

.....
(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R.

To amend the Agricultural Marketing Act of 1946 to establish a mandatory price reporting program for fertilizer, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a mandatory price reporting program for fertilizer, 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.**

4 This Act may be cited as the “Fertilizer Trans-
5 parency Act of 2026”.

1 **SEC. 2. FERTILIZER MANDATORY REPORTING.**

2 Subtitle A of the Agricultural Marketing Act of 1946
3 (7 U.S.C. 1621 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 210B. FERTILIZER MANDATORY REPORTING.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) AFFILIATE.—The term ‘affiliate’ means,
8 with respect to a manufacturer or wholesaler (ex-
9 cluding a cooperative), a person that directly or indi-
10 rectly owns, controls, or holds, with voting power,
11 not less than 5 percent of the outstanding voting se-
12 curities of the manufacturer or wholesaler (excluding
13 a cooperative).

14 “(2) COOPERATIVE.—

15 “(A) IN GENERAL.—The term ‘cooperative’
16 means—

17 “(i) an association of agricultural pro-
18 ducers acting pursuant to—

19 “(I) the Act entitled ‘An Act to
20 authorize association of producers of
21 agricultural products’ (commonly
22 known as the ‘Capper-Volstead Act’)
23 (7 U.S.C. 291 et seq.);

24 “(II) the Agricultural Adjust-
25 ment Act (7 U.S.C. 601 et seq.), reen-
26 acted with amendments by the Agri-

1 cultural Marketing Agreement Act of
2 1937; or

3 “(III) the Act of July 2, 1926
4 (commonly known as the ‘Cooperative
5 Marketing Act’) (7 U.S.C. 451 et
6 seq.);

7 “(ii) a farmers’ cooperative organiza-
8 tion described in subsection (b)(1) of sec-
9 tion 521 of the Internal Revenue Code of
10 1986 and exempt from taxation under sub-
11 section (a) of that section; and

12 “(iii) an association of agricultural
13 producers otherwise operating on a cooper-
14 ative basis for the benefit of its members.

15 “(B) INCLUSIONS.—The term ‘cooperative’
16 includes any entity not less than 25 percent of
17 which is owned by a cooperative, as defined in
18 subparagraph (A).

19 “(3) MARKETED.—The term ‘marketed’ means
20 the sale or other disposition in commerce of—

21 “(A) nitrogen, phosphorous, or potassium
22 for use as fertilizer; or

23 “(B) a fertilizer product.

1 “(4) RETAILER.—The term ‘retailer’ means a
2 person or entity that primarily sells fertilizer prod-
3 ucts at retail.

4 “(5) SECRETARY.—The term ‘Secretary’ means
5 the Secretary of Agriculture.

6 “(6) WHOLESALER.—The term ‘wholesaler’
7 means any person or entity, not including a coopera-
8 tive, engaged in the business of buying and selling
9 fertilizer or fertilizer products for resale or distribu-
10 tion.

11 “(b) ESTABLISHMENT.—The Secretary shall estab-
12 lish a program of fertilizer and fertilizer product price in-
13 formation reporting that will—

14 “(1) provide timely, accurate, and reliable mar-
15 ket information that can be readily understood by
16 farmers and market participants;

17 “(2) facilitate more informed marketing deci-
18 sions; and

19 “(3) promote competition in the fertilizer and
20 fertilizer products industry.

21 “(c) GENERAL REPORTING PROVISIONS APPLICABLE
22 TO MANUFACTURERS, WHOLESALERS, AND THE SEC-
23 RETARY.—Whenever the prices or quantities of fertilizer
24 or fertilizer products are required to be reported or pub-

1 lished under this section, the prices or quantities shall be
2 categorized so as to clearly delineate—

3 “(1) the prices or quantities, as applicable, of
4 the fertilizer or fertilizer product marketed in the
5 United States by a domestic manufacturer or whole-
6 saler or an affiliate of a domestic manufacturer or
7 wholesaler; and

8 “(2) the prices or quantities, as applicable, of
9 the fertilizer or fertilizer product marketed in the
10 United States by a foreign manufacturer or whole-
11 saler or an affiliate of a foreign manufacturer or
12 wholesaler.

13 “(d) WEEKLY REPORTING.—

14 “(1) NITROGEN, PHOSPHOROUS, AND POTAS-
15 SIUM.—The corporate officers or officially des-
16 igned representatives of each manufacturer or
17 wholesaler of nitrogen, phosphorous, or potassium
18 for use as fertilizer shall report to the Secretary at
19 least weekly—

20 “(A) the prices, as marketed, for nitrogen,
21 phosphorous, or potassium, as applicable; and

22 “(B) the quantities of nitrogen, phos-
23 phorous, or potassium, as applicable, manufac-
24 tured and marketed, as applicable.

1 “(2) FERTILIZER PRODUCTS.—The corporate
2 officers or officially designated representatives of
3 each manufacturer or wholesaler of a fertilizer prod-
4 uct shall report to the Secretary at least weekly—

5 “(A) the prices for the fertilizer product;
6 and

7 “(B) the quantity of the fertilizer product
8 manufactured or marketed, as applicable.

9 “(3) MANDATORY REPORTING EXEMPTION FOR
10 COOPERATIVES AND NON-MANUFACTURER RETAIL-
11 ERS; VOLUNTARY REPORTING.—The Secretary
12 shall—

13 “(A) exempt all cooperatives and retailers
14 (except for retailers that are also manufactur-
15 ers) from any mandatory price reporting under
16 this section; and

17 “(B) provide a mechanism for cooperatives
18 and retailers to voluntarily and confidentially
19 report the prices and quantities described in
20 subparagraphs (A) and (B) of paragraphs (1)
21 and (2)—

22 “(i) directly to the Secretary; or

23 “(ii) through the program established
24 under subsection (e).

1 “(4) PUBLICATION.—The Secretary shall make
2 the information reported to the Secretary under this
3 subsection available to the public—

4 “(A) not less frequently than weekly; and

5 “(B) in a manner that ensures the infor-
6 mation is published—

7 “(i) on a national basis; and

8 “(ii) on a regional or statewide basis,
9 as the Secretary determines to be appro-
10 prium.

11 “(5) COMPETITIVE EFFECTS ANALYSIS.—The
12 Secretary may conduct a competitive effects analysis
13 of the information reported to the Secretary under
14 this subsection.

15 “(e) FERTILIZER RETAIL SURVEY.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish a program within Market News of the Agricul-
18 tural Marketing Service—

19 “(A) to conduct not less frequently than
20 weekly surveys of retail fertilizer prices;

21 “(B) to obtain commercially available esti-
22 mates of the retail prices described in subpara-
23 graph (A); and

1 “(C) to provide State or regional estimates
2 or benchmarks and formulas to allow estimation
3 of local prices.

4 “(2) MAINTENANCE OF EXISTING ACTIVI-
5 TIES.—The program established under paragraph
6 (1) shall supplement, and not supplant, existing
7 input price collection activities of the Secretary.

8 “(f) SUMMARY OF DATA.—

9 “(1) IN GENERAL.—The Secretary shall, di-
10 rectly or through 1 or more cooperative agreements
11 with 1 or more affiliated agricultural research pro-
12 grams, not less frequently than weekly summarize
13 and make available on a dashboard or other resource
14 easily accessible to farmers and market partici-
15 pants—

16 “(A) the information reported to the Sec-
17 retary under subsection (d); and

18 “(B) the retail survey prices and commer-
19 cially available estimates obtained under sub-
20 section (e).

21 “(2) PROTECTION OF CONFIDENTIALITY.—In
22 carrying out paragraph (1), the Secretary shall ag-
23 gregate the information and data in a manner that
24 prevents confidential business information and the

1 identity of persons, including parties to a contract,
2 from being disclosed publicly.

3 “(3) DISCLOSURE BY FEDERAL GOVERNMENT
4 EMPLOYEES.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), no officer, employee, or agent of the
7 United States shall, without the consent of the
8 manufacturer, wholesaler, or other person con-
9 cerned, divulge or make known in any manner
10 any facts or information regarding the business
11 of the manufacturer, wholesaler, or other per-
12 son that was acquired through reporting re-
13 quired under subsection (d).

14 “(B) EXCEPTION.—Information obtained
15 by the Secretary under subsection (d) may be
16 disclosed—

17 “(i) to agents or employees of the De-
18 partment of Agriculture in the course of
19 their official duties under this subtitle;

20 “(ii) as directed by the Secretary or
21 the Attorney General, for enforcement pur-
22 poses; or

23 “(iii) by a court of competent jurisdic-
24 tion.

1 “(C) DISCLOSURE UNDER FREEDOM OF
2 INFORMATION ACT.—Notwithstanding any other
3 provision of law, no facts or information ob-
4 tained under this subtitle shall be disclosed in
5 accordance with section 552 of title 5, United
6 States Code.

7 “(g) REVIEW.—Not less frequently than once every
8 2 years, the Secretary shall review the information re-
9 quired to be reported to the Secretary by manufacturers
10 and wholesalers under this section.

11 “(h) OUTDATED INFORMATION.—If the Secretary de-
12 termines under a review under subsection (g) that infor-
13 mation required to be reported under this section no
14 longer accurately reflects the methods by which nitrogen,
15 phosphorous, and potassium for use as fertilizer or fer-
16 tilizer products are valued and priced by manufacturers
17 and wholesalers, the Secretary shall, after public notice
18 and an opportunity for comment, promulgate regulations
19 to specify additional information that shall be reported
20 under this section.

21 “(i) APPLICATION OF ANTITRUST LAWS.—

22 “(1) IN GENERAL.—Nothing in this section
23 modifies, impairs, or supersedes the operation of any
24 of the antitrust laws.

1 “(2) DEFINITION OF ANTITRUST LAWS.—In
2 this subsection, the term ‘antitrust laws’—

3 “(A) has the meaning given the term in
4 subsection (a) of the first section of the Clayton
5 Act (15 U.S.C. 12); and

6 “(B) includes section 5 of the Federal
7 Trade Commission Act (15 U.S.C. 45) to the
8 extent that such section applies to unfair meth-
9 ods of competition.”.