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# ISSUE BRIEF

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## Significant—and Necessary—Farm Subsidy Reforms for the Next Farm Bill

*Daren Bakst*

Last week, the House Agriculture Committee released its draft farm bill.[1] The legislation does not reform the out-of-control farm-handout system as it should, and instead it makes it worse.[2] Ideally, several programs would be eliminated; any safety net should at most provide assistance to farmers when they have had crop losses connected to disasters.[3] This *Issue Brief* provides a list of some important and commonsense farm subsidy reforms that may fall short of the ideal, but make changes significant enough to move in the right direction.

### Significant Farm Subsidy Reforms—and One Critical Regulatory Reform

A reasonable level of reform would require removing the new provisions in the draft farm bill that make existing law worse, including the provision that could increase reference prices.[4] It would also require some combination of the following reforms:

**Capped Costs of Price Loss Coverage (PLC) and Agricultural Risk Coverage (ARC) Programs.** Taxpayers should not shoulder open-ended liability for these two programs. The House recognized this during the last farm bill debate. By an overwhelming bipartisan vote of 267 to 156,[5] the House passed an amendment to its farm bill that would have limited the cost of these two programs to 110 percent of the projected Congressional Budget Office (CBO) costs for the first five years of these programs.[6]

The cap was included in the final House farm bill that went to conference.[7] If this amendment introduced by Representative Virginia Foxx (R–NC) had not been removed in conference, taxpayers would have saved about $13 billion: The ARC and PLC programs are costing far more ($31 billion) than the CBO projected ($18 billion).[8]

**Reference Prices for PLC Program Based on Capped Five-Year Moving Average of Past Prices.** One of the most egregious aspects of the PLC program is the way it develops reference prices. By setting a fixed reference price in statute, the entire system can be gamed so that the program is not covering deep price declines (as allegedly was its purpose)[9] but to effectively guarantee payments. This type of scheme is not transparent and can easily be manipulated to help some commodities secure more subsidies than others, which distorts production decisions.

The House Agriculture Committee's draft bill maintains the existing reference prices (which were set at a time of record-high or near-record-high prices) and even allows them to increase if prices go up. As a result, many commodities have projected prices right now that are *already* well below the reference prices.[10] This is not protecting against losses (deep or shallow), but effectively guaranteeing payments from the outset.

To have a reasonable system that does not allow the system to be gamed, and allows it to be somewhat market-oriented, the reference price should not be fixed in statute, but should be calculated by taking 75 percent of the average commodity price

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over the previous five years, dropping the highest and lowest prices. To provide protection if prices go up, there should be a cap based on what have been "normal" prices for a specific commodity.[11]

**Reduced Premium Subsidy Rate for Crop Insurance from an Average 62 Percent to 50 Percent or Lower.** Taxpayers should not be paying more for the cost of premiums than the farmers who actually benefit from the crop insurance policies. The Government Accountability Office (GAO) has recommended reducing the premium subsidy and explained that "the [Obama] administration, CBO [which recommended a reduction to 40 percent], and other researchers say that a modest reduction in premium subsidies would have little impact on program participation."[12] The Trump Administration's fiscal year (FY) 2019 budget would reduce the premium subsidy rate from 62 percent to 48 percent.[13]

**Limited Premium Subsidy Level for Federal Crop Insurance Program.** There is no limit on the total subsidy provided to producers to help pay their crop insurance premiums. The GAO has recommended limiting premium subsidies for farmers to $40,000. Based on its analysis of 2011 data, the GAO found that such a limit would have affected less than 4 percent of those farmers participating in the federal crop insurance program.[14] This commonsense recommendation was included in President Trump's FY 2018 budget[15] and estimated to save about $16 billion over 10 years.[16] This reform is also included in the bipartisan Assisting Family Farmers through Insurance Reform Measures (AFFIRM) Act.[17]

**No More Supply Controls.** The federal government should not tell businesses how much of their goods and services they can sell. This is the very antithesis of a free market and, for that matter, economic freedom in general. These controls are also intentionally designed to drive up prices, hurting consumers, especially those at lower income levels. Fortunately, supply controls are no longer prevalent in agriculture, at least not like they were in the past.

Yet, some supply controls still remain. For example, the federal sugar program still maintains marketing allotments, which restrict how much sugar can be sold in the U.S.[18] Bipartisan legislation, the Sugar Policy Modernization Act, would eliminate marketing allotments.[19] There are also about 29 fruit and vegetable marketing orders,[20] which, among other things, authorize research and promotion of commodities, establish minimum quality standards, and sometimes limit supply through volume controls.[21] The good news is that these volume controls are not as prevalent as in the past, with only three marketing orders having active volume controls.[22]

**No More Protection Against Shallow Losses.** The current safety net does not even require deep losses but instead covers what are known as shallow losses (minor losses). Providing protection against shallow losses is very problematic not merely because it is unjustified, but also because it can encourage farmers to ignore market signals. In 2011, the American Farm Bureau Federation did an excellent job of outlining the numerous problems with shallow loss programs, including the moral hazard problem.[23] A properly focused safety net should protect against large or deep losses only. This means that programs such as ARC should at most provide a revenue guarantee that does not exceed 75 percent.[24] Further, taxpayers should not be subsidizing crop insurance coverage at levels beyond 75 percent; higher coverage levels in the crop insurance program could still be provided, but they should not be subsidized by taxpayers.

**End of "Double Dipping" by Requiring Eligible Agricultural Producers to Choose Between ARC/PLC and Federal Crop Insurance.** A small number of commodities receive most of the farm program support (94 percent of farm program support goes to six commodities representing just 28 percent of production).[25] These and other commodities also receive support from *multiple* programs, including ARC or PLC, *and* the federal crop insurance program. As a result, agricultural producers can receive taxpayer assistance from different programs to cover the same losses.

According to the Environmental Working Group, "for the 2014 and 2015 growing seasons, the ARC program paid out $10.4 billion and the PLC program paid out $2.7 billion. In the same years, the revenue-based crop insurance program paid out $10.7 billion for the same crops that received ARC and PLC payments."[26] This duplication or "double dipping" needs to be stopped.

Both Representative John Duncan (R–TN) and Senator Jeff Flake (R–AZ) have introduced much-needed commonsense legislation[27] that would address these very costly duplicative taxpayer handouts. Their legislation, requiring eligible producers to choose ARC/PLC *or* federal crop insurance, is projected to save more than $60 billion over 10 years.[28] Farmers who participate in these programs would still receive billions of dollars of assistance, and taxpayers would not be spending billions of wasted dollars to cover losses twice.[29]

**Properly Defined "Waters of the United States" Under the Clean Water Act**. There is arguably no regulatory issue hurting farmers and ranchers more than the Environmental Protection Agency and U.S. Army Corps of Engineers' overreach under the Clean Water Act, especially their definition of "waters of the United States" (WOTUS).

Congress needs to define "waters of the United States" and not delegate it to these agencies. Even if the Trump Administration develops the best possible WOTUS rule, a future Administration can always get rid of that rule. This next farm bill should use this unique opportunity to *properly*[30] define this term once and for all in order to create predictability for farmers and ranchers, to protect property rights, and to respect the role of the states under the Clean Water Act.

## Conclusion

The farm bill only comes around for a vote every five years or so. Congress should not waste this opportunity to reform farm subsidies. The significant reforms listed in this *Issue Brief* would still leave an overly generous safety net in place, but it would start the process of getting the federal government out of farm policy. Congress would start giving farmers and ranchers the freedom to compete like other businesses throughout the economy. Anything short of these reforms would be a disservice to farmers, taxpayers, and consumers.

*—**Daren Bakst** is Senior Research Fellow in Agricultural Policy in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, at The Heritage Foundation.*

# Endnotes

1 See, for example, House Agriculture Committee webpage on H.R. 2, Agriculture and Nutrition Act of 2018, https://agriculture.house.gov/farmbill/ (accessed April 16, 2018).

2 For example, the bill would make it possible for reference prices in the PLC program to go beyond what is fixed in statute and would also weaken existing limits on who can receive payments. For a good discussion of this payments issue, see Chris Campbell and Scott Faber, “House Bill Would Expand Farm Subsidy Loopholes for City Slickers,” *Ag Mag*, April 16, 2018, https://www.ewg.org/agmag/2018/04/house-bill-would-expand-farm-subsidy-loopholes-city-slickers#.WtT5bYWcG71 (accessed April 16, 2018), and “Release: End of Payment Limitations Would Pave Way for Further Farm Consolidation,” April 16, 2018, National Sustainable Agriculture Coalition blog, http://sustainableagriculture.net/blog/subsidy-caps-house-mark/ (accessed April 16, 2018).

3 For a more detailed analysis of farm subsidies and for the ideal reforms, see Daren Bakst et al., “Farms and Free Enterprise: A Blueprint for Agricultural Policy,” The Heritage Foundation, September 21, 2016, https://www.heritage.org/agriculture/report/farms-and-free-enterprise-blueprint-agricultural-policy (accessed April 16, 2018).

4 This paper includes a reform to reference prices that would address how reference prices are designed under the PLC program. As a result of this reform, the new problematic reference price provision in the draft farm bill would be addressed, among other benefits.

5 Final Vote Results for Roll Call 257, H. Amdt. 179 to H.R. 1947, 113th Congress (2013–2014), http://clerk.house.gov/evs/2013/roll257.xml (accessed April 16, 2018).

6 H. Amdt. 179 to H.R. 1947, 113th Congress (2013–2014), https://www.congress.gov/amendment/113th-congress/house-amendment/179 (accessed April 16, 2018).

7 H.R. 2642—Agriculture Act of 2014, Section 1107(e), Public Law No: 113-79, 113th Congress (2013–2014), https://www.congress.gov/bill/113th-congress/house-bill/2642/text/pcs?#toc-HBAB2FBFF283A4EBE92076846E9126B16 (accessed April 16, 2018).

8 The Heritage Foundation, *Solutions 2018: The Policy Briefing Book*, “Agriculture,” https://solutions.heritage.org/unleashing-americas-resources/agriculture/ (accessed April 16, 2018). A new baseline was just released; the projected costs for the first five years of the program are still about $31 billion. Congressional Budget Office, “USDA’s Mandatory Farm Programs—CBO’s April 2018 Baseline,” April 9, 2018, https://www.cbo.gov/sites/default/files/recurringdata/51317-2018-04-usda.pdf (accessed April 16, 2018).

9 See, for example, Chairman Frank D. Lucas, “Federal Agriculture Reform and Risk Management Act,” House Committee on Agriculture, https://agriculture.house.gov/sites/republicans.agriculture.house.gov/files/farm%20bill/2013_farrmsummary_0.pdf (accessed April 16, 2018), and Joe Outlaw, “General Overview of the Agricultural Act of 2014,” Texas A&M Agricultural and Food Policy Center, undated, https://afpc.tamu.edu/research/publications/647/new%20file.pdf (accessed April 16, 2018). It should be noted that the PLC program has never really been a deep loss program.

10 United States Department of Agriculture, “World Agricultural Supply and Demand Estimates,” April, 10, 2018, https://www.usda.gov/oce/commodity/wasde/latest.pdf (accessed April 16, 2018).

11 This might include the target prices in the 2008 farm bill.

12 See Government Accountability Office, “Crop Insurance: Savings Would Result from Program Changes and Greater Use of Data Mining,” March 2012, https://www.gao.gov/assets/590/589305.pdf (accessed April 16, 2018), and Government Accountability Office, “Crop Insurance: Considerations in Reducing Federal Premium Subsidies,” September 8, 2014, https://www.gao.gov/products/GAO-14-700 (accessed April 16, 2018), discussing premium subsidy data and focusing on recommendation to reduce premium subsidy for revenue policies.

13 U.S. Department of Agriculture, “FY 2019 Budget Summary,” February 16 2018, https://www.obpa.usda.gov/budsum/fy19budsum.pdf (accessed April 16, 2018).

14 Government Accountability Office, “Crop Insurance: Considerations in Reducing Federal Premium Subsidies.”

15 U.S. Department of Agriculture, “FY 2018 Budget Summary,” see, for example, p. 7 https://www.usda.gov/sites/default/files/documents/USDA-Budget-Summary-2018.pdf (accessed April 16, 2018).

16 U.S. Department of Agriculture, “2018 President’s Budget: Risk Management Agency,” p. 18, https://www.obpa.usda.gov/25rmaexnotes2018.pdf (accessed April 16, 2018).

17 H.R. 2332-AFFIRM Act, 115th Congress (2017–2018), https://www.congress.gov/bill/115th-congress/house-bill/2332/text?format=txt (accessed April 16, 2018), and S. 1025-AFFIRM Act, 115th Congress (2017–2018), https://www.congress.gov/bill/115th-congress/senate-bill/1025 (accessed April 16, 2018).

18 Mark A. McMinimy, “U.S. Sugar Program Fundamentals,” Congressional Research Service, April 6, 2016, https://fas.org/sgp/crs/misc/R43998.pdf (accessed April 16, 2018).

19 H.R. 4265—Sugar Policy Modernization Act of 2017, 115th Congress (2017-2018), https://www.congress.gov/bill/115th-congress/house-bill/4265 (accessed April 16, 2018), and S. 2086—Sugar Policy Modernization Act of 2017, 115th Congress (2017-2018), https://www.congress.gov/bill/115th-congress/senate-bill/2086 (accessed April 16, 2018).

20 U.S. Department of Agriculture Agricultural Marketing Service, “Commodities Covered by Marketing Orders,” https://www.ams.usda.gov/rules-regulations/moa/commodities (accessed April 16, 2018). The newest marketing order is for pecans: U.S. Department of Agriculture, “986 Pecans,” https://www.ams.usda.gov/rules-regulations/moa/986-pecans (accessed April 16, 2018).

21 See, for instance, the various marketing orders listed for the functions that they perform: U.S. Department of Agriculture Agricultural Marketing Service, "Commodities Covered by Marketing Orders." Also see the marketing order regulations, 7 Code of Federal Regulations § 900 et seq., Electronic Code of Federal Regulations, http://www.ecfr.gov/cgi-bin/text-idx? (accessed April 16, 2018).

22 Daren Bakst, "The Federal Government Should Stop Limiting the Sale of Certain Fruits and Vegetables," Heritage Foundation *Issue Brief* No. 4466, September 29, 2015, https://www.heritage.org/agriculture/report/the-federal-government-should-stop-limiting-the-sale-certain-fruits-and. Cranberries now have active volume controls since the cited paper was published: U.S. Department of Agriculture, "USDA Proposes Seasonal Volume Control for Cranberries during the 2017–18 Crop Year," January 2, 2018, https://www.ams.usda.gov/content/usda-proposes-seasonal-volume-control-cranberries-during-2017%E2%80%9318-crop-year (accessed April 16, 2018). The number of active volume controls was also confirmed via e-mail communication between the author and the USDA on April 3, 2018.

23 The American Farm Bureau Federation, letter to the House and Senate Agriculture Committees, October 17, 2011, http://farmpolicy.com/wp-content/uploads/2011/10/101711_FarmBureau_FarmBillShallowLoss.pdf (accessed April 16, 2018).

24 Once ARC gets to this more appropriate level, the program may have significant overlap with crop insurance. This is an argument to get rid of ARC altogether not to maintain inappropriate protection for shallow losses.

25 Randy Schnepf, "Farm Safety-Net payments Under the 2014 Farm Bill: Comparison by Program Crop," Congressional Research Service, August 11, 2017, https://fas.org/sgp/crs/misc/R44914.pdf (accessed April 16, 2018).

26 Anne Weit Schechinger and Craig Cox, "Double Dipping: How Taxpayers Subsidize Farers Twice for Crop Losses," Environmental Working Group, November 14, 2017, https://www.ewg.org/research/subsidy-layer-cake#.WsPfPOSWy70 (accessed April 16, 2018).

27 S. 2512—A Bill to Amend the Agricultural Act of 2014 to Require Producers to Elect to Receive Price Loss Coverage or Agriculture Risk Coverage Under that Act or Federal Crop Insurance Under the Federal Crop Insurance Act, 115th Congress (2017–2018), https://www.congress.gov/bill/115th-congress/senate-bill/2512 (accessed April 16, 2018). H.R. 5203—A Bill to Amend the Agricultural Act of 2014 to Require Producers to Elect to Receive Price Loss Coverage or Agriculture Risk Coverage Under that Act or Federal Crop Insurance Under the Federal Crop Insurance Act, 115th Congress (2017–2018), https://www.congress.gov/bill/115th-congress/house-bill/5203?q=%7B%22search%22%3A%5B%22duncan%22%5D%7D (accessed April 16, 2018).

28 News release, "Flake, Duncan Introduce Bill to End Crop Subsidy Double-Dipping, Save Taxpayers $60 Billion," U.S. Senator Jeff Flake, March 7, 2018, https://www.flake.senate.gov/public/index.cfm/2018/3/flake-duncan-introduce-bill-to-end-crop-subsidy-double-dipping-save-taxpayers-60-billion (accessed April 16, 2018).

29 For a good discussion of the legislation and the double dipping problem, see Vincent H. Smith and Eric J. Belasco, "Farm Subsidies Need Reform. Congress Can Start By Ending 'Double Dipping,'" American Enterprise Institute, March 8, 2018, http://www.aei.org/publication/farm-subsidies-need-reform-congress-can-start-by-ending-double-dipping/ (accessed April 16, 2018).

30 An in-depth analysis of how to define "waters of the United States" is beyond the scope of *this Issue Brief*. However, covered waters should at most include "interstate and navigable-in-fact waters" (interstate waters that are presently used, or are susceptible to use in their natural and ordinary condition, as a means to transport interstate or foreign commerce). They should also include tributaries to these "interstate and navigable-in-fact waters" and wetlands that have a "continuous surface water connection" with "interstate and traditional navigable waters" and their tributaries. There should also be express exclusions as to what are *not* covered waters, such as intermittent or ephemeral waters, subsurface waters, and man-made channels and ditches. Other possible options might certainly work so long as they are no broader than this definition. It is possible that a simple way to define "waters of the United States" is to develop a list of exclusions only, so long as it is sufficiently exhaustive.