

118TH CONGRESS
1ST SESSION

S. 2698

To require the Secretary of Agriculture to carry out a program to provide payments to producers experiencing certain crop losses as a result of a disaster.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mrs. FEINSTEIN (for herself and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To require the Secretary of Agriculture to carry out a program to provide payments to producers experiencing certain crop losses as a result of a disaster.

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 “Agricultural Emer-
5 gency Relief Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **AVERAGE ADJUSTED GROSS FARM IN-**
9 **COME.**—The term “average adjusted gross farm in-

1 come”, with respect to a producer, means the por-
2 tion of the average adjusted gross income of the pro-
3 ducer that is derived from farming, ranching, or for-
4 estry operations.

5 (2) AVERAGE ADJUSTED GROSS INCOME.—The
6 term “average adjusted gross income”, with respect
7 to a producer, means the adjusted gross income (as
8 defined in section 62 of the Internal Revenue Code
9 of 1986) of the producer, as averaged over the 3
10 taxable years preceding the most recently completed
11 taxable year.

12 (3) DISASTER.—

13 (A) IN GENERAL.—The term “disaster” in-
14 cludes—

15 (i) a drought;

16 (ii) a wildfire;

17 (iii) a hurricane;

18 (iv) a flood;

19 (v) a derecho;

20 (vi) excessive heat;

21 (vii) excessive moisture;

22 (viii) a winter storm; and

23 (ix) a freeze event (including a polar
24 vortex).

1 (B) DETERMINATION OF DROUGHT.—For
 2 purposes of subparagraph (A)(i), a county shall
 3 be considered to have experienced a drought if
 4 any area within the county was rated by the
 5 U.S. Drought Monitor as experiencing—

6 (i) a D2-level drought (commonly
 7 known as “severe drought”) for 8 or more
 8 consecutive weeks; or

9 (ii) a D3-level drought (commonly
 10 known as “extreme drought”), or a higher
 11 level of drought intensity, during the appli-
 12 cable calendar year.

13 (4) FEDERAL CROP INSURANCE.—The term
 14 “Federal Crop Insurance” means any crop insurance
 15 program under the Federal Crop Insurance Act (7
 16 U.S.C. 1501 et seq.).

17 (5) NONINSURED CROP DISASTER ASSISTANCE
 18 PROGRAM.—The term “Noninsured Crop Disaster
 19 Assistance Program” means the program under sec-
 20 tion 196 of the Federal Agriculture Improvement
 21 and Reform Act of 1996 (7 U.S.C. 7333).

22 (6) PRODUCER.—

23 (A) IN GENERAL.—The term “producer”
 24 means an individual or entity that is eligible to
 25 receive assistance under a disaster assistance

1 program administered by the Farm Service
2 Agency.

3 (B) EXCLUSIONS.—The term “producer”
4 does not include—

5 (i) a joint venture; or

6 (ii) a general partnership.

7 (7) QUALIFIED LOSS.—

8 (A) IN GENERAL.—The term “qualified
9 loss” means a loss in a crop, trees, bushes, or
10 vines incurred by a producer as a consequence
11 of a disaster.

12 (B) INCLUSIONS.—The term “qualified
13 loss” includes—

14 (i) a loss incurred by a producer as a
15 result of being prevented from planting a
16 crop due to a disaster;

17 (ii) a loss in the quality of a crop,
18 trees, bushes, or vines due to a disaster;

19 and

20 (iii) a loss in the quality of a crop (in-
21 cluding wine grapes), trees, bushes, or
22 vines due to smoke exposure from a wild-
23 fire.

24 (8) SECRETARY.—The term “Secretary” means
25 the Secretary of Agriculture.

1 **SEC. 3. EMERGENCY RELIEF PROGRAM.**

2 (a) ESTABLISHMENT.—The Secretary shall establish
3 a program under which the Secretary shall provide pay-
4 ments during each crop year to producers that experienced
5 a qualified loss during the crop year.

6 (b) APPLICATION.—

7 (1) IN GENERAL.—To be eligible to receive a
8 payment under this section for a crop year, a pro-
9 ducer shall submit to the Secretary an application,
10 at such time, in such manner, and containing such
11 information as the Secretary may require, including
12 a description of each qualified loss incurred by the
13 producer during the crop year.

14 (2) APPROVAL.—The Secretary shall approve
15 an application submitted by a producer under para-
16 graph (1) if the application demonstrates to the sat-
17 isfaction of the Secretary that the producer has in-
18 curred a qualified loss during the applicable crop
19 year.

20 (c) PROVISION OF PAYMENTS.—

21 (1) IN GENERAL.—The Secretary shall provide
22 to each producer the application of whom is ap-
23 proved under subsection (b)(2) a payment for the
24 applicable crop year, in accordance with subsection
25 (d).

1 (2) REQUIREMENT TO PURCHASE INSUR-
2 ANCE.—As a condition of receiving a payment under
3 this section, a producer shall purchase, for each of
4 the 2 succeeding crop years—

5 (A) Federal Crop Insurance, if available;

6 or

7 (B) if Federal Crop Insurance is not avail-
8 able, coverage under the Noninsured Crop Dis-
9 aster Assistance Program.

10 (d) AMOUNT OF PAYMENTS.—

11 (1) IN GENERAL.—Subject to subsection (e),
12 the amount of a payment provided to a producer
13 under subsection (c)(1) shall be determined in ac-
14 cordance with—

15 (A) to the maximum extent practicable, a
16 calculation based on data relating to the pro-
17 ducer for the applicable crop year that were
18 previously submitted or known to the Secretary,
19 including—

20 (i) any indemnity of the producer
21 under Federal Crop Insurance or payment
22 received by the producer under the Non-
23 insured Crop Disaster Assistance Program;

24 (ii) the level of coverage of the pro-
25 ducer under—

- 1 (I) Federal Crop Insurance; or
2 (II) the Noninsured Crop Dis-
3 aster Assistance Program; and
4 (iii) an appropriate percentage factor,
5 to be established by the Secretary, subject
6 to the condition that the factor shall be not
7 more than 90 percent; or

8 (B) for a producer that did not purchase
9 coverage under Federal Crop Insurance or the
10 Noninsured Crop Disaster Assistance Program,
11 a calculation based on the revenue of the pro-
12 ducer for the applicable crop year, as described
13 in paragraph (2).

14 (2) REVENUE-BASED CALCULATION.—

15 (A) DEFINITIONS.—In this paragraph:

16 (i) ALLOWABLE GROSS REVENUE.—
17 The term “allowable gross revenue”, with
18 respect to a producer, means the reported
19 revenue of the operations of the producer
20 during a crop year, including from—

- 21 (I) sales of eligible crops, as iden-
22 tified by the Secretary; or
23 (II) sales resulting from value
24 added in post-production activities.

1 (ii) BENCHMARK YEAR.—The term
2 “benchmark year” means a crop year in
3 which a producer did not experience a
4 qualified loss.

5 (iii) DISASTER YEAR.—The term “dis-
6 aster year” means a crop year in which a
7 producer experiences a qualified loss.

8 (B) FACTORS FOR CONSIDERATION.—Sub-
9 ject to subparagraph (C), the revenue-based cal-
10 culation referred to in paragraph (1)(B) shall
11 take into account—

12 (i) the allowable gross revenue of the
13 applicable producer during a benchmark
14 year;

15 (ii) the allowable gross revenue of the
16 applicable producer during the disaster
17 year for which the payment is provided
18 under this section;

19 (iii) the percentage of the allowable
20 gross revenue described in clause (ii) de-
21 rived from sales of specialty crops and
22 high-value crops; and

23 (iv) an appropriate percentage factor,
24 to be established by the Secretary, subject

1 to the condition that the factor shall be not
2 more than 70 percent.

3 (C) VERTICAL INTEGRATION FOR PRO-
4 DUCERS OF WINE GRAPES.—For a producer of
5 wine grapes that uses not less than 75 percent
6 of the grapes to produce wine at a facility
7 owned by the producer, a payment provided
8 under this section shall be calculated based on
9 the market rate for wine grapes at the time of
10 calculation, in lieu of the revenue of the pro-
11 ducer.

12 (e) LIMITATIONS.—For each crop year—

13 (1) a producer the average adjusted gross farm
14 income of whom is less than 75 percent may receive
15 payments under this section in an amount equal to
16 not more than—

17 (A) \$125,000 for the specialty crops and
18 high-value crops of the producer, as determined
19 by the Secretary; and

20 (B) \$125,000 for the crops of the producer
21 not described in subparagraph (A);

22 (2) a producer the average adjusted gross farm
23 income of whom is 75 percent or more may receive
24 payments under this section in an amount equal to
25 not more than—

1 (A) \$900,000 for the specialty crops and
2 high-value crops of the producer, as determined
3 by the Secretary; and

4 (B) \$250,000 for the crops of the producer
5 not described in subparagraph (A); and

6 (3) the total amount of all payments provided
7 to a producer under this section shall be not more
8 than, as applicable—

9 (A) an amount equal to 90 percent of the
10 qualified losses of the producer during the crop
11 year, including any assistance provided under—

12 (i) Federal Crop Insurance; or

13 (ii) the Noninsured Crop Disaster As-
14 sistance Program; or

15 (B) an amount equal to 70 percent of the
16 qualified losses of the producer during the crop
17 year, if the producer did not—

18 (i) obtain a policy or plan of insurance
19 under Federal Crop Insurance for the
20 crops, trees, bushes, or vines incurring the
21 qualified losses; or

22 (ii) file any required paperwork or pay
23 any service fee under the Noninsured Crop
24 Disaster Assistance Program by the appli-
25 cable State filing deadline for a noninsur-

1 able commodity incurring the qualified
2 losses.

3 (f) **TIMING.**—The Secretary shall administer the pro-
4 gram under this section simultaneously for—

5 (1) producers submitting applications using in-
6 demnity-based calculations, as described in sub-
7 section (d)(1)(A); and

8 (2) producers submitting applications using rev-
9 enue-based calculations, as described in subsection
10 (d)(1)(B).

11 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) **IN GENERAL.**—There are authorized to be appro-
13 priated to the Secretary such sums as are necessary to
14 carry out this Act for each of fiscal years 2023 through
15 2028.

16 (b) **ADMINISTRATIVE COSTS.**—Of the amounts made
17 available under subsection (a) for each fiscal year, the Sec-
18 retary may use not more than 1 percent to pay the admin-
19 istrative costs of the Secretary.

○