

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 534

To amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting coverage and prevented planting coverage, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9 (legislative day, MARCH 3), 1993

Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. PRESSLER, Mr. BURNS, Mr. DORGAN, Mr. CONRAD, Mr. GRASSLEY, Mr. KEMPTHORNE, and Mr. GORTON) 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 amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting coverage and prevented planting coverage, 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 “Federal Crop Insur-  
5       ance Fairness Act”.

1 **SEC. 2. LEVELS OF COVERAGE IN EXCESS OF 75 PERCENT**  
2 **OF RECORDED OR APPRAISED AVERAGE**  
3 **YIELD.**

4 Subsection (a) of section 508 of the Federal Crop In-  
5 surance Act (7 U.S.C. 1508(a)) is amended to read as  
6 follows:

7 “(a) **AUTHORITY TO OFFER INSURANCE.**—

8 “(1) **IN GENERAL.**—If sufficient actuarial data  
9 are available, as determined by the Board, the Cor-  
10 poration may insure producers of agricultural com-  
11 modities grown in the United States under any plan  
12 or plans of insurance determined by the Board to be  
13 adapted to the agricultural commodity involved.

14 “(2) **CAUSES.**—The insurance shall be against  
15 loss of the insured commodity due to unavoidable  
16 causes, including drought, flood, hail, wind, frost,  
17 winterkill, lightning, fire, excessive rain, snow, wild-  
18 life, hurricane, tornado, insect infestation, plant dis-  
19 ease, and such other unavoidable causes as may be  
20 determined by the Board.

21 “(3) **PERIOD.**—

22 “(A) **IN GENERAL.**—Except in the case of  
23 tobacco, insurance shall not extend beyond the  
24 period the insured commodity is in the field.

25 “(B) **DEFINITION OF FIELD.**—For pur-  
26 poses of subparagraph (A), in the case of

1           aquacultural species, the term ‘field’ means the  
2           environment in which the commodity is pro-  
3           duced.

4           “(4) STANDARD YIELD COVERAGE.—

5                   “(A) IN GENERAL.—Subject to subpara-  
6           graph (B), any insurance offered against loss in  
7           yield shall make available to producers protec-  
8           tion against loss in yield that covers 75 percent  
9           of the recorded or appraised average yield of  
10          the commodity on the insured farm for a rep-  
11          resentative period.

12                   “(B) ADJUSTMENTS.—Average yields es-  
13          tablished under subparagraph (A) shall be sub-  
14          ject to such adjustments as the Board may pre-  
15          scribe to the end that the average yields fixed  
16          for farms in the same area, that are subject to  
17          the same conditions, may be fair and just.

18           “(5) LESSER YIELD COVERAGE.—In addition,  
19          the Corporation shall make available to producers  
20          lesser levels of yield coverage, including a level of  
21          coverage at 50 percent of the recorded or appraised  
22          average yield, as adjusted.

23           “(6) ADJUSTED YIELDS.—In the case of any  
24          commodity for which the Agricultural Stabilization  
25          and Conservation Service has established for the

1 farming unit involved an adjusted yield for the pur-  
2 poses of programs administered by the Service (or a  
3 yield for crop insurance purposes under this title), if  
4 the yield is greater than the recorded or the ap-  
5 praised yield, as established by the Corporation, of  
6 a commodity on the farming unit, insurance cov-  
7 erage may be provided to cover against the loss in  
8 yield of the commodity on the basis of the adjusted  
9 yield for the commodity established by the Service  
10 rather than the recorded or appraised yield as estab-  
11 lished by the Corporation.

12 “(7) ADDITIONAL PREMIUMS.—Additional in-  
13 surance under this subsection shall be provided for  
14 an additional premium (for which no premium sub-  
15 sidy or administrative subsidy may be provided) set  
16 at such rate as the Board determines—

17 “(A) appropriate to reflect accurately the  
18 increased risk involved; and

19 “(B) actuarially sufficient to—

20 “(i) cover claims for losses on the in-  
21 surance; and

22 “(ii) establish a reasonable reserve  
23 against unforeseen losses.

24 “(8) LEVELS OF COVERAGE IN EXCESS OF 75  
25 PERCENT OF RECORDED OR APPRAISED AVERAGE

1 YIELD.—The Corporation may make available to  
2 producers on a farm located in a growing area a  
3 level of coverage in excess of 75 percent of the re-  
4 corded or appraised average yield, as adjusted, if the  
5 Corporation determines that normal variations in  
6 yield in the growing area have not resulted in the  
7 payment of claims for losses while the level of cov-  
8 erage is limited to 75 percent.

9 “(9) MAXIMUM LEVEL OF COVERAGE.—Except  
10 as provided in paragraphs (6) through (8), the Cor-  
11 poration may not make available to producers any  
12 level of coverage in excess of 75 percent of the re-  
13 corded or appraised average yield, as adjusted.

14 “(10) PROJECTED MARKET PRICE OPTION.—  
15 One of the price elections offered shall approximate  
16 (but be not less than 90 percent of) the projected  
17 market price for the commodity involved, as deter-  
18 mined by the Board.

19 “(11) UNINSURED LOSSES.—Insurance pro-  
20 vided under this subsection shall not cover losses due  
21 to—

22 “(A) the neglect or malfeasance of the pro-  
23 ducer;

24 “(B) the failure of the producer to reseed  
25 to the same crop in areas and under cir-

1           cumstances where it is customary to so reseed;  
2           or

3           “(C) the failure of the producer to follow  
4           established good farming practices.

5           “(12) INSURANCE RISKS.—The Board may  
6           limit or refuse insurance in any county or area, or  
7           on any farm, on the basis of the insurance risk in-  
8           volved.

9           “(13) AGRICULTURAL INCOME IN COUNTIES.—  
10          Insurance shall not be provided on any agricultural  
11          commodity in any county in which the Board deter-  
12          mines that the income from the commodity con-  
13          stitutes an unimportant part of the total agricultural  
14          income of the county, except that insurance may be  
15          provided for producers on farms situated in a local  
16          producing area bordering on a county with a crop-  
17          insurance program.

18          “(14) ANNUAL REPORTS.—The Corporation  
19          shall report annually to Congress the results of the  
20          operations of the Corporation as to each commodity  
21          insured.

22          “(15) PROJECT MARKET PRICE LEVEL.—Begin-  
23          ning with the 1992 crop year, the Corporation shall  
24          establish a price level for each commodity on which  
25          insurance is offered that shall not be less than the

1 projected market price for the commodity, as deter-  
2 mined by the Board.

3 “(16) PRICE ELECTION.—Insurance coverage  
4 shall be made available to a producer on the basis  
5 of any price election that equals or is less than that  
6 established by the Board. The coverage shall be  
7 quoted in terms of dollars per acre.”.

8 **SEC. 3. LATE PLANTING COVERAGE.**

9 Section 508 of the Federal Crop Insurance Act (7  
10 U.S.C. 1508) is amended by adding at the end the follow-  
11 ing new subsection:

12 “(n) LATE PLANTING COVERAGE.—

13 “(1) IN GENERAL.—Producers on a farm enter-  
14 ing into a crop insurance contract under this Act  
15 shall be offered late planting coverage that would  
16 permit planting after the final planting date for a  
17 commodity by up to 25 days for coverage under the  
18 contract.

19 “(2) REDUCTION OF COVERAGE.—If the pro-  
20 ducers on a farm purchase late planting coverage  
21 under paragraph (1), the yield guarantee shall be re-  
22 duced by—

23 “(A) 1 percent per day for each of the 1st  
24 through 10th days planting is delayed beyond  
25 the normal final planting date;

1           “(B) 2 percent per day for each of the  
2           11th through 25th days planting is delayed be-  
3           yond the normal final planting date; and

4           “(C) such other amounts as can be dem-  
5           onstrated to offset the additional insurer risk of  
6           providing the coverage.

7           “(3) PRESUMPTION OF COVERAGE.—The pro-  
8           ducers on a farm shall have late planting coverage  
9           as part of a basic policy of insurance under this Act  
10          unless the producers notify the Corporation that the  
11          producers waive late planting coverage.

12          “(4) RAISES IN PREMIUMS.—If the Corporation  
13          determines that late planting coverage would raise  
14          premiums to such an extent as to discourage partici-  
15          pation in the program established by this Act, the  
16          Corporation shall offer late planting as a separate  
17          endorsement.”.

18 **SEC. 4. PREVENTED PLANTING COVERAGE.**

19          Section 508 of the Federal Crop Insurance Act (7  
20          U.S.C. 1508) (as amended by section 3 of this Act) is fur-  
21          ther amended by adding at the end the following new sub-  
22          section:

23          “(o) PREVENTED PLANTING COVERAGE.—

24                  “(1) IN GENERAL.—Producers on a farm enter-  
25          ing into a crop insurance contract under this Act

1 shall have prevented planting coverage as part of the  
2 basic policy of insurance under this Act.

3 “(2) COVERAGE.—If the producers on a farm  
4 are prevented from planting a crop of a covered  
5 commodity as the result of excess moisture, drought,  
6 or other natural disaster, the producers shall be eli-  
7 gible for coverage equal to 50 percent of the guaran-  
8 teed level of coverage for the crop.

9 “(3) SUBSTITUTE CROP.—The producers on a  
10 farm shall have the option of planting a substitute  
11 crop, in lieu of an insured crop, as part of the basic  
12 policy of insurance under this Act. The value of the  
13 substitute crop shall offset the remaining guaranteed  
14 level of coverage for the insured crop.

15 “(4) PRESUMPTION OF COVERAGE.—The pro-  
16 ducers on a farm shall have prevented planting cov-  
17 erage as part of a basic policy of insurance made  
18 available under this Act unless the producers notify  
19 the Corporation that the producers waive prevented  
20 planting coverage.

21 “(5) RAISES IN PREMIUMS.—If the Corporation  
22 determines that prevented planting coverage would  
23 raise premiums to such an extent as to discourage  
24 participation in the program established by this Act,

1 the Corporation shall offer prevented planting as a  
2 separate endorsement.”.

3 **SEC. 5. ELIMINATION OF PENALTY FOR DE MINIMIS**  
4 **YIELDS.**

5 Section 508 of the Federal Crop Insurance Act (7  
6 U.S.C. 1508) (as amended by section 4 of this Act) is fur-  
7 ther amended by adding at the end the following new sub-  
8 section:

9 “(p) DE MINIMIS YIELDS.—The Corporation shall,  
10 to the extent practicable, establish a procedure under  
11 which a producer of an insured crop that has suffered a  
12 disaster loss shall not have deducted from the indemnity  
13 payment attributable to the loss any amount for actual  
14 production of the crop if the estimated market value of  
15 the actual production is less than the cost to the producer  
16 of harvesting the production.”.

17 **SEC. 6. YIELD AVERAGES.**

18 Section 508A(b) of the Federal Crop Insurance Act  
19 (7 U.S.C. 1508a(b)) is amended by adding at the end the  
20 following new paragraph:

21 “(4) YIELD AVERAGES.—

22 “(A) IN GENERAL.—Yield coverage under  
23 this section shall be based on the average of a  
24 producer’s actual proven crop yields for a com-  
25 modity over no less than 4 crop years and no

1 more than 10 crop years, as determined under  
2 this paragraph.

3 “(B) ESTABLISHING A MINIMUM LEVEL OF  
4 INSURANCE PROTECTION.—The Corporation  
5 shall establish a minimum level of insurance  
6 protection for those covered producers who have  
7 had reduced yields due to natural disasters.

8 “(C) USE OF TRANSITIONAL OR ACTUAL  
9 YIELDS.—Transitional yield data may only be  
10 used to establish a yield for the producers on a  
11 farm to the extent the producers have not es-  
12 tablished actual production history for the first  
13 4 crop years the producers operate the farm.  
14 After producers establish actual production his-  
15 tory for the first 4 crop years the producers op-  
16 erate the farm, yield coverage under this section  
17 shall be based only on the actual production  
18 history for the commodity for the farm.

19 “(D) USE OF YIELDS FOR PREVIOUS CROP  
20 YEARS.—In the case of producers on a farm  
21 who operate a new parcel of land, for crop in-  
22 surance purposes, the producers may elect to  
23 apply—

1           “(i) the previous yield history for the  
2           land, if the Corporation determines the  
3           yield data to be actuarially sound; or

4           “(ii) transitional yield data to the par-  
5           cel of land.

6           “(E) NONSTANDARD CLASSIFICATION PRO-  
7           CEDURES.—The Corporation shall make adjust-  
8           ments in the Nonstandard Classification proce-  
9           dures established under subpart O of part 400  
10          of chapter IV of subtitle B of title 7, Code of  
11          Federal Regulations, to account for producer  
12          yield declines due to recurrent natural disasters.

13          “(F) DEFINITION OF TRANSITIONAL  
14          YIELD.—For purposes of this paragraph, the  
15          term ‘transitional yield’ means the countywide  
16          average used by the Corporation to establish a  
17          yield for the producers on a farm if there are  
18          no actual production records available for the  
19          producers.”.

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