

(Pub. L. 110-234, title VII, § 7525, May 22, 2008, 122 Stat. 1273; Pub. L. 110-246, § 4(a), title VII, § 7525, June 18, 2008, 122 Stat. 1664, 2035; Pub. L. 113-79, title VII, § 7515, Feb. 7, 2014, 128 Stat. 903; Pub. L. 115-334, title VII, § 7413, Dec. 20, 2018, 132 Stat. 4819.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 which comprises this subchapter.

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-334 substituted “2023” for “2018”.

2014—Subsec. (e). Pub. L. 113-79 amended subsec. (e) generally. Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of this title.

§ 5938. Repealed. Pub. L. 113-79, title VII, § 7518, Feb. 7, 2014, 128 Stat. 904

Section, Pub. L. 110-234, title VII, § 7529, May 22, 2008, 122 Stat. 1278; Pub. L. 110-246, § 4(a), title VII, § 7529, June 18, 2008, 122 Stat. 1664, 2040, related to agricultural and rural transportation research and education.

§ 5939. Foundation for Food and Agriculture Research

(a) Definitions

In this section:

(1) Board

The term “Board” means the Board of Directors described in subsection (e).

(2) Department

The term “Department” means the Department of Agriculture.

(3) Foundation

The term “Foundation” means the Foundation for Food and Agriculture Research established under subsection (b).

(4) Secretary

The term “Secretary” means the Secretary of Agriculture.

(b) Establishment

(1) In general

The Secretary shall establish a nonprofit corporation to be known as the “Foundation for Food and Agriculture Research”.

(2) Status

The Foundation shall not be an agency or instrumentality of the United States Government.

(c) Purposes

The purposes of the Foundation shall be—

(1) to advance the research mission of the Department by supporting agricultural research activities focused on addressing key problems of national and international significance including—

(A) plant health, production, and plant products;

(B) animal health, production, and products;

(C) food safety, nutrition, and health;

(D) renewable energy, natural resources, and the environment;

(E) agricultural and food security;

(F) agriculture systems and technology; and

(G) agriculture economics and rural communities; and

(2) to foster collaboration with agricultural researchers from the Federal Government, State (as defined in section 3103 of this title) governments, institutions of higher education (as defined in section 1001 of title 20), industry, and nonprofit organizations.

(d) Duties

(1) In general

The Foundation shall—

(A) award grants to, or enter into contracts, memoranda of understanding, or cooperative agreements with, scientists and entities, which may include agricultural research agencies in the Department, university consortia, public-private partnerships, institutions of higher education, nonprofit organizations, and industry, to efficiently and effectively advance the goals and priorities of the Foundation;

(B) in consultation with the Secretary—

(i) identify existing and proposed Federal intramural and extramural research and development programs relating to the purposes of the Foundation described in subsection (c); and

(ii) coordinate Foundation activities with those programs so as to minimize duplication of existing efforts and to avoid conflicts, specifically at the Department of Agriculture; and

(iii) document the consultation process and include a summary of the results in the annual report required in subsection (f)(3)(B)¹

(C) identify unmet and emerging agricultural research needs after reviewing the roadmap for agricultural research, education, and extension authorized by section 7614a of this title;

(D) facilitate technology transfer and release of information and data gathered from the activities of the Foundation to the agricultural research community and agriculture stakeholders;

¹ So in original. Probably should be followed by a period.

(E) promote and encourage the development of the next generation of agricultural research scientists; and

(F) carry out such other activities as the Board determines to be consistent with the purposes of the Foundation.

(2) Relationship to other activities

The activities described in paragraph (1) shall be supplemental to any other activities at the Department and shall not preempt any authority or responsibility of the Department under another provision of law.

(e) Board of Directors

(1) Establishment

The Foundation shall be governed by a Board of Directors.

(2) Composition

(A) In general

The Board shall be composed of appointed and ex-officio, nonvoting members.

(B) Ex-officio members

The ex-officio members of the Board shall be the following individuals or designees of such individuals:

- (i) The Secretary.
- (ii) The Under Secretary of Agriculture for Research, Education, and Economics.
- (iii) The Administrator of the Agricultural Research Service.
- (iv) The Director of the National Institute of Food and Agriculture.
- (v) The Director of the National Science Foundation.

(C) Appointed members

(i) In general

The ex-officio members of the Board (as specified in subparagraph (B)) shall, by majority vote, appoint to the Board 15 individuals, of whom—

- (I) 8 shall be selected from a list of candidates to be provided by the National Academy of Sciences; and
- (II) 7 shall be selected from lists of candidates provided by industry.

(ii) Requirements

(I) Expertise

The ex-officio members shall ensure that a majority of the appointed members of the Board have actual experience in agriculture or agricultural research and, to the extent practicable, represent diverse sectors of agriculture.

(II) Limitation

No employee of the Federal Government may serve as an appointed member of the Board under this subparagraph.

(III) Not Federal employment

Appointment to the Board under this subparagraph shall not constitute Federal employment.

(iii) Authority

All appointed members of the Board shall be voting members.

(D) Chair

The Board shall, from among the members of the Board, designate an individual to serve as Chair of the Board.

(3) Initial meeting

Not later than 60 days after February 7, 2014, the Secretary shall convene a meeting of the ex-officio members of the Board—

- (A) to incorporate the Foundation; and
- (B) to appoint the members of the Board in accordance with paragraph (2)(C)(i).

(4) Duties

(A) In general

The Board shall—

(i) establish bylaws for the Foundation that, at a minimum, include—

(I) policies for the selection of future Board members, officers, employees, agents, and contractors of the Foundation;

(II) policies, including ethical standards, for—

(aa) the acceptance, solicitation, and disposition of donations and grants to the Foundation; and

(bb) the disposition of assets of the Foundation, including appropriate limits on the ability of donors to designate, by stipulation or restriction, the use or recipient of donated funds;

(III) policies that would subject all employees, fellows, trainees, and other agents of the Foundation (including members of the Board) to conflict of interest standards in the same manner as Federal employees are subject to the conflict of interest standards under section 208 of title 18;

(IV) policies for writing, editing, printing, publishing, and vending of books and other materials;

(V) policies for the conduct of the general operations of the Foundation, including a cap on administrative expenses for recipients of a grant, contract, or cooperative agreement from the Foundation; and

(VI) specific duties for the Executive Director;

(ii) prioritize and provide overall direction for the activities of the Foundation;

(iii) evaluate the performance of the Executive Director;

(iv) actively solicit and accept funds, gifts, grants, devises, or bequests of real or personal property made to the Foundation, including from private entities; and

(v) carry out any other necessary activities regarding the Foundation.

(B) Establishment of bylaws

In establishing bylaws under subparagraph (A)(i), the Board shall ensure that the bylaws do not—

(i) reflect unfavorably on the ability of the Foundation to carry out the duties of the Foundation in a fair and objective manner; or

(ii) compromise, or appear to compromise, the integrity of any governmental agency or program, or any officer or employee employed by, or involved in, a governmental agency or program.

(5) Terms and vacancies**(A) Terms****(i) In general**

The term of each member of the Board appointed under paragraph (2)(C) shall be 5 years, except that of the members initially appointed, 8 of the members shall each be appointed for a term of 3 years and 7 of the members shall each be appointed for a term of 2 years.

(ii) Partial terms

If a member of the Board does not serve the full term applicable under clause (i), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(iii) Transition

A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

(B) Vacancies

After the initial appointment of the members of the Board under paragraph (2)(C), any vacancy in the membership of the Board shall be filled as provided in the bylaws established under paragraph (4)(A)(i).

(6) Compensation

Members of the Board may not receive compensation for service on the Board but may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

(7) Meetings and quorum

A majority of the members of the Board shall constitute a quorum for purposes of conducting the business of the Board.

(f) Administration**(1) Executive Director****(A) In general**

The Board shall hire an Executive Director who shall carry out such duties and responsibilities as the Board may prescribe.

(B) Service

The Executive Director shall serve at the pleasure of the Board.

(2) Administrative powers**(A) In general**

In carrying out this section, the Board, acting through the Executive Director, may—

(i) adopt, alter, and use a corporate seal, which shall be judicially noticed;

(ii) hire, promote, compensate, and discharge 1 or more officers, employees, and agents, as may be necessary, and define the duties of the officers, employees, and agents;

(iii) solicit and accept funds, gifts, grants, devises, or bequests of real or personal property made to the Foundation, including such support from private entities;

(iv) prescribe the manner in which—

(I) real or personal property of the Foundation is acquired, held, and transferred;

(II) general operations of the Foundation are to be conducted; and

(III) the privileges granted to the Board by law are exercised and enjoyed;

(v) with the consent of the applicable executive department or independent agency, use the information, services, and facilities of the department or agency in carrying out this section on a reimbursable basis;

(vi) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(vii) hold, administer, invest, and spend any funds, gifts, grant, devise, or bequest of real or personal property made to the Foundation;

(viii) enter into such contracts, leases, cooperative agreements, and other transactions as the Board considers appropriate to conduct the activities of the Foundation;

(ix) modify or consent to the modification of any contract or agreement to which the Foundation is a party or in which the Foundation has an interest;

(x) take such action as may be necessary to obtain and maintain patents for and to license inventions (as defined in section 201 of title 35) developed by the Foundation, employees of the Foundation, or derived from the collaborative efforts of the Foundation;

(xi) sue and be sued in the corporate name of the Foundation, and complain and defend in courts of competent jurisdiction;

(xii) appoint other groups of advisors as may be determined necessary to carry out the functions of the Foundation; and

(xiii) exercise such other incidental powers as are necessary to carry out the duties and functions of the Foundation in accordance with this section.

(B) Limitation

No appointed member of the Board or officer or employee of the Foundation or of any program established by the Foundation (other than ex-officio members of the Board) shall exercise administrative control over any Federal employee.

(3) Records**(A) Audits**

The Foundation shall—

(i) provide for annual audits of the financial condition of the Foundation; and

(ii) make the audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

(B) Reports**(i) Annual report on Foundation****(I) In general**

Not later than 5 months following the end of each fiscal year, the Foundation

shall publish and post online a report for the preceding fiscal year that includes—

- (aa) a description of Foundation activities, including accomplishments and how those activities align to the challenges identified in the strategic plan under clause (iv);
- (bb) a comprehensive statement of the operations and financial condition of the Foundation; and
- (cc) a description of available agricultural research programs and priorities for the upcoming fiscal year.

(II) Financial condition

Each report under subclause (I) shall include a description of all gifts, grants, devises, or bequests to the Foundation of real or personal property or money, which shall include—

- (aa) the source of the gifts, grants, devises, or bequests; and
- (bb) any restrictions on the purposes for which the gift, grant, devise, or bequest may be used.

(III) Availability

The Foundation shall—

- (aa) make copies of each report submitted under subclause (I) available for public inspection; and
- (bb) on request, provide a copy of the report to any individual.

(IV) Public meeting

The Board shall hold an annual public meeting to summarize the activities of the Foundation.

(ii) Grant reporting

Any recipient of a grant under subsection (d)(1)(A) shall provide the Foundation with a report at the conclusion of any research or studies conducted that describes the results of the research or studies, including any data generated.

(iii) Stakeholder notice

The Foundation shall publish an annual notice with a description of agricultural research priorities under this section for the upcoming fiscal year, including—

- (I) a schedule for funding competitions;
- (II) a discussion of how applications for funding will be evaluated; and
- (III) how the Foundation will communicate information about funded awards to the public to ensure that grantees and partners understand the objectives of the Foundation.

(iv) Strategic plan

Not later than 1 year after December 20, 2018, the Foundation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a strategic plan describing a path for the Foundation to become self-sustaining, including—

- (I) a forecast of major agricultural challenge opportunities identified by the scientific advisory councils of the Founda-

tion and approved by the Board, including short- and long-term objectives;

(II) an overview of the efforts that the Foundation will take to be transparent in each of the processes of the Foundation, including—

- (aa) processes relating to grant awards, including the selection, review, and notification processes;
- (bb) communication of past, current, and future research priorities; and
- (cc) plans to solicit and respond to public input on the opportunities identified in the strategic plan;

(III) a description of financial goals and benchmarks for the next 10 years, including a detailed plan for—

- (aa) raising funds in amounts greater than the amounts required under subsection (g)(1)(B);
- (bb) soliciting additional resources pursuant to subsections (e)(4)(A)(iv) and (f)(2)(A)(iii); and
- (cc) managing and leveraging such resources pursuant to subsection (f)(2)(A)(vii); and

(IV) other related issues, as determined by the Board.

(4) Integrity

(A) In general

To ensure integrity in the operations of the Foundation, the Board shall develop and enforce procedures relating to standards of conduct, financial disclosure statements, conflicts of interest (including recusal and waiver rules), audits, and any other matters determined appropriate by the Board.

(B) Financial conflicts of interest

Any individual who is an officer, employee, or member of the Board is prohibited from any participation in deliberations by the Foundation of a matter that would directly or predictably affect any financial interest of—

- (i) the individual;
- (ii) a relative (as defined in section 13101 of title 5) of that individual; or
- (iii) a business organization or other entity in which the individual has an interest, including an organization or other entity with which the individual is negotiating employment.

(5) Intellectual property

The Board shall adopt written standards to govern the ownership and licensing of any intellectual property rights derived from the collaborative efforts of the Foundation.

(6) Liability

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligations of the Foundation.

(g) Funds**(1) Funding****(A) In general****(i) Establishment funding**

On February 7, 2014, of the funds of the Commodity Credit Corporation, the Secretary shall transfer to the Foundation to carry out this section \$200,000,000, to remain available until expended under the conditions described in subparagraph (B).

(ii) Enhanced funding

On the date on which the strategic plan described in subsection (f)(3)(B)(iv) is submitted, of the funds of the Commodity Credit Corporation, the Secretary shall transfer to the Foundation to carry out this section \$185,000,000, to remain available until expended.

(B) Conditions on expenditure**(i) In general**

The Foundation may use the funds made available under subparagraph (A) to carry out the purposes, duties, and powers of the Foundation only to the extent that the Foundation secures an equal amount of matching funds from a non-Federal source, including an agricultural commodity promotion, research, and information program.

(ii) Effect

Nothing in this section requires the Foundation to require a matching contribution from an individual grantee as a condition of receiving a grant under this section.

(C) Prohibition on construction

None of the funds made available under subparagraph (A) may be used for construction.

(2) Separation of funds

The Executive Director shall ensure that any funds received under paragraph (1) are held in separate accounts from funds received from nongovernmental entities as described in subsection (f)(2)(A)(iii).

(Pub. L. 113–79, title VII, §7601, Feb. 7, 2014, 128 Stat. 904; Pub. L. 115–334, title VII, §7603, Dec. 20, 2018, 132 Stat. 4826; Pub. L. 117–286, §4(c)(18), Dec. 27, 2022, 136 Stat. 4356.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Agricultural Act of 2014, and not as part of subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 which comprises this subchapter.

AMENDMENTS

2022—Subsec. (f)(4)(B)(ii). Pub. L. 117–286 substituted “section 13101 of title 5)” for “section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.)”.

2018—Subsec. (d)(1)(B)(ii). Pub. L. 115–334, §7603(1)(A)(i), substituted “conflicts, specifically at the Department of Agriculture; and” for “conflicts;”.

Subsec. (d)(1)(B)(iii). Pub. L. 115–334, §7603(1)(A)(ii), added cl. (iii).

Subsec. (d)(1)(D). Pub. L. 115–334, §7603(1)(B), inserted “and agriculture stakeholders” after “community”.

Subsec. (e)(2)(C)(ii)(I). Pub. L. 115–334, §7603(2)(A), inserted “agriculture or” before “agricultural research”.

Subsec. (e)(4)(A)(iv), (v). Pub. L. 115–334, §7603(2)(B), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (f)(2)(A)(iii). Pub. L. 115–334, §7603(3)(A), struck out “any” before “funds.”.

Subsec. (f)(3)(B)(i)(I). Pub. L. 115–334, §7603(3)(B)(i)(I), inserted “and post online” before “a report” in introductory provisions.

Subsec. (f)(3)(B)(i)(I)(aa). Pub. L. 115–334, §7603(3)(B)(i)(II), substituted “accomplishments and how those activities align to the challenges identified in the strategic plan under clause (iv);” for “accomplishments; and”.

Subsec. (f)(3)(B)(i)(I)(cc). Pub. L. 115–334, §7603(3)(B)(i)(III), (IV), added item (cc).

Subsec. (f)(3)(B)(iii), (iv). Pub. L. 115–334, §7603(3)(B)(ii), added cls. (iii) and (iv).

Subsec. (g)(1). Pub. L. 115–334, §7603(4)(A), substituted “Funding” for “Mandatory funding” in heading.

Subsec. (g)(1)(A). Pub. L. 115–334, §7603(4)(B), designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

Subsec. (g)(1)(B). Pub. L. 115–334, §7603(4)(C), designated existing provisions as cl. (i), inserted heading, substituted “purposes, duties, and powers” for “purposes” and “matching funds from a non-Federal source, including an agricultural commodity promotion, research, and information program” for “non-Federal matching funds for each expenditure”, and added cl. (ii).

§ 5940. Repealed. Pub. L. 115–334, title VII, §7605(b), Dec. 20, 2018, 132 Stat. 4829; Pub. L. 116–159, div. A, §122, Oct. 1, 2020, 134 Stat. 714; Pub. L. 116–260, div. A, title VII, §782, Dec. 27, 2020, 134 Stat. 1230.

Section, Pub. L. 113–79, title VII, §7606, Feb. 7, 2014, 128 Stat. 912; Pub. L. 114–95, title IX, §9215(f), Dec. 10, 2015, 129 Stat. 2166; Pub. L. 115–334, title VII, §7605(a), Dec. 20, 2018, 132 Stat. 4828, related to legitimacy of industrial hemp research.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF REPEAL**

Pub. L. 115–334, title VII, §7605(b), Dec. 20, 2018, 132 Stat. 4829, as amended by Pub. L. 116–159, div. A, §122, Oct. 1, 2020, 134 Stat. 714; Pub. L. 116–260, div. A, title VII, §782, Dec. 27, 2020, 134 Stat. 1230, provided that: “Effective on January 1, 2022, section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) is repealed.”

§ 5941. Purchase of cultures for soil and fertilizer investigations

The Secretary of Agriculture may purchase from applicable appropriations cultures in the open market for use in connection with soil and fertilizer investigations.

(Sept. 21, 1944, ch. 412, title I, §104, 58 Stat. 735.)

Editorial Notes**CODIFICATION**

Section was formerly classified to section 432 of this title prior to editorial reclassification and renumbering as this section.

Section was enacted as part of the Department of Agriculture Organic Act of 1944, and not as part of subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 which comprises this subchapter.