

109TH CONGRESS  
1ST SESSION

# S. 1804

To provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2005

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

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## A BILL

To provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, 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 Assistance  
5       Act of 2005”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) COVERED COMMODITY.—The term “covered  
2 commodity” has the meaning given the term in sec-  
3 tion 1001 of the Farm Security and Rural Invest-  
4 ment Act of 2002 (7 U.S.C. 7901).

5           (2) DISASTER COUNTY.—The term “disaster  
6 county” means—

7                 (A) a county included in the geographic  
8 area covered by a natural disaster declaration;  
9 and

10                (B) each county contiguous to a county de-  
11 scribed in subparagraph (A).

12           (3) ELIGIBLE NONINSURABLE COMMODITY.—  
13 The term “eligible noninsurable commodity” means  
14 an eligible crop for which the producers on a farm  
15 are eligible to obtain assistance under section 196 of  
16 the Federal Agriculture Improvement and Reform  
17 Act of 1996 (7 U.S.C. 7333).

18           (4) INSURABLE COMMODITY.—The term “insur-  
19 able commodity” means an agricultural commodity  
20 (excluding livestock) produced in an area that is eli-  
21 gible for coverage under a policy or plan of insur-  
22 ance under the Federal Crop Insurance Act (7  
23 U.S.C. 1501 et seq.).

24           (5) LIVESTOCK ASSISTANCE PROGRAM.—The  
25 term “livestock assistance program” means—

1 (A) the 2002 Cattle Feed Program an-  
2 nounced by the Secretary on September 3, 2002  
3 (67 Fed. Reg. 56260), to the extent necessary  
4 to cover natural disaster declarations made dur-  
5 ing calendar year 2005;

6 (B) the 2002 Livestock Compensation Pro-  
7 gram, as announced by the Secretary on Octo-  
8 ber 10, 2002 (67 Fed. Reg. 63070), and modi-  
9 fied in accordance with section 203(a) of the  
10 Agricultural Assistance Act of 2003 (title II of  
11 division N of the Consolidated Appropriations  
12 Resolution, 2003 (Public Law 108–7; 117 Stat.  
13 539) and section 5(a); and

14 (C) the livestock loss assistance program  
15 required by section 5(b).

16 (6) NATURAL DISASTER DECLARATION.—The  
17 term “natural disaster declaration” means—

18 (A) a natural disaster declared by the Sec-  
19 retary—

20 (i) during calendar year 2005 under  
21 section 321(a) of the Consolidated Farm  
22 and Rural Development Act (7 U.S.C.  
23 1961(a)); or

1 (ii) during calendar year 2006 under  
 2 that section, but for which a request was  
 3 pending as of December 31, 2005; or

4 (B) a major disaster or emergency des-  
 5 ignated by the President—

6 (i) during calendar year 2005 under  
 7 the Robert T. Stafford Disaster Relief and  
 8 Emergency Assistance Act (42 U.S.C.  
 9 5121 et seq.); or

10 (ii) during calendar year 2006 under  
 11 that Act, but for which a request was  
 12 pending as of December 31, 2005.

13 (7) SECRETARY.—The term “Secretary” means  
 14 the Secretary of Agriculture.

15 **SEC. 3. SUPPLEMENTAL DIRECT PAYMENTS FOR COVERED**  
 16 **COMMODITIES.**

17 (a) PAYMENTS REQUIRED.—The Secretary shall  
 18 make payments to producers on a farm eligible for direct  
 19 payments for the 2005 crop of a covered commodity under  
 20 section 1103 of the Farm Security and Rural Investment  
 21 Act of 2002 (7 U.S.C. 7913) if—

22 (1) the farm is located in a disaster county; or

23 (2) the producers on the farm have incurred  
 24 qualifying crop losses with respect to the 2005 crop  
 25 of a covered commodity due to damaging weather or

1 related condition, as determined by the Secretary,  
2 using the same loss thresholds for the quantity and  
3 quality losses as were used in administering section  
4 815 of the Agriculture, Rural Development, Food  
5 and Drug Administration, and Related Agencies Ap-  
6 propriations Act, 2001 (Public Law 106–387; 114  
7 Stat. 1549, 1549A–55).

8 (b) AMOUNT.—The amount of the payment made to  
9 the producers on a farm under this section shall be equal  
10 to 100 percent of the amount of the direct payment the  
11 producers on the farm are eligible to receive for the 2005  
12 crop under section 1103 of the Farm Security and Rural  
13 Investment Act of 2002 (7 U.S.C. 7913).

14 (c) CROP INSURANCE.—As a condition of the receipt  
15 of a payment under this section, the producers on the farm  
16 shall enter into a contract with the Secretary under which  
17 the producers on the farm agree—

18 (1) in the case of the covered commodity and  
19 all other insurable commodities produced on the  
20 farm for each of the next 2 crop years—

21 (A) to obtain at least catastrophic risk pro-  
22 tection coverage for those commodities under  
23 the Federal Crop Insurance Act (7 U.S.C. 1501  
24 et seq.); and

1 (B) in the event of violation of the con-  
2 tract, to repay to the Secretary any payment re-  
3 ceived under this section; and

4 (2) in the case of all eligible noninsurable com-  
5 modities produced on the farm for each of the next  
6 2 crop or calendar years, as applicable—

7 (A) to file the required paperwork, and pay  
8 the administrative fee by the applicable State  
9 filing deadline, for those commodities under sec-  
10 tion 196 of the Federal Agriculture Improve-  
11 ment and Reform Act of 1996 (7 U.S.C. 7333);  
12 and

13 (B) in the event of violation of the con-  
14 tract, to repay to the Secretary any payment re-  
15 ceived under this section.

16 (d) ADMINISTRATION.—For purposes of sections  
17 1001 through 1001F of the Food Security Act of 1985  
18 (7 U.S.C. 1308 et seq.), payments received under this sec-  
19 tion shall be considered direct payments made to a person  
20 under subtitle A of title I of the Farm Security and Rural  
21 Investment Act of 2002 (7 U.S.C. 7911 et seq.).

22 (e) RELATION TO OTHER ASSISTANCE.—A person  
23 that elects to receive payments under this section for a  
24 covered commodity is not eligible for crop loss assistance  
25 under section 4 for the same commodity.

1           (f) **TIME FOR PAYMENT.**—The Secretary shall make  
2 payments under this section as soon as practicable after  
3 the date of enactment of this Act.

4 **SEC. 4. CROP LOSS ASSISTANCE.**

5           (a) **ASSISTANCE AVAILABLE.**—The Secretary shall  
6 use such sums as are necessary of the funds of the Com-  
7 modity Credit Corporation to make emergency financial  
8 assistance available to producers on a farm that have in-  
9 curred losses in a disaster county as a result of a disaster  
10 for which a natural disaster declaration was made, as de-  
11 termined by the Secretary.

12           (b) **ADMINISTRATION.**—Subject to subsection (a), the  
13 Secretary shall make assistance available under this sec-  
14 tion in the same manner as provided under section 1102  
15 of the Agriculture, Rural Development, Food and Drug  
16 Administration, and Related Agencies Appropriations Act,  
17 1999 (7 U.S.C. 1421 note; Public Law 105–277), includ-  
18 ing using the same loss thresholds as were used in admin-  
19 istering that section.

20           (c) **QUALIFYING LOSSES.**—Assistance under this sec-  
21 tion may be made for losses associated with crops that  
22 are, as determined by the Secretary—

- 23                   (1) quantity losses;
- 24                   (2) quality losses; or

1           (3) severe economic losses due to damaging  
2 weather or related condition.

3           (d) CROPS COVERED.—Assistance under this section  
4 shall be applicable to losses for all crops (including losses  
5 of trees from which a crop is harvested, livestock, and fish-  
6 eries), as determined by the Secretary, due to the disaster  
7 for which the natural disaster declaration was made.

8           (e) RELATION TO OTHER ASSISTANCE.—A person  
9 that elects to receive assistance under this section for a  
10 covered commodity is not eligible for supplemental direct  
11 payments for the same covered commodity under section  
12 3.

13          (f) CROP INSURANCE.—In carrying out this section,  
14 the Secretary shall not discriminate against or penalize  
15 producers on a farm that have purchased crop insurance  
16 under the Federal Crop Insurance Act (7 U.S.C. 1501 et  
17 seq.).

18 **SEC. 5. LIVESTOCK ASSISTANCE.**

19          (a) CONTINUATION OF ASSISTANCE PROGRAM.—  
20 Subject to subsection (c), the Secretary shall—

21           (1) continue to carry out the 2002 Livestock  
22 Compensation Program announced by the Secretary  
23 on October 10, 2002 (67 Fed. Reg. 63070); and

24           (2) under that Program, provide assistance to  
25 any applicant that—

1           (A) conducts a livestock operation that is  
2           physically located in a disaster county and  
3           meets all other eligibility requirements estab-  
4           lished by the Secretary for the Program; or

5           (B) produces an animal described in sec-  
6           tion 10806(a)(1) of the Farm Security and  
7           Rural Investment Act of 2002 (21 U.S.C.  
8           321d(a)(1)) and meets all other eligibility re-  
9           quirements established by the Secretary for the  
10          Program.

11          (b) LIVESTOCK LOSS ASSISTANCE PROGRAM.—Sub-  
12          ject to subsection (c), the Secretary shall use  
13          \$250,000,000 of funds of the Commodity Credit Corpora-  
14          tion to carry out a program to make payments to pro-  
15          ducers for livestock losses occurring in a disaster county  
16          using the criteria established to carry out the 1999 Live-  
17          stock Assistance Program.

18          (c) RELATIONSHIP OF LIVESTOCK ASSISTANCE PRO-  
19          GRAMS.—The amount of assistance that the producers on  
20          a farm would receive for a loss under a livestock assistance  
21          program, in the absence of the operation of this section,  
22          shall be reduced by the amount of the assistance that the  
23          producers on the farm receive under any other livestock  
24          assistance program.

1 (d) USE OF COMMODITY CREDIT CORPORATION  
2 FUNDS.—Effective beginning on the date of enactment of  
3 this Act, the Secretary shall carry out the 2002 Livestock  
4 Compensation Program announced by the Secretary on  
5 October 10, 2002 (67 Fed. Reg. 63070) using funds of  
6 the Commodity Credit Corporation.

7 **SEC. 6. EMERGENCY SURPLUS REMOVAL.**

8 The Secretary shall transfer \$250,000,000 of funds  
9 of the Commodity Credit Corporation to the fund estab-  
10 lished by section 32 of the Act of August 24, 1935 (7  
11 U.S.C. 612c), to carry out emergency surplus removal of  
12 agricultural commodities.

13 **SEC. 7. SPECIALTY CROPS.**

14 The Secretary shall use \$50,000,000 of funds of the  
15 Commodity Credit Corporation to provide assistance to  
16 producers directly or through grants to States, or take  
17 such other action as the Secretary determines is appro-  
18 priate, to assist producers of fruits and vegetables.

19 **SEC. 8. COTTONSEED.**

20 The Secretary shall use \$50,000,000 of funds of the  
21 Commodity Credit Corporation to provide assistance to  
22 producers and first handlers of the 2005 crop of cotton-  
23 seed.

1 **SEC. 9. ADDITIONAL HURRICANE ASSISTANCE.**

2 (a) IN GENERAL.—In any State described in section  
3 359f(c)(1)(A) of the Agricultural Adjustment Act of 1938  
4 (7 U.S.C. 1359ff(c)(1)(A)) in a which a natural disaster  
5 declaration is in effect, the Secretary shall make available  
6 to first processors that are eligible to obtain a loan under  
7 section 156(a) of the Federal Agriculture Improvement  
8 and Reform Act of 1996 (7 U.S.C. 7272(a)) assistance  
9 in the form of payments, or commodities in the inventory  
10 of the Commodity Credit Corporation from carrying out  
11 that section, to partially compensate producers and first  
12 processors for crop and other losses that are related to  
13 the natural disaster declaration.

14 (b) ADMINISTRATION.—Assistance under this section  
15 shall be—

16 (1) shared by an affected first processor with  
17 affected producers that provide commodities to the  
18 processor in a manner that reflects contracts entered  
19 into between the processor and the producers; and

20 (2) made available under such terms and condi-  
21 tions as the Secretary determines are necessary to  
22 carry out this section.

23 (c) QUANTITY.—To carry out this section, the Sec-  
24 retary shall—

25 (1) use 200,000 tons of commodities in the in-  
26 ventory of the Commodity Credit Corporation under

1 section 156(a) of the Federal Agriculture Improve-  
2 ment and Reform Act of 1996 (7 U.S.C. 7272(a));

3 (2) make payments in an aggregate amount  
4 equal to the market value of 200,000 tons of com-  
5 modities described in paragraph (1); or

6 (3) take any combination of actions described in  
7 paragraphs (1) and (2) using commodities or pay-  
8 ments with a total market value of 200,000 tons of  
9 commodities described in paragraph (1).

10 **SEC. 10. FUNDING.**

11 (a) IN GENERAL.—The Secretary shall use the funds,  
12 facilities, and authorities of the Commodity Credit Cor-  
13 poration to carry out this Act.

14 (b) ADMINISTRATION.—The Secretary, acting  
15 through the Farm Service Agency, may use not more than  
16 \$70,000,000 of funds of the Commodity Credit Corpora-  
17 tion to cover administrative costs associated with the im-  
18 plementation of this Act and title I of the Farm Security  
19 and Rural Investment Act of 2002 (7 U.S.C. 7901 et  
20 seq.).

21 (c) USE OF FUNDS.—Funds made available under  
22 this Act shall remain available until expended.

23 **SEC. 11. REGULATIONS.**

24 (a) IN GENERAL.—The Secretary may promulgate  
25 such regulations as are necessary to implement this Act.

1 (b) PROCEDURE.—The promulgation of the regula-  
2 tions and administration of this Act shall be made without  
3 regard to—

4 (1) the notice and comment provisions of sec-  
5 tion 553 of title 5, United States Code;

6 (2) the Statement of Policy of the Secretary of  
7 Agriculture effective July 24, 1971 (36 Fed. Reg.  
8 13804), relating to notices of proposed rulemaking  
9 and public participation in rulemaking; and

10 (3) chapter 35 of title 44, United States Code  
11 (commonly known as the “Paperwork Reduction  
12 Act”).

13 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
14 MAKING.—In carrying out this section, the Secretary shall  
15 use the authority provided under section 808 of title 5,  
16 United States Code.

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