

Congress of the United States

Washington, DC 20515

December 5, 2023

The Honorable Thomas J. Vilsack
Secretary
Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

Dear Secretary Vilsack:

We write to you concerning the U.S. Department of Agriculture's (USDA) 2022 Emergency Relief Program (ERP). Almost a year ago, Congress passed, and the President signed into law the *Disaster Relief Supplemental Appropriations Act, 2023 (P.L. 117-328)*, which authorized \$3.74 billion in emergency financial relief through the ERP to America's farmers and ranchers who were afflicted by devastating natural disasters last year.

As you know, the 2022 crop year was challenging for many of America's farmers and ranchers who were saddled with record-high production costs, inflation, and met with historic drought conditions in the West and significant flood and freeze events in other regions of the country. In light of these challenges, we thank you for the swift assistance made to livestock producers with drought or wildfire losses in 2022. However, following the USDA's 2022 ERP rollout for qualified crop losses, we have heard from producers in our states with concerns regarding the new program.

To that end, we request your prompt response to the following questions:

1. Can you explain the economic justification of the new progressive payment factor for ERP Track 1 and Track 2 losses, recognizing that 2022 losses far exceeded the \$3.7 billion disaster assistance authorization?
 - a. How will the progressive payment factor for ERP Track 1 and Track 2 losses translate into total payments to states?
 - b. Specifically, will the top states with losses in 2022 – Texas, Kansas, Nebraska, California, South Dakota, Montana, and Colorado – be the same top states with disaster payments made to producers?
 - c. If not, which states will likely see the most payments?
2. In the Federal Register Notice of Funds Availability (*Docket ID FSA-2023-0020*)¹, the agency includes an additional 75% payment factor for all calculated Track 1 and Track 2 payments for eligible crop producers, including underserved producers. This additional reduction of 25% is not currently included in the publicly available program factsheet posted on USDA's website. Can you confirm that all Track 1 and Track 2 payments for eligible crop producers will see the additional 75% proration?
3. According to USDA estimates, ERP Track 1 benefits will reach more than 206,000 producers who received indemnities for losses covered by federal crop insurance and more than 4,500 producers who obtained Noninsured Crop Disaster Assistance Program (NAP) coverage for the 2022 crop year. What is the average payment USDA will likely issue compared to the amount of actual loss not covered through crop insurance and NAP indemnities?

¹ <https://www.federalregister.gov/documents/2023/10/31/2023-24009/notice-of-funds-availability-emergency-relief-program-2022-erp-2022>

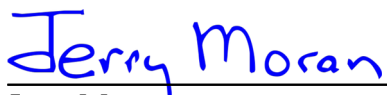
- a. How much does USDA estimate to issue in total to recipients with losses under Track 1?
4. In the 2020 and 2021 ERP, producers were individually reimbursed for crop insurance or NAP premiums and fee costs. However, in the 2022 ERP, a percentage of these reimbursements will only be made available to certain producers. If USDA has leftover funds following the initial payments made, would the Department consider providing reimbursement of some of these costs for all producers in order to provide additional support to producers who have availed themselves of existing risk management tools?
5. In the Federal Register Notice of Funds Availability (*Docket ID FSA-2023-0020*)², the Department indicates that if funds remain, additional payments could be made. Please outline how the Department would issue additional payments?
 - a. Can you specify if they would be made through Track 1, Track 2, or through crop insurance or NAP premiums and fee cost reimbursements?
6. Did USDA consider an across-the-board payment factor instead of the progressive payment factor? If so, what payment factor would have been required?
7. For natural disaster-related losses in 2020 and 2021, Congress provided \$10 billion through the *Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43)*. These funds are available until December 31, 2023.
 - a. As of today, how much of the \$10 billion remains unobligated?
 - b. How much money does the agency plan to spend by December 31, 2023?
 - c. How much money does the agency plan to withhold to address appeals?
8. Will the agency continue its commitment to transparency of disaster assistance and post the outlays publicly on a 2022 ERP dashboard?

As you continue to make 2022 ERP implementation decisions, we urge you to consider reimbursing crop insurance and NAP premiums as well as fee costs to some extent for all 2022 ERP-eligible producers.

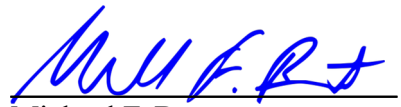
We recognize that ad hoc disaster assistance is costly to U.S. taxpayers and only a band aid to issues exacerbated by extreme weather volatility. It is for this reason that we believe an adequate farm safety net, including conservation investments that address persistent drought, are critical in any upcoming multi-year Farm Bill reauthorization.

Thank you in advance for your response to these critically important questions.

Sincerely,



Jerry Moran
United States Senator



Michael F. Bennet
United States Senator

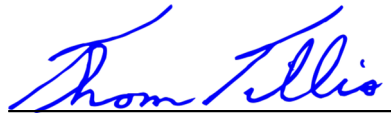
² <https://www.federalregister.gov/documents/2023/10/31/2023-24009/notice-of-funds-availability-emergency-relief-program-2022-erp-2022>



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Member of Congress



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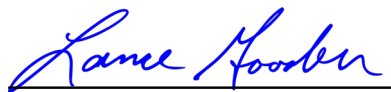
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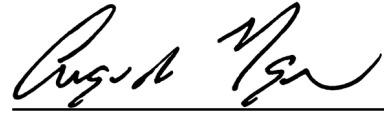
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