

106TH CONGRESS
1ST SESSION

S. 1666

To provide risk reduction assistance to agricultural producers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 1999

Mr. LUGAR (for himself, Mr. McCONNELL, Mr. FITZGERALD, and Mr. HELMS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide risk reduction assistance to agricultural producers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Farmers’ Risk Management Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RISK MANAGEMENT PAYMENTS

Sec. 101. Definitions.

Sec. 102. Risk management contract.

Sec. 103. Administrative provisions.
 Sec. 104. Repeal; funding.
 Sec. 105. Crops.

TITLE II—CROP INSURANCE

Sec. 201. Sanctions for program compliance and fraud.
 Sec. 202. Oversight of loss adjustment.
 Sec. 203. Revenue insurance pilot program.
 Sec. 204. Reinsurance agreements.
 Sec. 205. Reduction in underwriting gains and losses from catastrophic risk protection.
 Sec. 206. Whole farm revenue insurance pilot program.
 Sec. 207. Product innovation and rate competition pilot program.
 Sec. 208. Limitation on double insurance.

TITLE III—REGULATIONS

Sec. 301. Regulations.

1 **TITLE I—RISK MANAGEMENT** 2 **PAYMENTS**

3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) **ACTUAL PRODUCTION HISTORY.**—The term
 6 “actual production history” means a determination
 7 by the Corporation that establishes the average pro-
 8 duction (yield and acreage) for the 2000 crop of an
 9 agricultural commodity on the farm in accordance
 10 with section 508(g)(2) of the Federal Crop Insur-
 11 ance Act (7 U.S.C. 1508(g)(2)).

12 (2) **AGRICULTURAL COMMODITY.**—The term
 13 “agricultural commodity” means each agricultural
 14 commodity specified in section 518 of the Federal
 15 Crop Insurance Act (7 U.S.C. 1518), excluding live-
 16 stock, that is insurable, as determined by the Cor-
 17 poration.

1 (3) APPLICABLE CROP.—The term “applicable
2 crop” means each of the 2001 through 2004 crops
3 of an agricultural commodity produced by a pro-
4 ducer.

5 (4) APPLICABLE YEAR.—The term “applicable
6 year” means the year in which—

7 (A) the applicable crop is produced on the
8 farm of a producer; and

9 (B) the producer elects to receive a risk
10 management payment under a risk manage-
11 ment contract.

12 (5) ASSIGNED YIELD.—The term “assigned
13 yield” means a yield assigned by the Corporation to
14 determine the production of a producer (including a
15 new producer and a producer that has not previously
16 purchased crop insurance for an agricultural com-
17 modity) that—

18 (A) is determined by the Corporation in
19 accordance with section 508(g)(2) of the Fed-
20 eral Crop Insurance Act (7 U.S.C. 1508(g)(2));
21 and

22 (B) is assigned to a producer if the pro-
23 ducer cannot establish an actual production his-
24 tory.

1 (6) CORPORATION.—The term “Corporation”
2 means the Federal Crop Insurance Corporation.

3 (7) PRICE LEVEL.—The term “price level”
4 means the price level for an agricultural commodity
5 on a yield and loss basis that is the average price
6 level established by the Corporation in accordance
7 with section 508(c)(5) of the Federal Crop Insur-
8 ance Act (7 U.S.C. 1508(c)(5)) for each of the 1997
9 through 1999 crops of the agricultural commodity,
10 as determined by the Corporation.

11 (8) PRINCIPAL AGRICULTURAL COMMODITY.—
12 The term “principal agricultural commodity” means
13 any commodity (including livestock and a commodity
14 that is not insurable under the Federal Crop Insur-
15 ance Act (7 U.S.C. 1501 et seq.)) produced on the
16 farm of a producer that comprises a significant per-
17 centage of the value of all commodities produced on
18 the farm, as determined by the Secretary.

19 (9) PRODUCER.—The term “producer” means a
20 person that is at risk in the production of an agri-
21 cultural commodity for which a risk management
22 payment under a risk management contract is
23 sought for an applicable year.

24 (10) REGULATED EXCHANGE.—The term “reg-
25 ulated exchange” means a board of trade (as defined

1 in section 1a of the Commodity Exchange Act (7
 2 U.S.C. 1a)) that is designated as a contract market
 3 under section 2(a)(1)(B) of that Act (7 U.S.C. 2a).

4 (11) RISK MANAGEMENT CONTRACT.—The term
 5 “risk management contract” means a contract en-
 6 tered into under section 102 for an applicable crop
 7 of an agricultural commodity of a producer.

8 (12) SECRETARY.—The term “Secretary”
 9 means the Secretary of Agriculture.

10 **SEC. 102. RISK MANAGEMENT CONTRACT.**

11 (a) OFFER AND CONSIDERATION.—

12 (1) OFFER.—The Secretary shall offer to enter
 13 into a risk management contract for the 2001
 14 through 2004 crops with each producer that is eligi-
 15 ble to obtain a plan of insurance under the Federal
 16 Crop Insurance Act (7 U.S.C. 1501 et seq.) for an
 17 agricultural commodity of a producer.

18 (2) TERMS.—

19 (A) RISK MANAGEMENT PAYMENT.—Under
 20 a risk management contract, for each agricul-
 21 tural commodity produced by a producer for an
 22 applicable crop, the Secretary shall pay the pro-
 23 ducer a risk management payment.

24 (B) BASIS FOR PAYMENT.—The amount of
 25 a risk management payment shall be based on

the actual production history of each agricultural commodity, as determined by the Corporation under subsection (c)(2).

(C) ELECTION OF PRODUCER.—A producer may, for the applicable year—

(i) obtain a risk management payment; or

(ii) have an equal amount credited by the Corporation to the premium owed by the producer for 1 or more plans of Federal crop insurance purchased for the applicable year.

(D) QUALIFYING RISK MANAGEMENT PRACTICES.—In exchange for the benefit offered under subparagraph (A), a producer shall use at least 2 qualifying risk management practices on the farm as provided in subsection (b).

(b) QUALIFYING RISK MANAGEMENT PRACTICES.—

To be eligible for a risk management payment under a risk management contract for an applicable crop, a producer shall obtain or use for the applicable crop at least 2 of the following qualifying risk management practices:

(1) CROP INSURANCE.—A producer may obtain Federal crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or private crop

insurance (such as hail coverage) for a principal agricultural commodity produced on the farm of the producer for the applicable crop, at a level of coverage that is at least equivalent to catastrophic risk protection.

(2) FUTURE OR OPTION.—A producer may enter into a future or option for a principal agricultural commodity produced on the farm of the producer for the applicable crop on a regulated exchange that is (as determined by the Secretary)—

(A)(i) in the case of a future, at least 1 regulated futures contract (as defined in section 1256(g) of the Internal Revenue Code of 1986); and

(ii) in the case of an option, at least 1 listed option (as defined in section 1256(g) of that Code); and

(B) a hedging transaction (as defined in section 1256(e)(2) of that Code) involving a principal agricultural commodity that is used to reduce production, price, or revenue risk.

(3) AGRICULTURAL TRADE OPTION.—A producer may purchase, on other than a regulated exchange, an agricultural trade option for the applicable crop of a principal agricultural commodity pro-

1 duced on the farm of the producer that (as deter-
2 mined by the Secretary)—

3 (A) provides coverage for at least 10 per-
4 cent of the estimated monetary value of the
5 principal agricultural commodity;

6 (B) is an equity option (as defined in sec-
7 tion 1256(g) of the Internal Revenue Code of
8 1986); and

9 (C) is a hedging transaction (as defined in
10 section 1256(e)(2) of that Code) involving a
11 principal agricultural commodity that is used to
12 reduce production, price, or revenue risk.

13 (4) CASH FORWARD OR OTHER MARKETING
14 CONTRACT.—A producer may enter into a cash for-
15 ward or other type of marketing contract for at least
16 20 percent of the monetary value of a principal agri-
17 cultural commodity produced on the farm of the pro-
18 ducer for the applicable crop, as determined by the
19 Secretary.

20 (5) TRUST.—A producer may make a deposit of
21 an amount equal to at least 25 percent of the risk
22 management payment of the producer for the appli-
23 cable year into a trust authorized by statute for eli-
24 gible farming businesses that may be established to
25 accept tax deductible contributions.

1 (6) AGRICULTURAL MARKETING AND RISK MAN-
 2 AGEMENT EDUCATION.—A producer may attend and
 3 complete in the applicable year an agricultural mar-
 4 keting or risk management class or seminar ap-
 5 proved by the Secretary, including a class or seminar
 6 conducted by a broker who is licensed by a regulated
 7 exchange.

8 (7) FINANCIAL RISK REDUCTION.—

9 (A) IN GENERAL.—A producer may use at
 10 least 50 percent of the risk management pay-
 11 ment of the producer for the applicable year to
 12 achieve, as determined by the Secretary—

13 (i) a reduction of farm financial debt
 14 in a manner that reduces farm business le-
 15 verage; or

16 (ii) an increase of farm business li-
 17 quidity.

18 (B) NOTICE AND COMMENT.—The applica-
 19 tion of the notice and comment provisions of
 20 section 553 of title 5, United States Code, to
 21 this paragraph shall not delay the implementa-
 22 tion of the other paragraphs of this subsection
 23 by the Secretary.

24 (8) DIVERSIFICATION.—

1 (A) IN GENERAL.—A producer may diver-
2 sify production on the farm of the producer by
3 producing at least 1 additional commodity on
4 the farm or by significantly increasing farm en-
5 terprise diversification in the applicable year, as
6 determined by the Secretary.

7 (B) NOTICE AND COMMENT.—The applica-
8 tion of the notice and comment provisions of
9 section 553 of title 5, United States Code, to
10 this paragraph shall not delay the implementa-
11 tion of the other paragraphs of this subsection
12 by the Secretary.

13 (c) DETERMINATION OF RISK MANAGEMENT PAY-
14 MENT.—

15 (1) AMOUNT AVAILABLE FOR EACH APPLICA-
16 BLE YEAR.—The Secretary shall, to the maximum
17 extent practicable, expend \$1,275,000,000 for each
18 of the 2001 through 2004 crops to satisfy the obli-
19 gations of the Secretary under all risk management
20 contracts.

21 (2) CALCULATION.—A risk management pay-
22 ment for an agricultural commodity produced on the
23 farm of a producer for an applicable crop shall be
24 equal to the product obtained by multiplying—

- 1 (A)(i) the actual production history of the
2 producer; or
3 (ii) if an actual production history is not
4 available, an assigned yield;
5 (B) the price level for the agricultural com-
6 modity; and
7 (C) subject to paragraph (1), a payment
8 rate determined by the Secretary.

9 **SEC. 103. ADMINISTRATIVE PROVISIONS.**

10 (a) CERTIFICATION.—

11 (1) IN GENERAL.—Not later than April 15 of
12 the year following an applicable year, a producer
13 shall submit to the Secretary a risk management
14 practices form that describes the qualifying risk
15 management practices that were obtained or used by
16 the producer during the applicable year.

17 (2) TIMING.—The Secretary may not require a
18 producer to submit the information described in
19 paragraph (1) prior to April 15 of the year following
20 the applicable year.

21 (3) CERTIFICATION OVER THE INTERNET.—
22 The Secretary shall, to the maximum extent prac-
23 ticable, facilitate the certification process required
24 under this paragraph by using the Internet.

1 (b) COMPLIANCE.—The Secretary may perform ran-
 2 dom audits of producers that obtain a risk management
 3 payment to ensure that the producers obtained or used
 4 the qualifying risk management practices described in the
 5 form.

6 (c) TIMING OF BENEFITS.—

7 (1) RISK MANAGEMENT PAYMENT.—

8 (A) IN GENERAL.—For each applicable
 9 crop, at the option of a producer that enters
 10 into a risk management contract, the Secretary
 11 shall pay the producer the full amount (or such
 12 portion as the producer may specify) of the risk
 13 management payment required to be paid for
 14 the applicable year at such time or times during
 15 that year as the producer may specify.

16 (B) LIMITATION.—The payment of a risk
 17 management payment (or portion of a risk
 18 management payment) under this paragraph
 19 shall not occur prior to—

20 (i) for the 2001 crop, October 1,
 21 2000;

22 (ii) for the 2002 crop, October 1,
 23 2001;

24 (iii) for the 2003 crop, October 1,
 25 2002; and

1 (iv) for the 2004 crop, October 1,
2 2003.

3 (2) CREDIT TO PREMIUM OWED.—For each ap-
4 plicable crop, a producer that elects to have an
5 amount equal to the risk management payment of
6 the producer credited by the Corporation to the pre-
7 mium owed for a plan of Federal crop insurance for
8 an applicable crop shall receive the benefit at the
9 time the premium is paid by the producer.

10 (d) VIOLATION OF RISK MANAGEMENT CONTRACT.—
11 If a producer has accepted a risk management payment
12 for an applicable year and the producer fails to comply
13 with subsection (a)(1) or section 102(b) with respect to
14 the applicable year, the producer shall refund to the Sec-
15 retary an amount equal to the risk management payment.

16 (e) ASSIGNMENT AND SHARING OF BENEFITS.—

17 (1) ASSIGNMENT OF BENEFITS.—Assignment of
18 a benefit provided under this title shall be subject to
19 section 8(g) of the Soil Conservation and Domestic
20 Allotment Act (16 U.S.C. 590h(g)).

21 (2) NOTICE.—The producer making the assign-
22 ment, or the assignee, shall provide the Secretary
23 with notice, in such manner as the Secretary may
24 require in a risk management contract, of any as-
25 signment.

1 (3) SHARING OF BENEFITS.—The Secretary
 2 shall provide for the sharing of benefits under this
 3 title among all producers that are at risk in the pro-
 4 duction of an applicable crop on a fair and equitable
 5 basis.

6 (f) USE OF COMMODITY CREDIT CORPORATION.—
 7 The Secretary shall carry out this title using the funds,
 8 facilities, and authorities of the Commodity Credit Cor-
 9 poration.

10 **SEC. 104. REPEAL; FUNDING.**

11 (a) REPEAL.—This title (other than this section) is
 12 repealed effective September 30, 2004.

13 (b) FUNDING.—Effective beginning September 30,
 14 2004, the Secretary may not use the funds of the Com-
 15 modity Credit Corporation, the Federal Crop Insurance
 16 Corporation, or funds under any provision of law to pro-
 17 vide risk management payments under this title or any
 18 other provision of law.

19 (c) EFFECT ON RISK MANAGEMENT PAYMENTS OR
 20 REDUCTIONS IN PREMIUM.—This section shall not affect
 21 any requirements imposed on the Secretary or a producer
 22 under this title (as in effect before September 30, 2004).

23 **SEC. 105. CROPS.**

24 This title shall apply to each applicable crop.

1 **TITLE II—CROP INSURANCE**

2 **SEC. 201. SANCTIONS FOR PROGRAM COMPLIANCE AND**
3 **FRAUD.**

4 (a) IN GENERAL.—Section 506 of the Federal Crop
5 Insurance Act (7 U.S.C. 1506) is amended by striking
6 subsection (n) and inserting the following:

7 “(n) SANCTIONS.—

8 “(1) FALSE INFORMATION.—A producer, agent,
9 loss adjuster, approved insurance provider, or other
10 person that willfully and intentionally provides any
11 false or inaccurate information to the Corporation or
12 to an approved insurance provider with respect to a
13 policy or plan of insurance under this title may,
14 after notice and an opportunity for a hearing on the
15 record, be subject to 1 or more of the sanctions de-
16 scribed in paragraph (3).

17 “(2) COMPLIANCE.—An agent, loss adjuster,
18 approved insurance provider, or other person that is
19 determined by the Corporation to have willfully and
20 intentionally failed to comply with a requirement of
21 the Corporation or the Standard Reinsurance Agree-
22 ment may, after notice and an opportunity for a
23 hearing on the record, be subject to 1 or more of the
24 sanctions described in paragraph (3).

1 “(3) AUTHORIZED SANCTIONS.—If the Sec-
 2 retary determines that a person covered by this sub-
 3 section has committed a material violation under
 4 paragraph (1) or (2), the following sanctions may be
 5 imposed:

6 “(A) CIVIL FINES.—A civil fine may be im-
 7 posed for each violation in an amount not to ex-
 8 ceed the greater of—

9 “(i) the amount of the pecuniary gain
 10 obtained as a result of the false or inac-
 11 curate information provided; or

12 “(ii) \$10,000.

13 “(B) PRODUCERS.—In the case of a viola-
 14 tion committed by a producer, the producer
 15 may be disqualified for a period of up to 5
 16 years from—

17 “(i) receiving any monetary or non-
 18 monetary benefit provided—

19 “(I) under this title;

20 “(II) the Agricultural Market
 21 Transition Act (7 U.S.C. 7201 et
 22 seq.), including the noninsured crop
 23 disaster assistance program under
 24 section 196 of that Act (7 U.S.C.
 25 7333);

1 “(III) the Agricultural Act of
2 1949 (7 U.S.C. 1421 et seq.);

3 “(IV) the Commodity Credit Cor-
4 poration Charter Act (15 U.S.C. 714
5 et seq.);

6 “(V) the Agricultural Adjustment
7 Act of 1938 (7 U.S.C. 1281 et seq.);

8 “(VI) title XII of the Food Secu-
9 rity Act of 1985 (16 U.S.C. 3801 et
10 seq.); or

11 “(VII) the Consolidated Farm
12 and Rural Development Act (7 U.S.C.
13 1921 et seq.); and

14 “(ii) receiving any monetary or non-
15 monetary benefit provided under any law
16 to assist a producer of an agricultural
17 commodity affected by a crop loss or a de-
18 cline in the prices of agricultural commod-
19 ities.

20 “(C) OTHER PERSONS.—In the case of a
21 violation committed by an agent, loss adjuster,
22 approved insurance provider, or other person
23 (other than a producer), the violator may be
24 disqualified for a period of up to 5 years from

1 participating in any program, or receiving any
 2 benefit, under this title.

3 “(4) ASSESSMENT OF SANCTION.—The Sec-
 4 retary shall consider the gravity of the violation of
 5 the person covered by this subsection in
 6 determining—

7 “(A) whether to impose a sanction under
 8 this subsection; and

9 “(B) the amount of the sanction to be im-
 10 posed.

11 “(5) DISCLOSURE OF SANCTIONS.—Each policy
 12 or plan of insurance under this title shall promi-
 13 nently indicate the sanctions prescribed under para-
 14 graph (3) for willfully and intentionally—

15 “(A) providing false or inaccurate informa-
 16 tion to the Corporation or to an approved insur-
 17 ance provider; or

18 “(B) failing to comply with a requirement
 19 of the Corporation or the Standard Reinsurance
 20 Agreement.

21 “(6) INSURANCE FUND.—Any funds collected
 22 under this subsection shall be deposited into the in-
 23 surance fund established under section 516(c).”.

24 (b) CONFORMING AMENDMENTS.—Section 516(c) of
 25 the Federal Crop Insurance Act (7 U.S.C. 1516(c)) is

1 amended by striking paragraph (1) and inserting the fol-
 2 lowing:

3 “(1) IN GENERAL.—There is established the In-
 4 surance Fund, which shall include (to remain avail-
 5 able without fiscal year limitation)—

6 “(A) premium income;

7 “(B) amounts made available under sub-
 8 section (a)(2); and

9 “(C) civil fines collected under section
 10 508(k)(3)(B)(i)(II).”.

11 **SEC. 202. OVERSIGHT OF LOSS ADJUSTMENT.**

12 Section 506(q) of the Federal Crop Insurance Act (7
 13 U.S.C. 1506(q)) is amended by adding at the end the fol-
 14 lowing:

15 “(3) OVERSIGHT OF LOSS ADJUSTMENT.—The
 16 Corporation shall—

17 “(A) develop procedures for an annual re-
 18 view by an approved insurance provider of the
 19 performance of each loss adjuster used by the
 20 approved insurance provider;

21 “(B) oversee the annual review conducted
 22 by each approved insurance provider; and

23 “(C) consult with each approved insurance
 24 provider regarding any remedial action that is

1 determined necessary as a result of the annual
2 review of a loss adjuster.

3 “(4) COMPLIANCE REPORTS.—Not later than
4 the end of each fiscal year, the Corporation shall
5 submit, to the Committee on Agriculture of the
6 House of Representatives, the Committee on Agri-
7 culture, Nutrition, and Forestry of the Senate, and
8 the Board, a report concerning compliance by ap-
9 proved insurance providers and loss adjusters with
10 this title, including any recommendations for legisla-
11 tive or administrative changes that could further im-
12 prove compliance.”.

13 **SEC. 203. REVENUE INSURANCE PILOT PROGRAM.**

14 Section 508(h)(9)(A) of the Federal Crop Insurance
15 Act (7 U.S.C. 1508(h)(9)(A)) is amended by striking
16 “crop years 1997, 1998, 1999, and 2000,” and inserting
17 “the 1999 through 2004 crops,”.

18 **SEC. 204. REDUCTION IN UNDERWRITING GAINS AND**
19 **LOSSES FROM CATASTROPHIC RISK PROTEC-**
20 **TION.**

21 Section 508(k) of the Federal Crop Insurance Act (7
22 U.S.C. 1508(k)) is amended by adding at the end the fol-
23 lowing:

24 “(8) REDUCTION IN UNDERWRITING GAINS AND
25 LOSSES FROM CATASTROPHIC RISK PROTECTION.—

1 Effective for each of the 2001 through 2004 reinsur-
 2 ance years, notwithstanding any other provision of
 3 law, the reinsurance agreements of the Corporation
 4 shall require that 50 percent of any premiums or
 5 losses for catastrophic risk protection policies under
 6 subsection (b) be included in the calculation of gains
 7 or losses of an approved insurance provider.”.

8 **SEC. 205. WHOLE FARM REVENUE INSURANCE PILOT PRO-**
 9 **GRAM.**

10 Section 508(m) of the Federal Crop Insurance Act
 11 (7 U.S.C. 1508(m)) is amended by adding at the end the
 12 following:

13 “(4) WHOLE FARM REVENUE INSURANCE PILOT
 14 PROGRAM.—

15 “(A) DEFINITION OF AGRICULTURAL EN-
 16 TERPRISES.—In this paragraph, the term ‘agri-
 17 cultural enterprises’ means the production and
 18 marketing of agricultural commodities and live-
 19 stock on a farm.

20 “(B) PURPOSE.—The purpose of this para-
 21 graph is to authorize the Corporation to con-
 22 duct a pilot program to—

23 “(i) determine whether whole farm
 24 revenue insurance is a good risk manage-

1 ment tool for agricultural enterprises on a
2 farm; and

3 “(ii) accumulate actuarial and rating
4 data necessary to establish permanent
5 whole farm revenue insurance coverage.

6 “(C) AUTHORITY.—The Corporation shall
7 conduct a pilot program under which a pro-
8 ducer of agricultural commodities or livestock
9 may obtain insurance that guarantees a level of
10 revenue for agricultural enterprises on the farm
11 of the producer.

12 “(D) REVENUE GUARANTEE.—The amount
13 of the revenue guarantee for agricultural enter-
14 prises on the farm of a producer for a taxable
15 year shall be equal to the product obtained by
16 multiplying—

17 “(i) the coverage level; by

18 “(ii) the lesser of—

19 “(I) the average adjusted gross
20 income for the previous 5 taxable
21 years, determined by taking into ac-
22 count only items of income, gain, de-
23 duction, or loss allocable to agricul-
24 tural enterprises on the farm, as de-
25 termined by the Corporation; or

1 “(II) the estimated revenue of
2 the producer that will be earned from
3 agricultural enterprises on the farm of
4 the producer for the applicable year,
5 as determined by the Corporation.

6 “(E) COVERAGE LEVELS.—A participating
7 producer may elect a coverage level under this
8 paragraph that is 65, 75, or 80 percent of the
9 average adjusted gross income of the producer,
10 as determined under subparagraph (D)(i).

11 “(F) COVERAGE; LIMITATIONS.—

12 “(i) IN GENERAL.—Only revenue
13 earned from agricultural enterprises on the
14 farm of a producer shall be guaranteed
15 under this paragraph at the coverage level
16 selected by the producer.

17 “(ii) ALL AGRICULTURAL COMMOD-
18 ITIES AND LIVESTOCK.—Revenue from all
19 agricultural enterprises involving agricul-
20 tural commodities and livestock produced
21 on the farm of a producer, including agri-
22 cultural commodities and livestock that
23 were not insurable on the date of enact-
24 ment of this paragraph, shall be guaran-
25 teed under this paragraph.

1 “(iii) PREMIUM LIMITATION.—

2 “(I) DEFINITION OF PREMIUM.—

3 In this clause, the term ‘premium’
 4 means the aggregate premium paid by
 5 all insured persons covered by the
 6 pilot program authorized under this
 7 paragraph for a reinsurance year, ex-
 8 cluding the part of the premium paid
 9 by the Corporation.

10 “(II) LIMITATION.—The total
 11 amount of premiums shall not
 12 exceed—

13 “(aa) \$10,000,000 for the
 14 2001 reinsurance year;

15 “(bb) \$15,000,000 for the
 16 2002 reinsurance year;

17 “(cc) \$25,000,000 for the
 18 2003 reinsurance year; and

19 “(dd) \$40,000,000 for the
 20 2004 reinsurance year.

21 “(iv) AREA LIMITATION.—

22 “(I) IN GENERAL.—The Corpora-
 23 tion shall limit the number of
 24 counties in which producers are eligi-

1 ble to participate in the pilot program
2 authorized under this paragraph.

3 “(II) STANDARDS.—In carrying
4 out subclause (I), the Corporation
5 shall ensure that—

6 “(aa) all regions of the
7 United States are covered; and

8 “(bb) sufficient actuarial
9 data can be obtained.

10 “(G) ADMINISTRATION.—In providing a
11 policy of whole farm revenue insurance to an in-
12 sured producer under this paragraph, the Cor-
13 poration shall—

14 “(i) offer the policy through reinsur-
15 ance agreements with private insurance
16 companies;

17 “(ii) ensure that the policy is actuari-
18 ally sound;

19 “(iii) require the insured producer to
20 pay premiums and administrative fees for
21 the policy in accordance with this section;
22 and

23 “(iv) pay a portion of the premium for
24 the policy in an amount that does not ex-
25 ceed the amount authorized under sub-

1 section (e), except that the portion of pre-
 2 mium paid for livestock shall be deter-
 3 mined by the Corporation.

4 “(H) REINSURANCE YEARS.—This para-
 5 graph shall apply to each of the 2001 through
 6 2004 reinsurance years.”.

7 **SEC. 206. PRODUCT INNOVATION AND RATE COMPETITION**
 8 **PILOT PROGRAM.**

9 Section 508(m) of the Federal Crop Insurance Act
 10 (7 U.S.C. 1508(m)) (as amended by section 205) is
 11 amended by adding at the end the following:

12 “(5) PRODUCT INNOVATION AND RATE COM-
 13 PETITION PILOT PROGRAM.—

14 “(A) PURPOSE.—The purpose of the pilot
 15 program established under this paragraph is to
 16 determine what incentives are necessary to en-
 17 courage approved insurance providers to—

18 “(i) develop and offer innovative risk
 19 management products to producers; and

20 “(ii) competitively rate premiums for
 21 the risk management products.

22 “(B) DEFINITIONS.—In this paragraph:

23 “(i) INITIATING APPROVED INSUR-
 24 ANCE PROVIDER.—The term ‘initiating ap-

proved insurance provider’ means an insurance provider that has—

“(I) been approved by the Corporation to deliver plans of insurance under this title; and

“(II) researched and developed a pilot product that has been proposed to, and approved by, the Board.

“(ii) PILOT PRODUCT.—The term ‘pilot product’ means a risk management product that has been researched and developed by an approved insurance provider and approved by the Board for—

“(I) loss of yield or revenue insurance coverage for 1 or more commodities (including commodities that are not insurable under this title as of the date of enactment of this paragraph, but excluding livestock);

“(II) rates of premium for the risk management product; and

“(III) associated underwriting systems for the risk management product.

“(C) APPROVED INSURANCE PROVIDERS.—

1 “(i) IN GENERAL.—Subject to clause
 2 (ii), the Corporation shall establish a pilot
 3 program under which only an insurance
 4 provider that has been approved by the
 5 Corporation to deliver plans of insurance
 6 under this title and the Standard Reinsur-
 7 ance Agreement may propose to the
 8 Board—

9 “(I) a pilot product;

10 “(II) rates of premium for the
 11 pilot product; and

12 “(III) associated underwriting
 13 systems for the pilot product.

14 “(ii) LACK OF PARTICIPATION BY
 15 PROVIDERS.—

16 “(I) IN GENERAL.—If (for any
 17 reinsurance year beginning 1 year or
 18 more after the date on which the Sec-
 19 retary promulgates rules to carry out
 20 this paragraph) at least 3 approved
 21 insurance providers have not obtained
 22 approval for a pilot product, the Cor-
 23 poration may approve any insurance
 24 provider that desires to participate in

1 the pilot program established under
2 this paragraph that—

3 “(aa) is licensed by an ap-
4 propriate State insurance author-
5 ity; and

6 “(bb) satisfies the financial
7 standards required of an ap-
8 proved insurance provider.

9 “(II) CONSIDERED APPROVED.—
10 An insurance provider that the Cor-
11 poration approves under subclause (I)
12 shall be considered to be an approved
13 insurance provider for the purposes of
14 this paragraph.

15 “(iii) MARKETING IN PILOT AREA.—
16 An approved insurance provider marketing
17 a pilot product under this paragraph shall
18 not be required to market the pilot product
19 in every county of a pilot area determined
20 under subparagraph (D).

21 “(D) PILOT AREA.—

22 “(i) DETERMINATION BY INITIATING
23 APPROVED INSURANCE PROVIDER.—Sub-
24 ject to clauses (ii) and (iii), an initiating
25 approved insurance provider marketing a

1 pilot product shall determine the size and
2 location of a pilot area.

3 “(ii) LIMITATION.—Subject to clause
4 (iii), the size of the area in which the pilot
5 program established under this paragraph
6 is conducted shall not exceed—

7 “(I) in the case of the initial year
8 of the pilot program, 10 counties in
9 each of 3 States; and

10 “(II) in the case of each subse-
11 quent year of the pilot program, 20
12 counties in each of 6 States.

13 “(iii) ADJUSTMENTS.—The Board
14 may increase the size of the pilot area to
15 the extent that the Board determines that
16 a larger pilot area is necessary to validate
17 the results of the pilot program.

18 “(E) RELATIONSHIP TO TITLE.—

19 “(i) IN GENERAL.—Each requirement
20 of this title shall apply to a pilot product
21 under this paragraph only to the extent
22 that the requirement does not conflict with
23 the requirements and purposes of this
24 paragraph, as determined by the Corpora-
25 tion.

1 “(ii) INAPPLICABLE REQUIRE-
 2 MENTS.—Requirements of this title that
 3 shall not apply to a pilot product include
 4 the requirements—

5 “(I) concerning actuarial sound-
 6 ness;

7 “(II) concerning levels of cov-
 8 erage;

9 “(III) concerning rates of pre-
 10 mium;

11 “(IV) that the price level for cov-
 12 erage for each insured commodity
 13 must equal the expected market price
 14 for the commodity as established by
 15 the Board; and

16 “(V) that an approved insurance
 17 provider shall provide coverage of the
 18 pilot product throughout a State for
 19 all commodities if the approved insur-
 20 ance provider elects to provide any
 21 coverage in the State.

22 “(F) REVIEW BY THE BOARD.—A proposal
 23 that applies to the type of insurance coverage,
 24 rates of premium for the pilot product, or asso-
 25 ciated underwriting systems for the pilot prod-

uct that are submitted to the Board shall be reviewed by the Board.

“(G) SUBMISSIONS BY PROVIDERS.—In accordance with standards established under subparagraph (I), an initiating approved insurance provider shall include in a proposal to the Board for a pilot product information on all issues described in subclauses (I) through (VII) of subparagraph (H)(i).

“(H) STANDARDS.—

“(i) IN GENERAL.—The Board shall approve a proposed pilot product for subsidy and reinsurance as provided in this paragraph if the Board finds that the proposal of the initiating approved insurance provider has adequately ensured that—

“(I) the interests of producers of commodities are adequately protected by the pilot product;

“(II) premiums charged to producers are actuarially appropriate;

“(III) the associated underwriting system of the proposed pilot product is appropriate and adequate;

1 “(IV) the proposed pilot product
2 is reinsured under this title or
3 through private reinsurance or is self-
4 insured;

5 “(V) the size and 1 or more loca-
6 tions of the pilot area are adequate;

7 “(VI) plans for quality assur-
8 ance, auditing, and regulatory compli-
9 ance are consistent with standard reg-
10 ulatory procedures of State depart-
11 ments of insurance and financial au-
12 diting procedures of publicly traded
13 companies; and

14 “(VII) insurance protection
15 against the risk covered by the pro-
16 posed pilot product is not generally
17 available from private plans of insur-
18 ance that are not covered by this title.

19 “(ii) RATES OF PREMIUM.—A pro-
20 posed rate of premium (including the part
21 of premium paid by the Corporation) shall
22 be considered adequate if the rate is suffi-
23 cient to cover projected losses and expenses
24 of the approved insurance provider, taking
25 into consideration expected loss payments,

1 expenses, capital allocations, and other ex-
 2 pense factors normally taken into account
 3 in insurance rating.

4 “(iii) PROPOSED UNDERWRITING
 5 PLANS.—A proposed underwriting plan for
 6 a pilot product may be on a class or indi-
 7 vidual farm basis, and shall at a minimum
 8 specify factors such as yield history for the
 9 farm or region, soils and resource quality
 10 for the farm, and farm production prac-
 11 tices.

12 “(iv) REINSURANCE.—

13 “(I) FEDERAL REINSURANCE.—
 14 Subject to subclause (III) and not-
 15 withstanding any other provision of
 16 this title, the Corporation shall, to the
 17 maximum extent practicable, make re-
 18 insurance available to an approved in-
 19 surance provider under this para-
 20 graph.

21 “(II) PRIVATE OR FEDERAL RE-
 22 INSURANCE.—An approved insurance
 23 provider may—

1 “(aa) apply private reinsur-
 2 ance to the pilot product of the
 3 approved insurance provider;

4 “(bb) obtain reinsurance for
 5 the pilot product under this title;
 6 or

7 “(cc) self-insure the pilot
 8 product.

9 “(III) ASSIGNMENT TO COMMER-
 10 CIAL FUND.—A contract for pilot
 11 products that receives reinsurance
 12 under this title shall be assigned to
 13 the commercial fund for proportional
 14 reinsurance as provided in the Stand-
 15 ard Reinsurance Agreement.

16 “(IV) ACTUARIALLY APPRO-
 17 PRIATE.—The Board shall prescribe
 18 standards for rating premiums that
 19 are actuarially appropriate considering
 20 the risk inherent in a pilot product.

21 “(I) STANDARDS FOR SUBMISSION AND
 22 REVIEW.—

23 “(i) REGULATIONS BY CORPORA-
 24 TION.—The Corporation shall promulgate
 25 regulations that establish standards for the

1 submission and Board review of proposed
 2 pilot products submitted to the Board
 3 under this paragraph regarding the issues
 4 described in subclauses (I) through (VII)
 5 of subparagraph (H)(i).

6 “(ii) DOCUMENTATION BY PRO-
 7 VIDERS.—The standards shall, at a min-
 8 imum, specify what information and docu-
 9 mentation shall be required of an initiating
 10 approved insurance provider regarding the
 11 issues described in subclauses (I) through
 12 (VII) of subparagraph (H)(i).

13 “(iii) PROCEDURE.—The standards
 14 established by the Corporation shall also
 15 include procedures to carry out the fol-
 16 lowing requirements:

17 “(I) PRESENTATION.—The
 18 Board shall provide an applicant the
 19 opportunity to present the proposed
 20 pilot product to the Board in person.

21 “(II) NOTIFICATION.—

22 “(aa) PERIOD FOR AP-
 23 PROVAL.—A proposed pilot prod-
 24 uct submitted to the Board shall
 25 be deemed to be approved unless

1 the Board disapproves the pro-
2 posed pilot product by the date
3 that is 60 business days after the
4 date of submission.

5 “(bb) NOTICE OF DIS-
6 APPROVAL.—Not later than 15
7 days prior to disapproving a pro-
8 posed pilot product submitted by
9 an applicant, the Board shall
10 provide the applicant with notifi-
11 cation of intent to disapprove the
12 proposed pilot product.

13 “(cc) RIGHT TO MODIFY.—
14 An applicant that receives a no-
15 tice of intent to disapprove the
16 proposed pilot product may mod-
17 ify the proposed pilot product of
18 the applicant.

19 “(dd) ORIGINAL APPLICA-
20 TION.—For purposes of this sub-
21 clause, any modification shall be
22 considered to be an original pro-
23 posed pilot product.

24 “(ee) NOTICE OF INTENT TO
25 MODIFY.—An applicant shall pro-

1 vide to the Board notice of intent
2 to modify the proposed pilot
3 product within 5 business days
4 after receiving the notification of
5 intent to disapprove the proposed
6 pilot product.

7 “(ff) TIMING.—In estab-
8 lishing standards under this sub-
9 clause, the Board shall prescribe
10 a time deadline for the submis-
11 sion of proposed pilot products
12 that approved insurance pro-
13 viders expect to market during
14 the next reinsurance year.

15 “(J) CONFIDENTIALITY.—

16 “(i) SUBMITTED PROPOSED PILOT
17 PRODUCTS.—Subject to clause (ii), a pro-
18 posed pilot product submitted to the Board
19 under this paragraph shall be considered
20 to be confidential commercial or financial
21 information for purposes of section
22 552(b)(4) of title 5, United States Code.

23 “(ii) APPROVED PROPOSED PILOT
24 PRODUCTS.—Subject to clause (iii), a gen-
25 eral summary of the content of the pilot

product shall be made available to other approved insurance providers at the time the proposed pilot product is approved by the Board, consisting of a description of—

“(I) the identity of the provider;

“(II) the coverage; and

“(III) the pilot area.

“(iii) REGULATIONS.—

“(I) IN GENERAL.—The Corporation shall by regulation prescribe the standard for confidentiality and the type of information contained in a proposed pilot product that shall not be available to other approved insurance providers.

“(II) STANDARD OF CONFIDENTIALITY.—If information concerning a pilot product of an approved insurance provider satisfies the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information under section 552(b)(4) of title 5, United States Code, the information shall not be released to the public.

1 “(K) MARKETING OF PILOT PRODUCTS.—

2 “(i) IN GENERAL.—On approval of a
3 pilot product by the Board, the pilot prod-
4 uct may be marketed to producers of com-
5 modities at actuarially appropriate rates.

6 “(ii) DELIVERY BY OTHER APPROVED
7 PROVIDERS.—

8 “(I) IN GENERAL.—An approved
9 insurance provider that desires to
10 market a pilot product of an initiating
11 approved insurance provider shall pay
12 a fee for the right to market the pilot
13 product if a fee is required by the ini-
14 tiating approved insurance provider.

15 “(II) TERMS OF FEE.—The initi-
16 ating approved insurance provider
17 may determine the amount of the fee
18 to be charged to, and all other terms
19 involving payment of the fee by, the
20 other approved insurance provider.

21 “(L) PAYMENT OF PART OF PREMIUM.—

22 “(i) DEFINITION OF GROSS PRE-
23 MIUM.—In this subparagraph, the term
24 ‘gross premium’ means an amount, as de-
25 termined by an approved insurance pro-

1 vider, of premium sufficient to cover pro-
2 jected indemnities and expenses of the ap-
3 proved insurance provider, taking into con-
4 sideration expected loss payments, ex-
5 penses, capital allocations, and other ex-
6 pense factors normally taken into account
7 in insurance rating.

8 “(ii) PERCENTAGE OF GROSS PRE-
9 MIUM PAID BY CORPORATION.—Subject to
10 clause (iii), the Corporation shall pay a
11 part of the gross premium for each eligible
12 contract for a pilot product that is equal
13 to—

14 “(I) 63.86 percent of the gross
15 premium for coverage equal to 50 per-
16 cent of the recorded or appraised av-
17 erage yield indemnified at 100 percent
18 or less of the expected market price,
19 or an equivalent coverage;

20 “(II) 56.69 percent of the gross
21 premium for coverage equal to 55 per-
22 cent of the recorded or appraised av-
23 erage yield indemnified at 100 percent
24 or less of the expected market price,
25 or an equivalent coverage;

1 “(III) 50.03 percent of the gross
2 premium for coverage equal to 60 per-
3 cent of the recorded or appraised av-
4 erage yield indemnified at 100 percent
5 or less of the expected market price,
6 or an equivalent coverage;

7 “(IV) 53.19 percent of the gross
8 premium for coverage equal to 65 per-
9 cent of the recorded or appraised av-
10 erage yield indemnified at 100 percent
11 or less of the expected market price,
12 or an equivalent coverage;

13 “(V) 45.28 percent of the gross
14 premium for coverage equal to 70 per-
15 cent of the recorded or appraised av-
16 erage yield indemnified at 100 percent
17 or less of the expected market price,
18 or an equivalent coverage;

19 “(VI) 38.55 percent of the gross
20 premium for coverage equal to 75 per-
21 cent of the recorded or appraised av-
22 erage yield indemnified at 100 percent
23 or less of the expected market price,
24 or an equivalent coverage;

1 “(VII) 33.61 percent of the gross
 2 premium for coverage equal to 80 per-
 3 cent of the recorded or appraised av-
 4 erage yield indemnified at 100 percent
 5 or less of the expected market price,
 6 or an equivalent coverage; and

7 “(VIII) 30.09 percent of the
 8 gross premium for coverage equal to
 9 85 percent of the recorded or ap-
 10 praised average yield indemnified at
 11 100 percent or less of the expected
 12 market price, or an equivalent cov-
 13 erage.

14 “(iii) MAXIMUM PERCENTAGE OF
 15 GROSS PREMIUM.—The part of the gross
 16 premium that the Corporation may pay for
 17 a pilot product shall not exceed—

18 “(I) in the case of coverage below
 19 65 percent of the recorded or ap-
 20 praised average yield indemnified at
 21 100 percent of the expected market
 22 price, or an equivalent coverage, but
 23 greater than 50 percent of the re-
 24 corded or appraised average yield in-
 25 demnified at 100 percent of the ex-

pected market price, or an equivalent coverage, the amount determined under subsection (e)(2)(B); or

“(II) in the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, on an individual or area basis, the amount determined under subsection (e)(2)(C).

“(iv) NOTICE.—The Corporation shall provide the insured producer with notice concerning the amount of the part of the premium paid under this subparagraph.

“(M) COMPLIANCE AND REGULATION.—

“(i) REGULATION OF FRAUD AND ABUSE.—In light of the continually changing nature of agricultural risk, the Corporation shall simplify, to the maximum extent practicable, the administration and regulation of the pilot program established under this paragraph, with an emphasis on—

1 “(I) the regulation of fraud and
2 abuse; and

3 “(II) the compliance of each ap-
4 proved insurance provider in mar-
5 keting pilot products.

6 “(ii) COSTS VERSUS BENEFITS.—The
7 Corporation shall consider and document
8 the likely costs and benefits of a compli-
9 ance or other regulatory requirement under
10 this paragraph prior to imposing the re-
11 quirement on an approved insurance pro-
12 vider or producer.

13 “(iii) DUPLICATE COVERAGE NOT AL-
14 LOWED.—A producer shall not be eligible
15 to purchase a contract for a pilot product
16 under this paragraph if the producer (in
17 the same reinsurance year for the same
18 commodity)—

19 “(I) has obtained coverage
20 through a plan of insurance author-
21 ized under subsections (b) or (c); or

22 “(II) is eligible for noninsured
23 crop disaster assistance under section
24 196 of the Agricultural Market Tran-
25 sition Act (7 U.S.C. 7333).

“(N) LIMITATION ON FUNDING.—The Corporation and the Board shall not use any appropriated funds, any funds from the insurance fund established under section 516, or any funds from the Commodity Credit Corporation, for the development of pilot products under this paragraph.

“(O) PREMIUM LIMITATION.—

“(i) DEFINITION OF PREMIUM.—In this subparagraph, the term ‘premium’ means the aggregate amount of gross premium (as defined in subparagraph (L)(i)) paid for all pilot products that is necessary to cover projected indemnities, as determined by the Corporation.

“(ii) LIMITATION.—The total amount of premium shall not exceed—

“(I) \$10,000,000 for the 2001 reinsurance year;

“(II) \$15,000,000 for the 2002 reinsurance year;

“(III) \$25,000,000 for the 2003 reinsurance year; and

“(IV) \$40,000,000 for the 2004 reinsurance year.

1 “(P) REINSURANCE YEARS.—This para-
 2 graph shall apply to each of the 2001 through
 3 2004 reinsurance years.”.

4 **SEC. 207. LIMITATION ON DOUBLE INSURANCE.**

5 Section 508(n) of the Federal Crop Insurance Act (7
 6 U.S.C. 1508(n)) is amended—

7 (1) by striking “If a producer” and inserting
 8 the following:

9 “(1) IN GENERAL.—If a producer”; and

10 (2) by adding at the end the following:

11 “(2) LIMITATION ON DOUBLE INSURANCE.—

12 The Corporation may offer plans of insurance or re-
 13 insurance for only 1 agricultural commodity pro-
 14 duced on specific acreage during a crop year,
 15 unless—

16 “(A) there is an established practice of
 17 double-cropping in an area, as determined by
 18 the Corporation;

19 “(B) the additional plan of insurance is of-
 20 fered with respect to an agricultural commodity
 21 that is customarily double-cropped in the area;
 22 and

23 “(C) the producer has a history of double
 24 cropping or the specific acreage has historically
 25 been double-cropped.”.

1 **TITLE III—REGULATIONS**

2 **SEC. 301. REGULATIONS.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), not later than 60 days after the date of enactment
5 of this Act, the Secretary of Agriculture shall promulgate
6 regulations to carry out this Act and the amendments
7 made by this Act.

8 (b) EXCEPTIONS.—Not later than 180 days after the
9 date of enactment of this Act, the Secretary shall promul-
10 gate regulations to carry out—

11 (1) paragraphs (7) and (8) of section 102(b);

12 and

13 (2) paragraphs (4) and (5) of section 508(m) of
14 the Federal Crop Insurance Act (7 U.S.C. 1508(m))
15 (as amended by sections 205 and 206).

○