

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6233

To make supplemental agricultural disaster assistance available for fiscal year 2012 with the costs of such assistance offset by changes to certain conservation programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2012

Mr. LUCAS introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To make supplemental agricultural disaster assistance available for fiscal year 2012 with the costs of such assistance offset by changes to certain conservation programs, 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 “Agricultural Disaster  
5       Assistance Act of 2012”.

6       **SEC. 2. SUPPLEMENTAL AGRICULTURAL DISASTER ASSIST-**  
7                                       **ANCE.**

8       (a) **DEFINITIONS.**—In this section:

1 (1) ELIGIBLE PRODUCER ON A FARM.—

2 (A) IN GENERAL.—The term “eligible pro-  
3 ducer on a farm” means an individual or entity  
4 described in subparagraph (B) that, as deter-  
5 mined by the Secretary, assumes the production  
6 and market risks associated with the agricul-  
7 tural production of crops or livestock.

8 (B) DESCRIPTION.—An individual or enti-  
9 ty referred to in subparagraph (A) is—

- 10 (i) a citizen of the United States;  
11 (ii) a resident alien;  
12 (iii) a partnership of citizens of the  
13 United States; or  
14 (iv) a corporation, limited liability cor-  
15 poration, or other farm organizational  
16 structure organized under State law.

17 (2) FARM-RAISED FISH.—The term “farm-  
18 raised fish” means any aquatic species that is propa-  
19 gated and reared in a controlled environment.

20 (3) LIVESTOCK.—The term “livestock” in-  
21 cludes—

- 22 (A) cattle (including dairy cattle);  
23 (B) bison;  
24 (C) poultry;  
25 (D) sheep;

- 1 (E) swine;
- 2 (F) horses; and
- 3 (G) other livestock, as determined by the
- 4 Secretary.

5 (4) SECRETARY.—The term “Secretary” means

6 the Secretary of Agriculture.

7 (b) LIVESTOCK INDEMNITY PAYMENTS.—

8 (1) PAYMENTS.—For fiscal year 2012, the Sec-

9 retary shall use such sums as are necessary of the

10 funds of the Commodity Credit Corporation to make

11 livestock indemnity payments to eligible producers

12 on farms that have incurred livestock death losses in

13 excess of the normal mortality, as determined by the

14 Secretary, due to—

15 (A) attacks by animals reintroduced into

16 the wild by the Federal Government or pro-

17 tected by Federal law, including wolves and

18 avian predators; or

19 (B) adverse weather, as determined by the

20 Secretary, during the calendar year, including

21 losses due to hurricanes, floods, blizzards, dis-

22 ease, wildfires, extreme heat, and extreme cold.

23 (2) PAYMENT RATES.—Indemnity payments to

24 an eligible producer on a farm under paragraph (1)

25 shall be made at a rate of 75 percent of the market

1 value of the applicable livestock on the day before  
2 the date of death of the livestock, as determined by  
3 the Secretary.

4 (3) SPECIAL RULE FOR PAYMENTS MADE DUE  
5 TO DISEASE.—The Secretary shall ensure that pay-  
6 ments made to an eligible producer under paragraph  
7 (1) are not made for the same livestock losses for  
8 which compensation is provided pursuant to section  
9 10407(d) of the Animal Health Protection Act (7  
10 U.S.C. 8306(d)).

11 (c) LIVESTOCK FORAGE DISASTER PROGRAM.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) COVERED LIVESTOCK.—

14 (i) IN GENERAL.—Except as provided  
15 in clause (ii), the term “covered livestock”  
16 means livestock of an eligible livestock pro-  
17 ducer that, during the 60 days prior to the  
18 beginning date of a qualifying drought or  
19 fire condition, as determined by the Sec-  
20 retary, the eligible livestock producer—

21 (I) owned;

22 (II) leased;

23 (III) purchased;

24 (IV) entered into a contract to  
25 purchase;

1 (V) is a contract grower; or

2 (VI) sold or otherwise disposed of  
3 due to qualifying drought conditions  
4 during—

5 (aa) the current production  
6 year; or

7 (bb) subject to paragraph  
8 (3)(B)(ii), 1 or both of the 2 pro-  
9 duction years immediately pre-  
10 ceeding the current production  
11 year.

12 (ii) EXCLUSION.—The term “covered  
13 livestock” does not include livestock that  
14 were or would have been in a feedlot, on  
15 the beginning date of the qualifying  
16 drought or fire condition, as a part of the  
17 normal business operation of the eligible  
18 livestock producer, as determined by the  
19 Secretary.

20 (B) DROUGHT MONITOR.—The term  
21 “drought monitor” means a system for  
22 classifying drought severity according to a  
23 range of abnormally dry to exceptional drought,  
24 as defined by the Secretary.

25 (C) ELIGIBLE LIVESTOCK PRODUCER.—

1 (i) IN GENERAL.—The term “eligible  
2 livestock producer” means an eligible pro-  
3 ducer on a farm that—

4 (I) is an owner, cash or share  
5 lessee, or contract grower of covered  
6 livestock that provides the pastureland  
7 or grazing land, including cash-leased  
8 pastureland or grazing land, for the  
9 livestock;

10 (II) provides the pastureland or  
11 grazing land for covered livestock, in-  
12 cluding cash-leased pastureland or  
13 grazing land that is physically located  
14 in a county affected by drought;

15 (III) certifies grazing loss; and

16 (IV) meets all other eligibility re-  
17 quirements established under this sub-  
18 section.

19 (ii) EXCLUSION.—The term “eligible  
20 livestock producer” does not include an  
21 owner, cash or share lessee, or contract  
22 grower of livestock that rents or leases  
23 pastureland or grazing land owned by an-  
24 other person on a rate-of-gain basis.

1           (D) NORMAL CARRYING CAPACITY.—The  
2 term “normal carrying capacity”, with respect  
3 to each type of grazing land or pastureland in  
4 a county, means the normal carrying capacity,  
5 as determined under paragraph (3)(D)(i), that  
6 would be expected from the grazing land or  
7 pastureland for livestock during the normal  
8 grazing period, in the absence of a drought or  
9 fire that diminishes the production of the graz-  
10 ing land or pastureland.

11           (E) NORMAL GRAZING PERIOD.—The term  
12 “normal grazing period”, with respect to a  
13 county, means the normal grazing period during  
14 the calendar year for the county, as determined  
15 under paragraph (3)(D)(i).

16           (2) PROGRAM.—For fiscal year 2012, the Sec-  
17 retary shall use such sums as are necessary of the  
18 funds of the Commodity Credit Corporation to pro-  
19 vide compensation for losses to eligible livestock pro-  
20 ducers due to grazing losses for covered livestock  
21 due to—

22           (A) a drought condition, as described in  
23 paragraph (3); or

24           (B) fire, as described in paragraph (4).

1           (3) ASSISTANCE FOR LOSSES DUE TO DROUGHT  
2           CONDITIONS.—

3                   (A) ELIGIBLE LOSSES.—

4                           (i) IN GENERAL.—An eligible livestock  
5                           producer may receive assistance under this  
6                           subsection only for grazing losses for cov-  
7                           ered livestock that occur on land that—

8                                   (I) is native or improved pasture-  
9                                   land with permanent vegetative cover;  
10                                   or

11                                   (II) is planted to a crop planted  
12                                   specifically for the purpose of pro-  
13                                   viding grazing for covered livestock.

14                           (ii) EXCLUSIONS.—An eligible live-  
15                           stock producer may not receive assistance  
16                           under this subsection for grazing losses  
17                           that occur on land used for haying or graz-  
18                           ing under the conservation reserve pro-  
19                           gram established under subchapter B of  
20                           chapter 1 of subtitle D of title XII of the  
21                           Food Security Act of 1985 (16 U.S.C.  
22                           3831 et seq.).

23                   (B) MONTHLY PAYMENT RATE.—

24                           (i) IN GENERAL.—Except as provided  
25                           in clause (ii), the payment rate for assist-



1           ance under this paragraph for 1 month  
2           shall, in the case of drought, be equal to  
3           60 percent of the lesser of—

4                   (I) the monthly feed cost for all  
5                   covered livestock owned or leased by  
6                   the eligible livestock producer, as de-  
7                   termined under subparagraph (C); or

8                   (II) the monthly feed cost cal-  
9                   culated by using the normal carrying  
10                  capacity of the eligible grazing land of  
11                  the eligible livestock producer.

12           (ii) PARTIAL COMPENSATION.—In the  
13           case of an eligible livestock producer that  
14           sold or otherwise disposed of covered live-  
15           stock due to drought conditions in 1 or  
16           both of the 2 production years immediately  
17           preceding the current production year, as  
18           determined by the Secretary, the payment  
19           rate shall be 80 percent of the payment  
20           rate otherwise calculated in accordance  
21           with clause (i).

22           (C) MONTHLY FEED COST.—

23                   (i) IN GENERAL.—The monthly feed  
24                   cost shall equal the product obtained by  
25                   multiplying—

1 (I) 30 days;

2 (II) a payment quantity that is  
3 equal to the feed grain equivalent, as  
4 determined under clause (ii); and

5 (III) a payment rate that is equal  
6 to the corn price per pound, as deter-  
7 mined under clause (iii).

8 (ii) FEED GRAIN EQUIVALENT.—For  
9 purposes of clause (i)(II), the feed grain  
10 equivalent shall equal—

11 (I) in the case of an adult beef  
12 cow, 15.7 pounds of corn per day; or

13 (II) in the case of any other type  
14 of weight of livestock, an amount de-  
15 termined by the Secretary that rep-  
16 represents the average number of pounds  
17 of corn per day necessary to feed the  
18 livestock.

19 (iii) CORN PRICE PER POUND.—For  
20 purposes of clause (i)(III), the corn price  
21 per pound shall equal the quotient ob-  
22 tained by dividing—

23 (I) the higher of—

24 (aa) the national average  
25 corn price per bushel for the 12-

1 month period immediately pre-  
2 ceding March 1 of the year for  
3 which the disaster assistance is  
4 calculated; or

5 (bb) the national average  
6 corn price per bushel for the 24-  
7 month period immediately pre-  
8 ceding that March 1; by

9 (II) 56.

10 (D) NORMAL GRAZING PERIOD AND  
11 DROUGHT MONITOR INTENSITY.—

12 (i) FSA COUNTY COMMITTEE DETER-  
13 MINATIONS.—

14 (I) IN GENERAL.—The Secretary  
15 shall determine the normal carrying  
16 capacity and normal grazing period  
17 for each type of grazing land or  
18 pastureland in the county served by  
19 the applicable committee.

20 (II) CHANGES.—No change to  
21 the normal carrying capacity or nor-  
22 mal grazing period established for a  
23 county under subclause (I) shall be  
24 made unless the change is requested

1 by the appropriate State and county  
2 Farm Service Agency committees.

3 (ii) DROUGHT INTENSITY.—

4 (I) D2.—An eligible livestock  
5 producer that owns or leases grazing  
6 land or pastureland that is physically  
7 located in a county that is rated by  
8 the U.S. Drought Monitor as having a  
9 D2 (severe drought) intensity in any  
10 area of the county for at least 8 con-  
11 secutive weeks during the normal  
12 grazing period for the county, as de-  
13 termined by the Secretary, shall be el-  
14 ible to receive assistance under this  
15 paragraph in an amount equal to 1  
16 monthly payment using the monthly  
17 payment rate determined under sub-  
18 paragraph (B).

19 (II) D3.—An eligible livestock  
20 producer that owns or leases grazing  
21 land or pastureland that is physically  
22 located in a county that is rated by  
23 the U.S. Drought Monitor as having  
24 at least a D3 (extreme drought) in-  
25 tensity in any area of the county at

1 any time during the normal grazing  
2 period for the county, as determined  
3 by the Secretary, shall be eligible to  
4 receive assistance under this para-  
5 graph—

6 (aa) in an amount equal to  
7 2 monthly payments using the  
8 monthly payment rate deter-  
9 mined under subparagraph (B);  
10 or

11 (bb) if the county is rated as  
12 having a D3 (extreme drought)  
13 intensity in any area of the coun-  
14 ty for at least 4 weeks during the  
15 normal grazing period for the  
16 county, or is rated as having a  
17 D4 (exceptional drought) inten-  
18 sity in any area of the county at  
19 any time during the normal graz-  
20 ing period, in an amount equal to  
21 3 monthly payments using the  
22 monthly payment rate deter-  
23 mined under subparagraph (B).

24 (4) ASSISTANCE FOR LOSSES DUE TO FIRE ON  
25 PUBLIC MANAGED LAND.—

1 (A) IN GENERAL.—An eligible livestock  
2 producer may receive assistance under this  
3 paragraph only if—

4 (i) the grazing losses occur on range-  
5 land that is managed by a Federal agency;  
6 and

7 (ii) the eligible livestock producer is  
8 prohibited by the Federal agency from  
9 grazing the normal permitted livestock on  
10 the managed rangeland due to a fire.

11 (B) PAYMENT RATE.—The payment rate  
12 for assistance under this paragraph shall be  
13 equal to 50 percent of the monthly feed cost for  
14 the total number of livestock covered by the  
15 Federal lease of the eligible livestock producer,  
16 as determined under paragraph (3)(C).

17 (C) PAYMENT DURATION.—

18 (i) IN GENERAL.—Subject to clause  
19 (ii), an eligible livestock producer shall be  
20 eligible to receive assistance under this  
21 paragraph for the period—

22 (I) beginning on the date on  
23 which the Federal agency excludes the  
24 eligible livestock producer from using

1 the managed rangeland for grazing;  
2 and

3 (II) ending on the last day of the  
4 Federal lease of the eligible livestock  
5 producer.

6 (ii) LIMITATION.—An eligible livestock  
7 producer may only receive assistance under  
8 this paragraph for losses that occur on not  
9 more than 180 days per year.

10 (5) NO DUPLICATIVE PAYMENTS.—An eligible  
11 livestock producer may elect to receive assistance for  
12 grazing or pasture feed losses due to drought condi-  
13 tions under paragraph (3) or fire under paragraph  
14 (4), but not both for the same loss, as determined  
15 by the Secretary.

16 (d) EMERGENCY ASSISTANCE FOR LIVESTOCK,  
17 HONEY BEES, AND FARM-RAISED FISH.—

18 (1) IN GENERAL.—For fiscal year 2012, the  
19 Secretary shall use not more than \$20,000,000 of  
20 the funds of the Commodity Credit Corporation to  
21 provide emergency relief to eligible producers of live-  
22 stock, honey bees, and farm-raised fish to aid in the  
23 reduction of losses due to disease (including cattle  
24 tick fever), adverse weather, or other conditions,  
25 such as blizzards and wildfires, as determined by the

1 Secretary, that are not covered under subsection (b)  
2 or (c).

3 (2) USE OF FUNDS.—Funds made available  
4 under this subsection shall be used to reduce losses  
5 caused by feed or water shortages, disease, or other  
6 factors as determined by the Secretary.

7 (3) AVAILABILITY OF FUNDS.—Any funds made  
8 available under this subsection shall remain available  
9 until expended.

10 (e) TREE ASSISTANCE PROGRAM.—

11 (1) DEFINITIONS.—In this subsection:

12 (A) ELIGIBLE ORCHARDIST.—The term  
13 “eligible orchardist” means a person that pro-  
14 duces annual crops from trees for commercial  
15 purposes.

16 (B) NATURAL DISASTER.—The term “nat-  
17 ural disaster” means plant disease, insect infes-  
18 tation, drought, fire, freeze, flood, earthquake,  
19 lightning, or other occurrence, as determined by  
20 the Secretary.

21 (C) NURSERY TREE GROWER.—The term  
22 “nursery tree grower” means a person who pro-  
23 duces nursery, ornamental, fruit, nut, or Christ-  
24 mas trees for commercial sale, as determined by  
25 the Secretary.



1 (D) TREE.—The term “tree” includes a  
2 tree, bush, and vine.

3 (2) ELIGIBILITY.—

4 (A) LOSS.—Subject to subparagraph (B),  
5 for fiscal year 2012, the Secretary shall use  
6 such sums as are necessary of the funds of the  
7 Commodity Credit Corporation to provide as-  
8 sistance—

9 (i) under paragraph (3) to eligible or-  
10 chardists and nursery tree growers that  
11 planted trees for commercial purposes but  
12 lost the trees as a result of a natural dis-  
13 aster, as determined by the Secretary; and

14 (ii) under paragraph (3)(B) to eligible  
15 orchardists and nursery tree growers that  
16 have a production history for commercial  
17 purposes on planted or existing trees but  
18 lost the trees as a result of a natural dis-  
19 aster, as determined by the Secretary.

20 (B) LIMITATION.—An eligible orchardist  
21 or nursery tree grower shall qualify for assist-  
22 ance under subparagraph (A) only if the tree  
23 mortality of the eligible orchardist or nursery  
24 tree grower, as a result of damaging weather or

1 related condition, exceeds 15 percent (adjusted  
2 for normal mortality).

3 (3) ASSISTANCE.—Subject to paragraph (4),  
4 the assistance provided by the Secretary to eligible  
5 orchardists and nursery tree growers for losses de-  
6 scribed in paragraph (2) shall consist of—

7 (A)(i) reimbursement of 70 percent of the  
8 cost of replanting trees lost due to a natural  
9 disaster, as determined by the Secretary, in ex-  
10 cess of 15 percent mortality (adjusted for nor-  
11 mal mortality); or

12 (ii) at the option of the Secretary, suffi-  
13 cient seedlings to reestablish a stand; and

14 (B) reimbursement of 50 percent of the  
15 cost of pruning, removal, and other costs in-  
16 curred by an eligible orchardist or nursery tree  
17 grower to salvage existing trees or, in the case  
18 of tree mortality, to prepare the land to replant  
19 trees as a result of damage or tree mortality  
20 due to a natural disaster, as determined by the  
21 Secretary, in excess of 15 percent damage or  
22 mortality (adjusted for normal tree damage and  
23 mortality).

24 (4) LIMITATIONS ON ASSISTANCE.—

1 (A) DEFINITIONS OF LEGAL ENTITY AND  
2 PERSON.—In this paragraph, the terms “legal  
3 entity” and “person” have the meaning given  
4 those terms in section 1001(a) of the Food Se-  
5 curity Act of 1985 (7 U.S.C. 1308(a)).

6 (B) AMOUNT.—The total amount of pay-  
7 ments received, directly or indirectly, by a per-  
8 son or legal entity (excluding a joint venture or  
9 general partnership) under this subsection may  
10 not exceed \$100,000 for any crop year, or an  
11 equivalent value in tree seedlings.

12 (C) ACRES.—The total quantity of acres  
13 planted to trees or tree seedlings for which a  
14 person or legal entity shall be entitled to receive  
15 payments under this subsection may not exceed  
16 500 acres.

17 (f) PAYMENT LIMITATIONS.—

18 (1) DEFINITIONS OF LEGAL ENTITY AND PER-  
19 SON.—In this subsection, the terms “legal entity”  
20 and “person” have the meaning given those terms in  
21 section 1001(a) of the Food Security Act of 1985 (7  
22 U.S.C. 1308(a)).

23 (2) AMOUNT.—The total amount of disaster as-  
24 sistance payments received, directly or indirectly, by  
25 a person or legal entity (excluding a joint venture or

1 general partnership) under this section (excluding  
2 payments received under subsection (e)) may not ex-  
3 ceed \$100,000 for any crop year.

4 (3) AGI LIMITATION.—Section 1001D of the  
5 Food Security Act of 1985 (7 U.S.C. 1308–3a) or  
6 any successor provision shall apply with respect to  
7 assistance provided under this section.

8 (4) DIRECT CONTRIBUTION.—Subsections (e)  
9 and (f) of section 1001 of the Food Security Act of  
10 1985 (7 U.S.C. 1308) or any successor provisions  
11 relating to direct contribution shall apply with respect  
12 to assistance provided under this section.

13 (g) APPLICATION.—This section shall take effect as  
14 of October 1, 2011, and apply to losses that are incurred  
15 as the result of a disaster, adverse weather, or other envi-  
16 ronmental condition that occurs on or before September  
17 30, 2012, as determined by the Secretary.

18 (h) DETERMINATIONS BY SECRETARY.—A deter-  
19 mination made by the Secretary under this section shall  
20 be final and conclusive.

21 (i) REGULATIONS.—

22 (1) IN GENERAL.—Except as otherwise pro-  
23 vided in this subsection, not later than 90 days after  
24 the date of enactment of this Act, the Secretary and  
25 the Commodity Credit Corporation, as appropriate,

1 shall promulgate such regulations as are necessary  
2 to implement this section.

3 (2) PROCEDURE.—The promulgation of the reg-  
4 ulations and administration of this section shall be  
5 made without regard to—

6 (A) the notice and comment provisions of  
7 section 553 of title 5, United States Code;

8 (B) chapter 35 of title 44, United States  
9 Code (commonly known as the “Paperwork Re-  
10 duction Act”); and

11 (C) the Statement of Policy of the Sec-  
12 retary of Agriculture effective July 24, 1971  
13 (36 Fed. Reg. 13804), relating to notices of  
14 proposed rulemaking and public participation in  
15 rulemaking.

16 (3) CONGRESSIONAL REVIEW OF AGENCY RULE-  
17 MAKING.—In carrying out this subsection, the Sec-  
18 retary shall use the authority provided under section  
19 808 of title 5, United States Code.

20 **SEC. 3. MODIFICATION OF CERTAIN CONSERVATION PRO-**  
21 **GRAMS.**

22 (a) CONSERVATION STEWARDSHIP PROGRAM.—Sec-  
23 tion 1238G(d)(1) of the Food Security Act of 1985 (16  
24 U.S.C. 3838g(d)(1)) is amended by inserting “(except  
25 that for fiscal year 2013, the Secretary shall, to the max-

1 imum extent practicable, enroll in the program an addi-  
2 tional 11,000,000 acres)” before the semicolon.

3 (b) ENVIRONMENTAL QUALITY INCENTIVES PRO-  
4 GRAM.—Section 1241(a)(6) of the Food Security Act of  
5 1985 (16 U.S.C. 3841(a)(6)) is amended—

6 (1) in subparagraph (D), by striking “; and”  
7 and inserting a semicolon; and

8 (2) by striking subparagraph (E) and inserting  
9 the following:

10 “(E) \$1,750,000,000 in fiscal year 2012;

11 “(F) \$1,400,000,000 in fiscal year 2013;

12 and

13 “(G) \$1,750,000,000 in fiscal year 2014.”.

○