

# Union Calendar No. 89

117TH CONGRESS  
1ST SESSION

# H. R. 267

[Report No. 117-124]

To extend the wildfire and hurricane indemnity program to cover certain crop losses in calendar year 2020, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2021

Mr. THOMPSON of California (for himself, Mr. PANETTA, Ms. LEE of California, Mr. DEFazio, and Mr. NEWHOUSE) introduced the following bill; which was referred to the Committee on Agriculture

SEPTEMBER 20, 2021

Additional sponsors: Mr. CARBAJAL, Mr. HARDER of California, Mrs. AXNE, Mr. GARAMENDI, Mr. COSTA, Mr. ARRINGTON, Mr. HIGGINS of Louisiana, Mr. CUELLAR, Ms. BONAMICI, Ms. SCHRIER, Ms. ESHOO, Mr. HUFFMAN, Mr. FEENSTRA, Ms. DELBENE, Mr. BLUMENAUER, Mrs. HINSON, Mr. DANNY K. DAVIS of Illinois, Mr. O'HALLERAN, Mr. SCHRAMMER, Mr. DESAULNIER, Mr. FITZPATRICK, Ms. SEWELL, Mr. BOST, Mrs. BUSTOS, Mr. ROGERS of Alabama, Mr. ADERHOLT, Mrs. MILLER-MEEKS, Mr. VALADAO, Mr. MOORE of Utah, Mrs. RODGERS of Washington, Mr. LAHOOD, Mr. RODNEY DAVIS of Illinois, Mr. COLE, Mr. MOORE of Alabama, Mr. PALAZZO, Mr. KILMER, Mr. RUSH, Mr. ROUZER, Ms. SPANBERGER, Ms. SALAZAR, Mr. VICENTE GONZALEZ of Texas, Mr. AMODEI, Mr. KELLY of Mississippi, Ms. CRAIG, Mr. CARL, Mrs. HAYES, Mr. JOHNSON of South Dakota, Mr. BERA, Mrs. NAPOLITANO, Mr. LOWENTHAL, Mr. WESTERMAN, Ms. STRICKLAND, Mr. OWENS, Ms. LOFGREN, Mr. SWALWELL, Mr. LAMALFA, and Ms. BROWNLEY

SEPTEMBER 20, 2021

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on January 11, 2021]

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## **A BILL**

To extend the wildfire and hurricane indemnity program  
to cover certain crop losses in calendar year 2020, 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 “2020 WHIP+ Reauthor-*  
5 *ization Act”.*

6 **SEC. 2. DISASTER INDEMNITY PROGRAM.**

7        *(a) IN GENERAL.—Except as otherwise provided in*  
8 *this section, with respect to the coverage period, the Sec-*  
9 *retary shall carry out—*

10            *(1) a disaster indemnity program in the same*  
11 *manner as the WHIP+ program is carried out under*  
12 *subpart O of part 760 of title 7, Code of Federal Reg-*  
13 *ulations (as in effect on the date of the enactment of*  
14 *this section);*

15            *(2) an on-farm storage loss program in the same*  
16 *manner as the program carried out under subpart P*  
17 *of part 760 of title 7, Code of Federal Regulations (as*  
18 *in effect on the date of the enactment of this section);*  
19 *and*

20            *(3) a milk loss program in the same manner as*  
21 *the program carried out under subpart Q of part 760*  
22 *of title 7, Code of Federal Regulations (as in effect on*  
23 *the date of the enactment of this section).*

24        *(b) COVERED LOSSES.—In carrying out the programs*  
25 *under this section, the Secretary shall make payments to*

1 *producers in accordance with subsection (c) for qualified*  
2 *losses of covered crops, including milk, that occurred during*  
3 *the coverage period.*

4 *(c) PAYMENTS.—*

5 *(1) IN GENERAL.—Payments to producers for*  
6 *qualified losses of covered crops, including milk,*  
7 *under the programs under this section shall be ad-*  
8 *ministered, except as provided in paragraph (2), in*  
9 *the same manner as payments under the relevant pro-*  
10 *grams in subsection (a).*

11 *(2) EXCEPTIONS.—*

12 *(A) DIRECT PAYMENTS REQUIRED.—The*  
13 *Secretary shall make payments under the pro-*  
14 *grams under paragraphs (1), (2), and (3) of sub-*  
15 *section (a) as direct payments to producers or*  
16 *processors, at the election of the processor.*

17 *(B) SPECIAL RULE FOR UNHARVESTED*  
18 *ACRES.—The Secretary shall make payments*  
19 *under this section with respect to qualified losses*  
20 *of unharvested acres of a covered crop in the*  
21 *same manner as payments are made with respect*  
22 *to eligible crop losses under the noninsured crop*  
23 *assistance program under section 196 of the Fed-*  
24 *eral Agriculture Improvement and Reform Act of*  
25 *1996 (7 U.S.C. 7333).*

1 (C) *PAYMENT LIMITATIONS.*—

2 (i) *IN GENERAL.*—*Except as provided*  
3 *in clauses (ii), (iii), (iv), and (v), the Sec-*  
4 *retary shall impose payment limitations*  
5 *consistent with section 760.1507 of title 7,*  
6 *Code of Federal Regulations (as in effect on*  
7 *the date of the enactment of this section).*

8 (ii) *EXCEPTION FOR SPECIALTY CROPS*  
9 *OR HIGH VALUE CROPS.*—*In the case of spe-*  
10 *cialty crops or high value crops, as deter-*  
11 *mined by the Secretary, the Secretary shall*  
12 *impose payment limitations consistent with*  
13 *section 760.1507(a)(2) of title 7, Code of*  
14 *Federal Regulations (as in effect on Janu-*  
15 *ary 1, 2019).*

16 (iii) *TAX YEAR BASIS.*—*In applying*  
17 *the payment limitations under this sub-*  
18 *paragraph, the Secretary shall determine a*  
19 *person or legal entity's average adjusted*  
20 *gross income and average adjusted gross*  
21 *farm income based on the 2017, 2018, and*  
22 *2019 tax years.*

23 (iv) *ANNUAL RENEWAL.*—*With respect*  
24 *to the payment limitations described under*  
25 *this subparagraph, the Secretary shall*

1           *apply separate payment limits for each of*  
2           *the years under the covered period.*

3           (v) *ENTITY RULES.*—*With respect to*  
4           *payments to a corporation, limited liability*  
5           *company, limited partnership, trust, or es-*  
6           *tate under this section, the Secretary*  
7           *shall—*

8                   (i) *determine average adjusted*  
9                   *gross income and average adjusted*  
10                  *gross farm income in accordance with*  
11                  *clause (iii); and*

12                  (ii) *apply rules in the same man-*  
13                  *ner as subsections (d) and (e) of section*  
14                  *9.7 of title 7, Code of Federal Regula-*  
15                  *tions.*

16           (D) *NET INDEMNITIES.*—*In calculating*  
17           *payments under the programs under paragraphs*  
18           *(1), (2), and (3) of subsection (a), the Secretary*  
19           *shall net out crop insurance indemnities, less*  
20           *any insurance premiums paid by the producer.*

21           (E) *PAYMENTS TO SUGAR AND DAIRY PROC-*  
22           *ESSORS.*—

23                   (i) *IN GENERAL.*—*At the election of a*  
24                   *processor eligible for a loan under section*  
25                   *156 of the Federal Agriculture Improvement*

1           *and Reform Act of 1996 (7 U.S.C. 7272) or*  
2           *a cooperative processor of dairy, in lieu of*  
3           *payments to producers provided under a*  
4           *program described in subsection (a), the*  
5           *Secretary shall make payments to a proc-*  
6           *essor to be paid to producer members, as de-*  
7           *termined by such processors under the same*  
8           *terms and conditions as payments made to*  
9           *processors pursuant to section 791(c) of title*  
10          *VII of division B of the Further Consoli-*  
11          *dated Appropriations Act, 2020 (Public*  
12          *Law 116–94).*

13           *(ii) NON-ELECTION.—Notwithstanding*  
14          *section 760.1503(j) of title 7 of the Code of*  
15          *Federal Regulations, in the event that a*  
16          *processor described in clause (i) does not*  
17          *elect to receive payments under such clause,*  
18          *the Secretary shall make direct payments to*  
19          *producers under a program described in*  
20          *subsection (a).*

21           *(F) BLOCK GRANTS.—The Secretary may*  
22          *provide payments in the form of block grants to*  
23          *States and processors described in subparagraph*  
24          *(E).*

25          *(d) AUTHORIZATION OF APPROPRIATIONS.—*

1           (1) *IN GENERAL.*—*There is authorized to be ap-*  
2           *propriated to carry out this section \$8,500,000,000.*

3           (2) *ADMINISTRATION.*—*The Secretary may use*  
4           *not more than 1 percent of the funds appropriated*  
5           *pursuant to paragraph (1) to carry out the following:*

6                   (A) *Streamlining the application process.*

7                   (B) *Utilizing information technology to en-*  
8                   *able the electronic transfer of data used in such*  
9                   *application process between the Risk Manage-*  
10                  *ment Agency and the Farm Service Agency.*

11                  (C) *Activities that with respect to county of-*  
12                  *fice employees, reduce the workload of such em-*  
13                  *ployees in carrying out this section.*

14                  (D) *To the maximum extent practicable,*  
15                  *providing the necessary information to, and as-*  
16                  *sisting crop insurance agents with, providing*  
17                  *application information on behalf of insured*  
18                  *producers.*

19           (e) *EXEMPTION.*—*Notwithstanding the Federal Fund-*  
20           *ing Accountability and Transparency Act of 2006 (Public*  
21           *Law 109–282; 31 U.S.C. 6101 note), the requirements of*  
22           *parts 25 and 170 of title 2, Code of Federal Regulations*  
23           *(or successor regulations), shall not apply with respect to*  
24           *assistance received under this section.*

25           (f) *DEFINITIONS.*—*In this section:*



1           (1) *COVERAGE PERIOD.*—*In this section, the*  
2 *term “coverage period” means, with respect to a cov-*  
3 *ered crop, including milk, and a qualifying disaster*  
4 *event described in paragraph (6)(A)(i), calendar*  
5 *years 2020 and 2021.*

6           (2) *COVERED CROP.*—*The term “covered crop”*  
7 *means a crop, tree, bush, or vine described in section*  
8 *760.1503 of title 7, Code of Federal Regulations (as*  
9 *in effect on the date of the enactment of this section),*  
10 *including wine grapes, which shall include all insured*  
11 *acreage (regardless of whether such acreage is the ini-*  
12 *tial acreage or not).*

13           (3) *MILK LOSS PROGRAM.*—*The term “milk loss*  
14 *program” means the milk loss program under subpart*  
15 *Q of part 760 of title 7, Code of Federal Regulations*  
16 *(as in effect on the date of the enactment of this sec-*  
17 *tion).*

18           (4) *ON-FARM STORAGE LOSS PROGRAM.*—*The*  
19 *term “on-farm storage loss program” means the on-*  
20 *farm storage loss program under subpart P of part*  
21 *760 of title 7, Code of Federal Regulations (as in ef-*  
22 *fect on the date of the enactment of this section)*

23           (5) *STATE.*—*In this section, the term “State”*  
24 *has the meaning given the term in section 1111(20)*  
25 *of the Agricultural Act of 2014.*

1           (6) *QUALIFIED LOSS*.—*The term “qualified*  
2 *loss”*—

3           (A) *with respect to a covered crop not de-*  
4 *scribed in subparagraph (B), the loss of such*  
5 *crop during the coverage period*—

6           (i) *due to a qualifying disaster event*  
7 *described in the definition of “qualifying*  
8 *disaster event” in section 760.1802 of title*  
9 *7, Code of Federal Regulations (as in effect*  
10 *on the date of the enactment of this section);*

11           (ii) *due to high winds, derechos, exces-*  
12 *sive heat, or freeze (including a polar vor-*  
13 *tex);*

14           (iii) *due to a drought in*—

15           (I) *a county the Secretary des-*  
16 *ignated for drought; or*

17           (II) *a county contiguous to a*  
18 *county described in subclause (I); or*

19           (iv) *due to other disruptions (including*  
20 *power outages or curtailments) that are as-*  
21 *sociated with the effects of a qualified dis-*  
22 *aster event under this section; and*

23           (B) *with respect to smoke tainted wine*  
24 *grapes, the loss (including a quality loss) of such*

1           *crop during the coverage period due to wildfire,*  
2           *as determined by the Secretary.*

3           (7) *SECRETARY.*—*The term “Secretary” means*  
4           *the Secretary of Agriculture.*

5           (8) *WHIP+ PROGRAM.*—*The term “WHIP+ pro-*  
6           *gram” means the WHIP+ program under subpart O*  
7           *of part 760 of title 7, Code of Federal Regulations (as*  
8           *in effect on the date of the enactment of this section).*

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