118TH CONGRESS
1ST SESSION

S. ______

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

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

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-

income”, with respect to a producer, means the portion of the average adjusted gross income of the producer that is derived from farming, ranching, or forestry operations.

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

(3) DISASTER.—

(A) IN GENERAL.—The term “disaster” includes—

(i) a drought;
(ii) a wildfire;
(iii) a hurricane;
(iv) a flood;
(v) a derecho;
(vi) excessive heat;
(vii) excessive moisture;
(viii) a winter storm; and
(ix) a freeze event (including a polar vortex).
(B) Determination of Drought.—For purposes of subparagraph (A)(i), a county shall be considered to have experienced a drought if any area within the county was rated by the U.S. Drought Monitor as experiencing—

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

(ii) a D3-level drought (commonly known as “extreme drought”), or a higher level of drought intensity, during the applicable calendar year.


(5) Noninsured Crop Disaster Assistance Program.—The term “Noninsured Crop Disaster Assistance Program” means the program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(6) Producer.—

(A) In General.—The term “producer” means an individual or entity that is eligible to receive assistance under a disaster assistance
program administered by the Farm Service Agency.

(B) Exclusions.—The term “producer” does not include—

(i) a joint venture; or

(ii) a general partnership.

(7) Qualified Loss.—

(A) In General.—The term “qualified loss” means a loss in a crop, trees, bushes, or vines incurred by a producer as a consequence of a disaster.

(B) Inclusions.—The term “qualified loss” includes—

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

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

(iii) a loss in the quality of a crop (including wine grapes), trees, bushes, or vines due to smoke exposure from a wildfire.

(8) Secretary.—The term “Secretary” means the Secretary of Agriculture.
SEC. 3. EMERGENCY RELIEF PROGRAM.

(a) Establishment.—The Secretary shall establish a program under which the Secretary shall provide payments during each crop year to producers that experienced a qualified loss during the crop year.

(b) Application.—

(1) In general.—To be eligible to receive a payment under this section for a crop year, a producer shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including a description of each qualified loss incurred by the producer during the crop year.

(2) Approval.—The Secretary shall approve an application submitted by a producer under paragraph (1) if the application demonstrates to the satisfaction of the Secretary that the producer has incurred a qualified loss during the applicable crop year.

(c) Provision of Payments.—

(1) In general.—The Secretary shall provide to each producer the application of whom is approved under subsection (b)(2) a payment for the applicable crop year, in accordance with subsection (d).
(2) Requirement to purchase insurance.—As a condition of receiving a payment under this section, a producer shall purchase, for each of the 2 succeeding crop years—

(A) Federal Crop Insurance, if available; or

(B) if Federal Crop Insurance is not available, coverage under the Noninsured Crop Disaster Assistance Program.

(d) Amount of Payments.—

(1) In general.—Subject to subsection (e), the amount of a payment provided to a producer under subsection (c)(1) shall be determined in accordance with—

(A) to the maximum extent practicable, a calculation based on data relating to the producer for the applicable crop year that were previously submitted or known to the Secretary, including—

(i) any indemnity of the producer under Federal Crop Insurance or payment received by the producer under the Noninsured Crop Disaster Assistance Program;

(ii) the level of coverage of the producer under—
(I) Federal Crop Insurance; or

(II) the Noninsured Crop Disaster Assistance Program; and

(iii) an appropriate percentage factor, to be established by the Secretary, subject to the condition that the factor shall be not more than 90 percent; or

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

(2) REVENUE-BASED CALCULATION.—

(A) DEFINITIONS.—In this paragraph:

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

(I) sales of eligible crops, as identified by the Secretary; or

(II) sales resulting from value added in post-production activities.
(ii) Benchmark year.—The term “benchmark year” means a crop year in which a producer did not experience a qualified loss.

(iii) Disaster year.—The term “disaster year” means a crop year in which a producer experiences a qualified loss.

(B) Factors for consideration.—Subject to subparagraph (C), the revenue-based calculation referred to in paragraph (1)(B) shall take into account—

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

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

(iii) the percentage of the allowable gross revenue described in clause (ii) derived from sales of specialty crops and high-value crops; and

(iv) an appropriate percentage factor, to be established by the Secretary, subject
to the condition that the factor shall be not more than 70 percent.

(C) Vertical integration for producers of wine grapes.—For a producer of wine grapes that uses not less than 75 percent of the grapes to produce wine at a facility owned by the producer, a payment provided under this section shall be calculated based on the market rate for wine grapes at the time of calculation, in lieu of the revenue of the producer.

(e) Limitations.—For each crop year—

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

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

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

(2) a producer the average adjusted gross farm income of whom is 75 percent or more may receive payments under this section in an amount equal to not more than—
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(A) $900,000 for the specialty crops and
high-value crops of the producer, as determined
by the Secretary; and

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

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

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

(i) Federal Crop Insurance; or

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

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

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

(ii) file any required paperwork or pay
any service fee under the Noninsured Crop
Disaster Assistance Program by the appli-
cable State filing deadline for a noninsur-
able commodity incurring the qualified losses.

(f) TIMING.—The Secretary shall administer the program under this section simultaneously for—

(1) producers submitting applications using indemnity-based calculations, as described in subsection (d)(1)(A); and

(2) producers submitting applications using revenue-based calculations, as described in subsection (d)(1)(B).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act for each of fiscal years 2023 through 2028.

(b) ADMINISTRATIVE COSTS.—Of the amounts made available under subsection (a) for each fiscal year, the Secretary may use not more than 1 percent to pay the administrative costs of the Secretary.