entity that enters into the contract or agreement shall produce to the Board accurate records that account for all funds received under the contract or agreement, including any goods or services provided or costs incurred in connection with the contract or agreement.

(2) Maintenance of records.—A Board shall maintain any records received under paragraph (1).

(e) Publication of budgets and disbursements.—

(1) In general.—The Board shall publish and make available for public inspection all budgets and disbursements of funds entrusted to the Board that are approved by the Secretary, immediately on approval by the Secretary.

(2) Required disclosures.—In carrying out paragraph (1), the Board shall disclose—

(A) the amount of the disbursement;

(B) the purpose of the disbursement, including the activities to be funded by the disbursement;

(C) the identity of the recipient of the disbursement; and

(D) the identity of any other parties that may receive the disbursed funds, including any contractors or subcontractors of the recipient of the disbursement.

(f) Audits.—

(1) Periodic audits by inspector general of USDA.—

(A) In general.—Not later than 2 years after the date of enactment of this Act, and not less frequently than every 5 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit to determine the compliance of each checkoff program with this section during the period of time covered by the audit.

(B) Review of records.—An audit conducted under subparagraph (A) shall include a review of any records produced to the Board under subsection (d)(1).

(C) Submission of reports.—On completion of each audit under subparagraph (A), the Inspector General of the Department of Agriculture shall—

(i) prepare a report describing the audit; and

(ii) submit the report described in clause (i) to—

(I) the appropriate committees of Congress, including the Subcommittee on Antitrust, Competition Policy and Consumer Rights of the Committee on the Judiciary of the Senate; and

(II) the Comptroller General of the United States.

(2) Audit by Comptroller General.—

(A) In general.—Not earlier than 3 years, and not later than 5 years, after the date of enactment of this Act, the Comptroller General of the United States shall—

(i) conduct an audit to assess—

(I) the status of actions taken for each checkoff program to ensure compliance with this section; and

(II) the extent to which actions described in subclause (I) have improved the integrity of a checkoff program; and

(ii) prepare a report describing the audit conducted under clause (i), including any recommendations for—

(I) strengthening the effect of actions described in clause (i)(I); and

(II) improving Federal legislation relating to checkoff programs.

(B) Consideration of Inspector General reports.—The Comptroller General of the United States shall consider reports described in paragraph (1)(C) in preparing any recommendations in the report under subparagraph (A)(ii).

SEC. 764. ANTICOMPETITIVE AGRICULTURAL INPUT PRACTICES.

(a) Definitions.—In this section:

(1) Agricultural input.—The term "agricultural input" means seed, planting stock, fertilizer, pesticide, herbicide, fungicide, soil amendment, animal feed, animal health product, or any biologic, chemical, or genetic input applied directly to agricultural production, but does not include farm machinery, vehicles, or equipment.

(2) Agricultural input supplier.—The term "agricultural input supplier" means any person engaged in the manufacture, licensing, distribution, or sale of an agricultural input.

(3) Covered producer.—The term "covered producer" means any farmer, rancher, or agricultural producer engaged in the commercial production of agricultural commodities.

(4) Tying arrangement.—The term "tying arrangement" means an agreement in which the agricultural input supplier conditions the sale of 1 product on a covered producer's agreement—

(A) to purchase a separate product from the agricultural input supplier; or

(B) to not purchase a separate product from another agricultural input supplier.

(5) Retaliatory conduct.—The term "retaliatory conduct" means adverse action taken against a covered producer because the producer obtained, used, repaired, tested, or licensed an agricultural input from a source other than the agricultural input supplier imposing such action.

(b) Unfair methods of competition.—

(1) In general.—The following practices by an agricultural input supplier shall constitute unfair methods of competition in or affecting commerce, in violation of section 5 of the Federal Trade Commission Act ([15 U.S.C. 45](#)):

(A) Seed and chemical tying.—Imposing or enforcing a tying arrangement that conditions access to seed or planting stock on the purchase, use, or licensing of a specific agricultural chemical or related input.

(B) Mandatory bundling.—Requiring a covered producer to acquire a bundled package of agricultural inputs where individual inputs are reasonably available for separate purchase.

(C) Retaliation.—Engaging in retaliatory conduct against a covered producer.

(D) Exclusive dealing.—Imposing exclusive dealing arrangements that substantially limit a covered producer's ability to obtain agricultural inputs from alternative suppliers.

(E) Abusive licensing terms.—Imposing licensing terms that unreasonably restrict a covered producer's ability to save, reuse, repair, test, or lawfully transfer agricultural inputs, or that permit unilateral termination or modification of the license by the agricultural input supplier without cause.

(2) Per se treatment.—Conduct described in paragraph (1) shall be treated as an unfair method of competition without regard to market share, market power, anticompetitive effects, or intent.

(c) Enforcement.—

(1) Federal Trade Commission.—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms of the Federal Trade Commission Act were incorporated into and made a part of this section.

(2) State attorneys general.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by a violation of this section, the attorney general may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain injunctive relief or other appropriate relief. The attorney general shall provide prior written notice of such action to the Federal Trade Commission, unless it is not feasible to do so, in which case such notice shall be provided contemporaneously with the filing of the action.

(3) Private cause of action.—Any covered producer injured by a violation of this section may bring a civil action in an appropriate district court of the United States for injunctive relief and may recover reasonable attorney's fees and costs.

(4) Authority preserved.—Nothing in this section shall be construed to limit the authority of the Federal Trade Commission or a State under any other provision of law.

(d) Rule of construction.—Nothing in this section shall be construed to prohibit the lawful exercise of intellectual property rights, except where such exercise constitutes an unfair method of competition under this section.