

2017 HOUSE AGRICULTURE

HCR 3009


2017 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HCR 3009
1/27/2017
Job #27538

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A resolution urging Congress to amend the 2014 farm bill to allow counties to use raw yield data from insurance companies to supplement the national ag. statistics survey to calculate payments under the ARC program when an insufficient number of surveys are returned to accurately calculate payments.

Minutes:

Attachment 1-3

Representative Mike Brandenburg, Sponsor: In 2014, with the last farm bill, there are two counties in the state that didn't get a payment. That was Lamoure and Logan Counties. This resolution refers to how we can fix the program. In Lamoure county we needed to have 30 sets of data in order to get a payment. We had 27. These are voluntary surveys. The National Agriculture Statistics Survey (NASS) data is what they use to collect all the numbers. Both Logan and Lamoure County are on the edge of corn country. The problem with surveys is they don't differentiate between an operator and a landlord. Three hundred surveys went out in Lamoure County. They need 10% back of 300 which is 30. We only got 27. Some went to landlords or farmers who didn't want to fill them out. We tried to get the raw data from insurance companies.

If you look at the data on the map (Attachment 1) it will show the patchwork dealing with soybeans, corn, and wheat in 2015.

The recommendation of this resolution is to use the number of missing entries from the raw data from the crop insurance data.

For Lamoure County it is about a \$10 million loss and about a \$3 million loss in Logan County.

Chairman Dennis Johnson: Did all of your family fill out the survey?

Representative Brandenburg: I was the only one that received the survey. They rotate the survey to different producers.

Tim Erbele, Streeter, Farmer in Logan County: (Attachment 2)

(23:12)

Representative Magrum: Can you go back and recapture this income? Why is McIntosh County also low?

Tim Erbele: We have tried. We made a hard push. It was election year. We didn't get a response from the eastern side of our nation. We haven't given up but the hope gets less every day. It is also affecting some of the wheat growers in the western part of the state.

Farmers have been blamed for not returning the surveys. There are problems of who is getting them. Farmers are pretty private and don't want to share the information.

This is for all commodities. Next year it can happen to another crop. This affects the calculation of the county throughout the life of the farm bill that we have until 2018 which could be extended to 2019 or 2020.

Representative Headland: This is part of the program for disaster-type coverage. This is for when times are tough such as bad crops and poor prices at the same time. This is to keep agriculture going. When we give up the freedom to do what we want to do with our land, we do it for the safety net programs.

Chairman Dennis Johnson: The programs we have also keep food costs down.

Representative Satrom: Do we need more education to make sure people do fill out the NASS form?

Representative Brandenburg: This will bring attention to the mistakes and to bring changes. Some changes are happening now.

Representative Satrom: I am concerned about the government dropping the ball.

Tim Erbele: We do have a concern with the surveys. Farmers and neighbors in my area are upset. We are concerned that some will underreport. Why are we not using the real numbers of what the government has? That is the bigger issue.

Representative Skroch: If the surveys come in with lower than yield reports and you establish a history, then will you be less likely to trigger payments in the future because your county has been established as an area that produces lower yields. So if you have a bad year you would not qualify?

Tim Erbele: The low number is the number of surveys by county. If you have a lower yield, county by county, the Olympic average (the high and low are taken out) has three years left. So every time you put a low number in there, that will lower the benchmark for the future.

Representative Schreiber-Beck: This resolution should state only use numbers from insurance companies instead of just to supplement shortage on surveys. It is redundant and costly to send out surveys and not get the information back.

Tim Erbele: Are you asking me if that is how I would like to proceed? If this committee adds language to use real time data, I am in agreement.

Vice Chair Trottier: If you farm in two counties and certify in the county that did well, did you get the payment?

Tim Erbele: It is what you choose as your county of administration. I had neighbors that farmed in Stutsman County but they administered in Logan, they got zero. The other side of that is there were farmers who had land in Logan County but administered in Stutsman and should have received zero dollars like I did, they received \$61/acre because the Logan County land was administered in Stutsman County.

(37:10)

Dan Wogsland, North Dakota Grain Growers Association: (Attachment 3)

Representative Headland: As we see the injustice most of us would rather give up the safety net. Let us farm and we will take the risk ourselves.

Representative Skroch: Would you be in favor of amending this resolution so only crop insurance data would be used in determining ARC-Co payments?

Dan Wogsland: We looked at that as an option. We would support that.

Representative Headland: I would prefer to go with existing language. There is a reason they are not using RMA data. It is because it would cost them more. We don't want to push too hard. I recommend that we stay with existing language.

Representative Headland: Moved Do Pass.

Representative Magrum: Seconded the motion

A Roll Call vote was taken: Yes 13, No 0, Absent 1.

Do Pass carries. To be placed on the consent calendar.

Representative Headland will carry the bill.

Date: 1/27/2017

Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3009**

House **Agriculture** Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Headland Seconded By Rep. Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschee	X	
Vice Chairman Wayne Trottier	X		Rep. Kathy Hogan	X	
Rep. Jake Blum	X				
Rep. Craig Headland	X				
Rep. Michael Howe	X				
Rep. Dwight Kiefert	AB				
Rep. Jeffery Magrum	X				
Rep. Aaron McWilliams	X				
Rep. Bill Oliver	X				
Rep. Bernie Satrom	X				
Rep. Cynthia Schreiber Beck	X				
Rep. Kathy Skroch	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep. Headland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3009: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3009 was placed on the Tenth order on the calendar.

2017 SENATE AGRICULTURE

HCR 3009

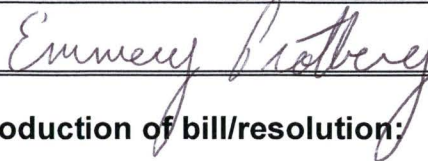
2017 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HCR 3009
3/17/2017
Job # 29378

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Agricultural entities laws revision

Minutes:

Attachments: #1

Chairman Luick: Opened the hearing on HCR 3009.

(1:00 – 11:30) **Representative Brandenburg, District 28:** Introduced HCR 3009. Representative Brandenburg informed the committee about how his county did not receive ARC payments while the surrounding counties received between \$30 - \$50. He said he believed the resolution was a good option to get the process started to try to fix this.

Chairman Luick: Wouldn't it be possible to take the average of the twenty-seven who sent in the data for the remaining three spots?

Representative Brandenburg: We tried and I know Senator Hoeven and Senator Heitkamp did all they could. But the decision was made.

Senator Piepkorn: So out of approximately 300 corn producers, why such a low turnout in returning those surveys?

Representative Brandenburg: How the surveys go out the data is the gold seal but the farmers view that as private information. As we signed up for the program, we already knew we didn't have these number of yields but it was never specified that the NASS data was that important to determine the payment.

Representative Brandenburg said the farm bill was not working and nothing had been done to fix it administratively.

Chairman Luick: How many counties in ND?

Representative Brandenburg: There are two counties that received no payment. There are two other counties who received half a payment. I think there were six that were affected but four of them were impacted hard.

Senator Piepkorn: Aren't there people in the regional/local USDA offices whose job it is to inform you of these programs and how important these NASS surveys are?

Representative Brandenburg: They tried very hard.

Senator Piepkorn: Were they providing that information at the beginning of the program?

Representative Brandenburg: It wasn't brought out how important this NASS survey was but I don't think they knew either. I don't think anyone intentionally tried to lead us astray because in their experience they have dealt with a lot of farm bills and in every farm bill there has always been something that is inconsistent and they would fix it administratively and in this case they refused to fix it administratively. I'm sure one of the reasons was the four-hundred-million-dollar price tag.

Senator Larsen: This is to amend the 2014 farm bill and I realize that was signed two years late. So we need to amend the 2014 one instead of just waiting for new farm bill?

Representative Brandenburg: The word is that 2014 is dead. Unless someone resurrects it in this new administration. This isn't just about 2014, it's about 2015. Right now, there are about 19 counties in the state that are not getting a wheat payment so they are caught in the mix of this.

Senator Larsen: Do you see this resolution being problematic moving forward when the president cuts from the agriculture budget and Senator Hoeven doesn't support what's happening?

Representative Brandenburg: I see that this puts fairness and consistency into it. If we are going to have 25% cut in our payments, it's 25% for everyone rather than some receiving a full payment or some receiving less. What we are trying to do with this resolution is say that if a program is going to be implemented it should be fair and consistent across every county.

Dan Wogsland, Executive Director, ND Grain Growers Association: Testified in Support of HCR 3009. HCR 3009 sends a clear message from the ND legislature to congress that there are problems in the ARC program as it presently exists and those problems need to be addressed and those are one of the ways we can address those. The ARC program and the PLC program in the farm bill are safety net programs. Everyone would rather not receive those payments because that would mean we wouldn't need to because we don't have to take the safety netting. The fact is when we do have inequities, this sends a message to congress to fix the inequities and I don't mean just this bill but also in the 2018 farm bill which is coming up.

(25:50 – 38:00) **Tim Erbele, Streeter, ND:** Testified in Support of HCR 3009 (See Attachment #1).

Chairman Luick: Closed the hearing on HCR 3009.

2017 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HCR 3009
3/17/2017
Job # 29379

- Subcommittee
 Conference Committee

Committee Clerk Signature

Emmery Botberg

Explanation or reason for introduction of bill/resolution:

Agricultural entities laws revision

Minutes:

Chairman Luick: Opened the discussion on HCR 3009.

Senator Klein: Moved Do Pass on HCR 3009.

Senator Myrdal: Seconded the motion.

Senator Larsen: I agree with the concept of the resolution. I think it is unfortunate they are using it the way they are to distribute the payments but the concern is that the county is not doing their paperwork when everyone else is.

Senator Klein: I would suggest that it is a resolution. We are just asking that they look at the coverage and there may be a flaw in how they sought the statistics. We certainly could have questioned the speakers about whether they returned their surveys or not but it would seem odd that they wouldn't have been notified. But I understand that it a resolution urging congress and if it helps, fine but I have a tendency to think that resolutions don't always help.

Senator Piepkorn: I have a few concerns and reservations but nothing to make me vote no.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion carried.

Senator Klein will carry the bill to the floor.

Date: 3/17
Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3004**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Klein Seconded By Sen. Myrdal

Senators	Yes	No	Senators	Yes	No
Senator Luick	✓		Senator Piepkorn	✓	
Senator Myrdal	✓				
Senator Klein	✓				
Senator Larsen	✓				
Senator Osland					

Total Yes 5 No 0

Absent 1

Floor Assignment Sen. Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

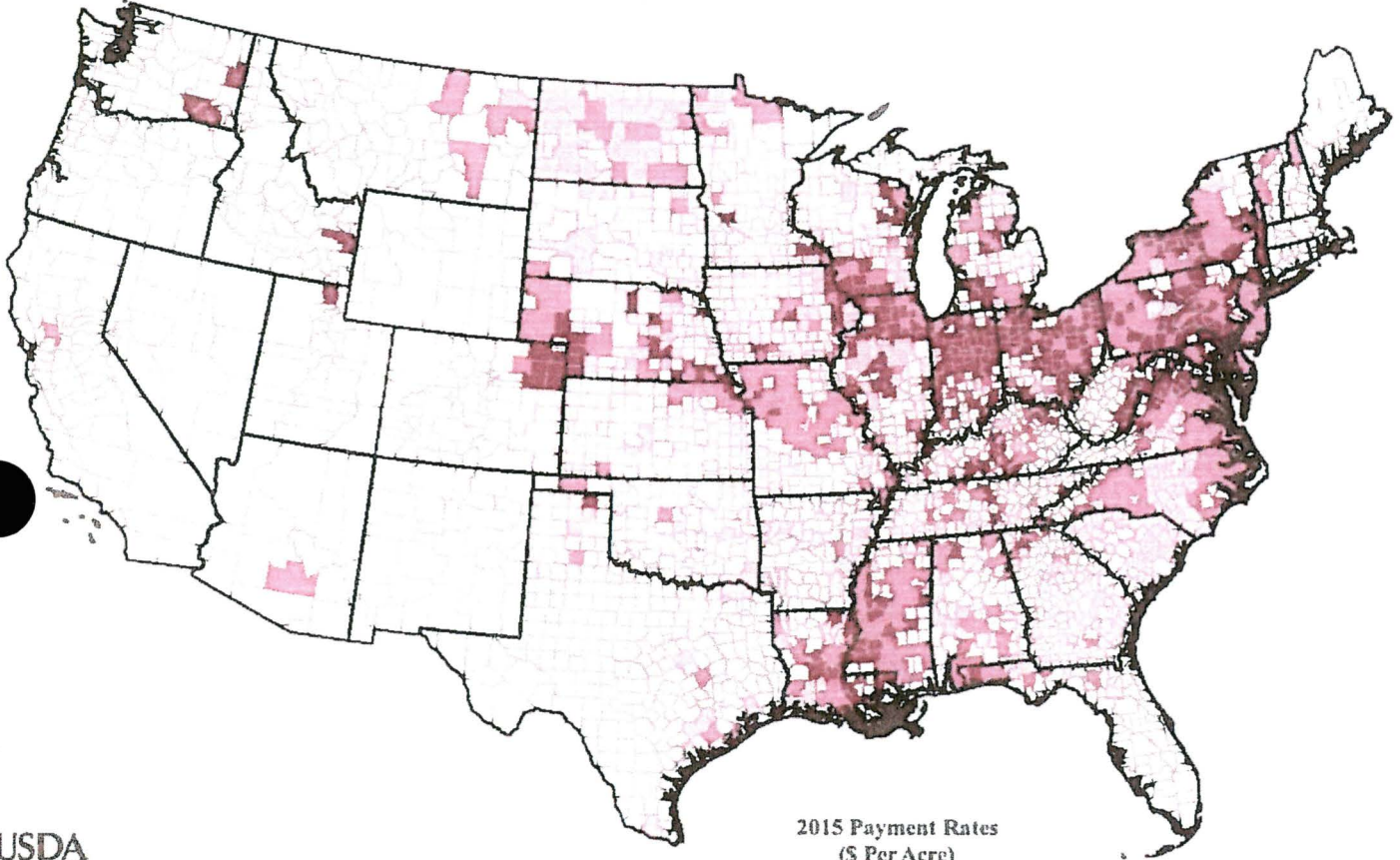
HCR 3009: Agriculture Committee (Sen. Luick, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3009 was placed on the
Fourteenth order on the calendar.

2017 TESTIMONY

HCR 3009

#1
HCR 3009
1/27/17
Rep. Brandenburg

2015 ARC- CO Payment Rates for Soybeans



2015 Payment Rates
(\$ Per Acre)

\$0 - 0	\$27.61 - \$40.20
\$0.10 - \$13.90	\$40.21 - \$51.70
\$13.91 - \$27.60	\$51.71 - \$76.10

No Base Acres

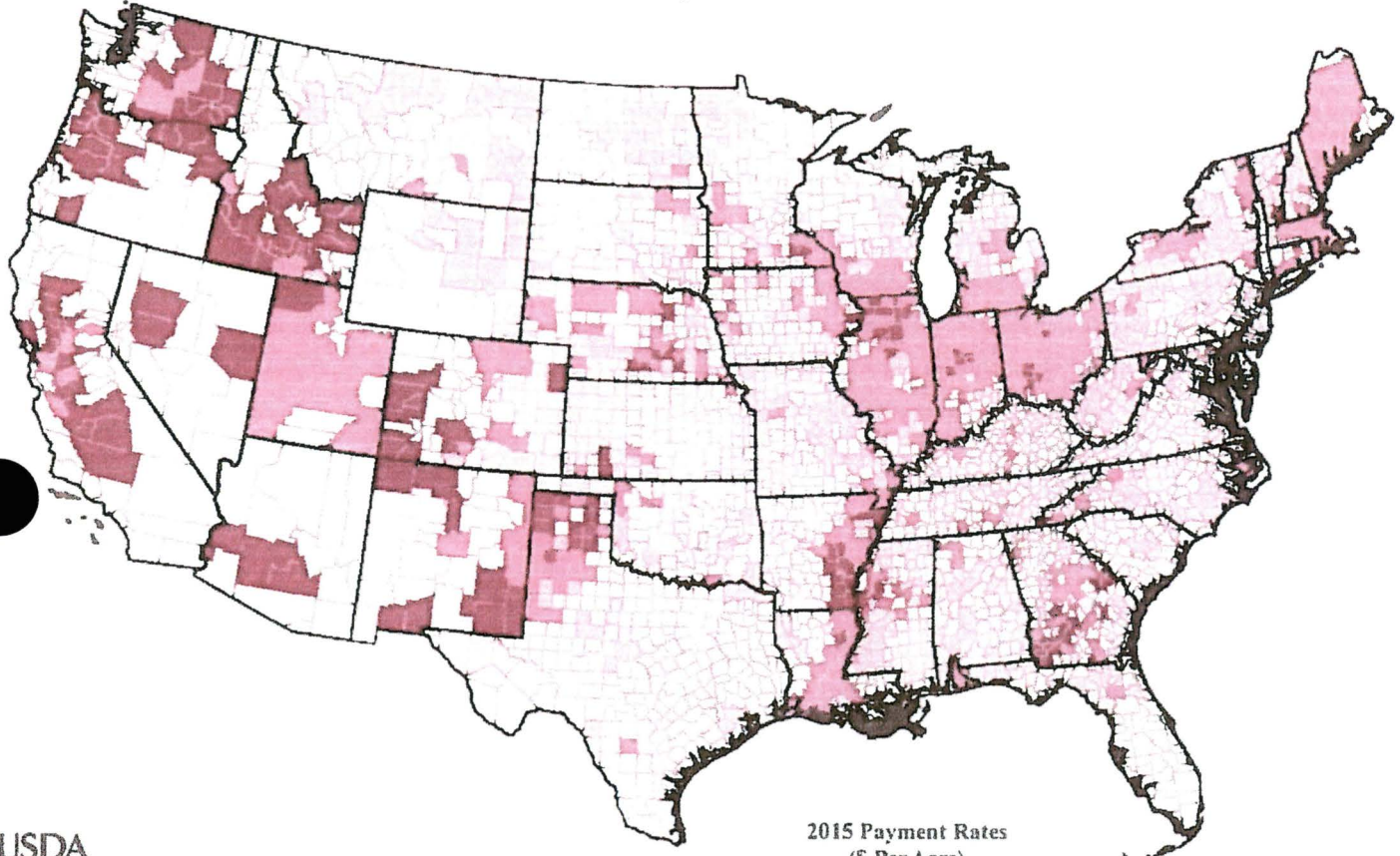


Farm Service Agency
Production, Emergency Compliance Division
Washington, DC
October 1, 2016

Map includes all and non irrigated yields. Maps is intended for Farm Service Agency (FSA) business purposes only. Map depicted only serves as a general reference map.

1

2015 ARC- CO Payment Rates for Corn



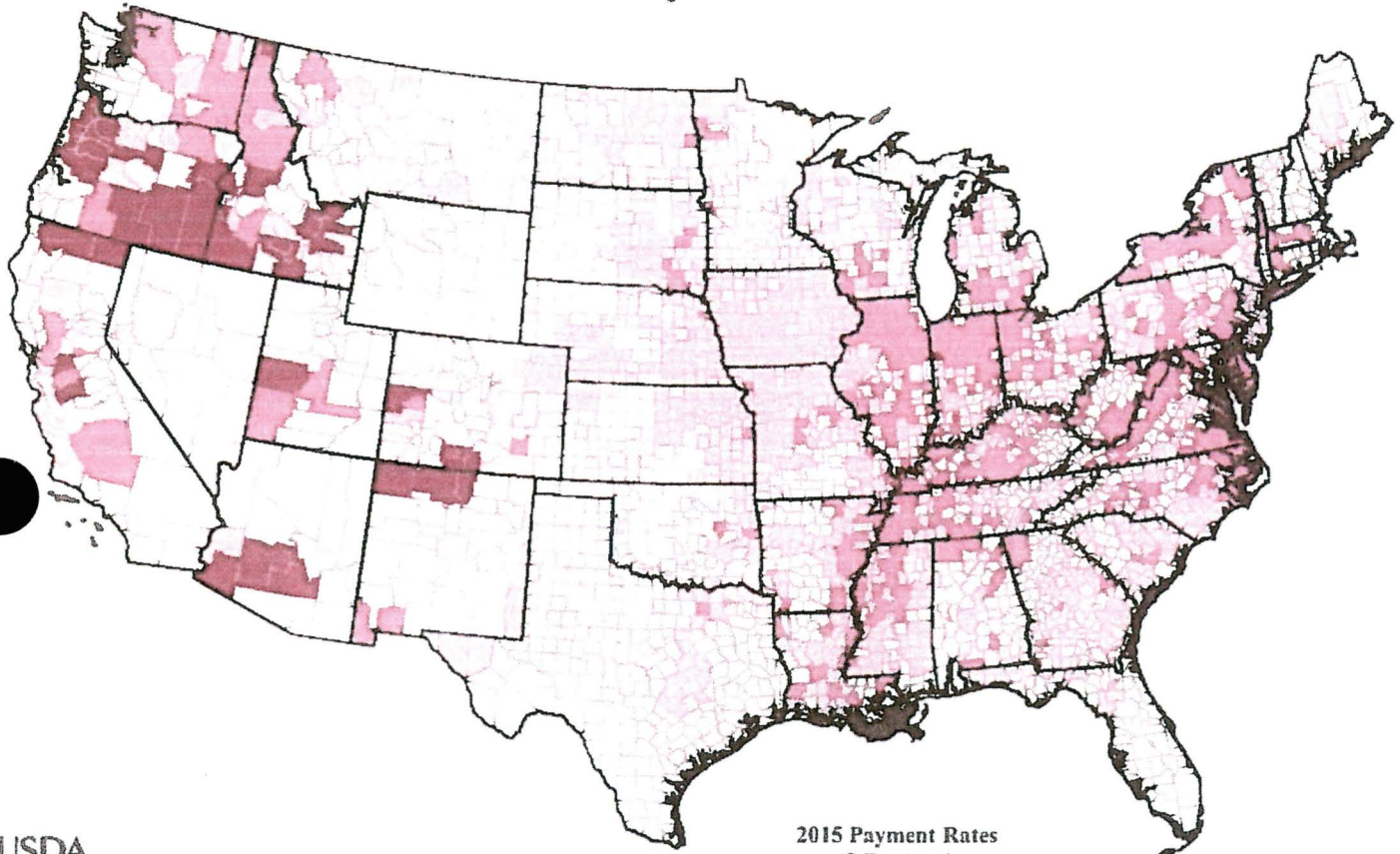
Farm Service Agency
 Production, Emergency Compliance Division
 Washington, DC
 October 3, 2016

2015 Payment Rates (\$ Per Acre)

No Base Acres	\$0.00	\$53.41 - \$73.10
	\$0.20 - \$29.60	\$73.11 - \$92.60
	\$29.61 - \$53.40	\$92.61 - \$135.40

Map includes all and non-irrigated yields. Maps is intended for Farm Service Agency (FSA) business purposes only. Map depicted only serves as a general reference map.

2015 ARC- CO Payment Rates for Wheat



2015 Payment Rates (\$ Per Acre)

\$0.00	White	\$26.61 - \$37.60
\$0.10 - \$14.40	Light Pink	\$37.61 - \$55.60
\$14.41 - \$26.60	Medium Pink	\$55.61 - \$84.40

No Base Acres



Farm Service Agency
Production, Emergency Compliance Division
Washington, DC
October 1, 2016

Map includes all and non-irrigated yields. Maps is intended for Farm Service Agency (FSA) business purposes only. Map depicted only serves as a general reference map.

#2
1/27/17

Testimony supporting House Concurrent Resolution no.

3009 Re: Ag Risk Coverage by County

Tim Erbele, Streeter, ND

- Mr. Chairman and members of the committee, thank you so much for allowing me to be here this morning.
- My name is Tim Erbele. My family owns and operates a diversified grain and cattle operation in Logan County about 75 miles southeast of here.
- Our family, like this legislative body, has had to adjust and adapt to less revenue over the last two years.
- We too have had to crunch numbers, identify priorities, and quite frankly survive on a very thin margin after a few years of relative prosperity in terms of cattle and grain prices.
- A significant part of this adaptive process was adjusting to what the 2014 Farm bill brought us in terms of dollars and cents.
- 2014 Farm bill did away with direct and counter-cyclical payments that most farmers would agree were unnecessary in good times, and inconsequential in times of economic hardship.
- The new Farm bill came with many new concepts, terms, and calculations that had to be learned by FSA staff, loan officers, as well as producers young and old.
- For sake of this discussion, I am not going to dwell on acronyms like PLC, and SCO, but rather get right to the point of the portion of this farm program that harshly affected our family farm and all other corn producers in Logan County.
- We elected, along with most other producers, to enroll at least a portion of our acreage in a provision of this Farm bill called Agricultural Risk Coverage at the county level. ARC-Co

- What this meant was that we were going to accept a county yield and a national marketing year price in determining a revenue calculation for that year to be measured against a benchmark average of our county's yields multiplied by the nationwide marketing year price to determine if a payment is triggered.
- These yield numbers were to be determined using data from farmers through the National Ag Statistic Survey or NASS.
- As we learn, NASS sends out these surveys to be filled out and returned by farmers voluntarily. Participation in this process is often poor. 30 returned surveys per county are required to make the number "valid" in terms of ARC-Co calculations.
- When the 30 required surveys are not returned an RMA number is assigned. The problem with this assigned number is that it does not seem to account for loss units and, in our case, grossly overestimated what that yield actually was.

- Allow me to share a few of these calculations:

NASS numbers-

5 year olympic average yield X average price X 86% = \$ benchmark coverage.

86 X \$5.29 X 86% = \$391.25 per acre coverage.

5 year olympic average yield X average price X 10% = max payment.

86 X \$5.29 X 10% = \$45.49 per acre max allowed payment.

- Logan County was assigned a yield of 109
- 109 X \$3.70 = \$403.30 no payment triggered.

- In trying to determine the overestimation of the 2014 yield of 109, we gathered approximately 80% of the aggregate corn yields as reported to crop insurance.
- That olympic average was 82 bushels per acre.
- This same data set showed a yield of 90 bushels per acre for 2014.

$82 \times \$5.29 \times 86\% = \373.05 per acre coverage

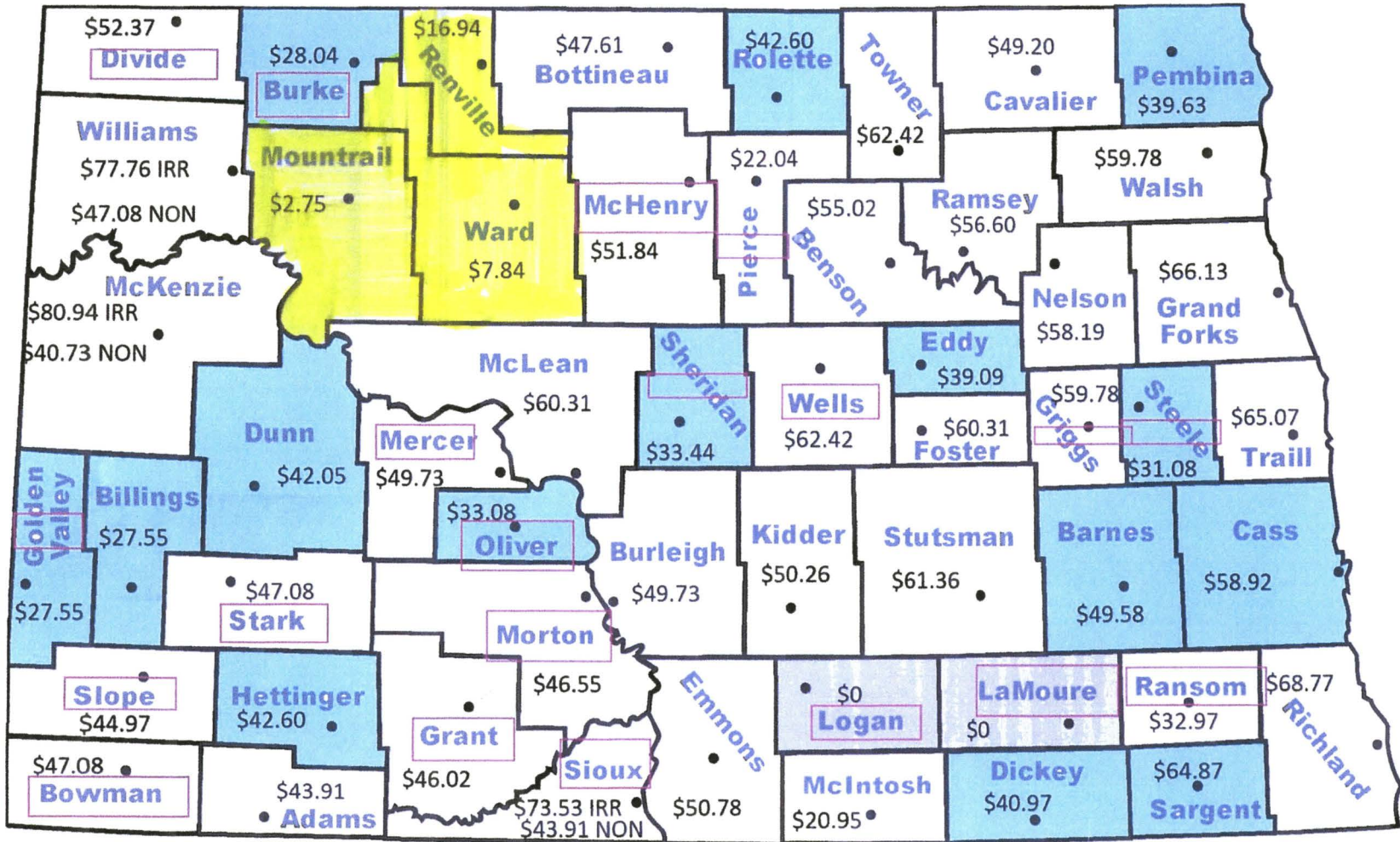
$82 \times \$5.29 \times 10\% = \43.37 max payment per acre allowed

$90.00 \times \$3.70 = \333.00

$\$373.05 - \$333.00 = \$40.05$ payment

- On our farm, using 910 acres of corn base $\times 85\% \times \$40.05 = \$30,978.68$ lost income.
- The attached map also gives you an idea how other counties in North Dakota compared to Logan.
- I farm within two miles of both Kidder and Stutsman counties.
- I want to stress that I do not think the problem is with NASS, but rather the number of data samples they have to work with.
- The last point I would like to make is that there is no burden of proof on these surveys, no consequences for misrepresentation, and no accountability to prevent fraudulent reporting- a dangerous premise on which to hang the fiscal viability of my family's farm.
- RMA has all our Actual Production History (APH) on file. Numbers that we are required to report accurately and fairly and are subject to audit.
- We are simply asking to use these real and accurate numbers in ARC-Co calculations if NASS data is incomplete.
- Members of the committee, I urge you to support this resolution to help ensure future calculations for ARC-Co are done accurately and fairly and do not allow family farms to suffer future undo economic hardship as Logan County farmers, including myself, are now.
- Thank you again for allowing me to testify on HCR 3009.
- I would entertain any questions that you might have.

2014 North Dakota ARC-CO Payments- Corn



Gray = \$0 ARC-CO Payments
 Yellow = ARC-CO Payments < 50% Max
 Blue = ARC-CO Payment > 50% Max
 White = ARC-CO Payment MAX
 Red Outline = Counties with No NASS Data
 * = No ARC-CO Payment Data

Corn - Logan county, North Dakota

*NAU Data
+Rain & Hail Data

		Total								Weighted	
Year	Type	Acres	Yield*	Acres*	%NAU	Acres+	Yield+	%R&H	Yield	Acres %	%
2009	Grain	22,268	85.1	8,701	39.0%	9,090	60	40.8%	72.2	79.8%	
2010	Grain	22,852	85.7	14,639	64.0%	6,604	66	28.9%	79.5	92.9%	
2011	Grain	36,100	87.6	19,353	53.6%	10,770	100	29.8%	92.0	83.4%	
2012	Grain	60,250	92.5	35,091	58.2%	13,075	70	21.7%	86.4	80.0%	
2013	Grain	66,737	92.9	37,783	56.6%	14,031	45	21.0%	79.9	77.6%	

2014	Grain	39,020	89.7	26,141	67.0%	8,500	93	21.7%	90.0	88.7%	

5 year Olympic 82.0 (09'-13')
2014 Actual 90.0 (88.7% acreage data)

Crop Insurance data supports the following in determining ARC-CO payments:

$$82 \times \$5.29 = \$433.78 \times 10\% = \$43.37 \text{ Max payment}$$

$$\$433.78 \times 86\% = \$373.05$$

$$90 \times \$3.70 = \$333.00 \text{ (} 373.05 - 333.00 = \$40.05 \text{ payment)}$$

NASS Calculations:

$$86, 95, 99, 76, 57 = 86 \text{ bu. Benchmark} \times \$5.29 = \$454.94 \text{ or } \$45.49 \text{ Max Payment}$$

NASS	Crop Insurance Actual	NASS Difference
2009 = 86 bu/ac	72.2 bu/ac	+16.1%
2010 = 95	79.5	+16.4%
2011 = 99	92.0	+ 7.1%
2012 = 76	86.4	- 12.1%
2013 = 57	79.9	- 28.7%
2014 = No NASS yield reported	90.0	??



#3
Dan Wogstrand

Your voice for wheat and barley. www.ndgga.com

North Dakota Grain Growers Association
Testimony on HCR 3009
House Agriculture Committee
January 27, 2017

Chairman Johnson, members of the House Agriculture Committee, for the record my name is Dan Wogstrand, Executive Director of the North Dakota Grain Growers Association (NDGGA). Through our contracts with the North Dakota Wheat Commission and the North Dakota Barley Council NDGGA engages in domestic policy issues on behalf of North Dakota wheat and barley farmers on the state and national levels. NDGGA appears before you today in support of HCR 3009.

Chairman Johnson, members of the House Agriculture Committee, all of you are quite aware of the issues surrounding the data requirements involved in the 2014 Farm Bill program dubbed ARC-County. In essence using data from the National Ag Statistics Service (NASS) in calculating ARC-County safety-net payments to North Dakota farmers has proven unreliable and has left farmers unprotected by Title I provisions in the Farm Bill. HCR 3009 sends a strong message to Congress and to USDA to make changes in the 2014 Farm Bill to allow for the use of the more reliable Risk Management Agency data in calculating ARC-County payments. This would provide North Dakota farmers with more appropriate safety-net protection than is available today.

Chairman Johnson, members of the House Agriculture Committee these proposed changes could be made administratively by USDA today but the Agency has steadfastly refused to do so. NDGGA and other farm organizations have gone to Washington D.C. and advocated for changes to the ARC-County calculations; while it is frustrating those discussions have fallen on deaf ears it is a new day in Washington D.C. With that in mind passage of HCR 3009 becomes even more important.

Therefore Chairman Johnson, members of the House Agriculture Committee, NDGGA fully supports HCR 3009 and we would ask for your Do Pass recommendation on the resolution.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

**Testimony supporting House Concurrent Resolution no.
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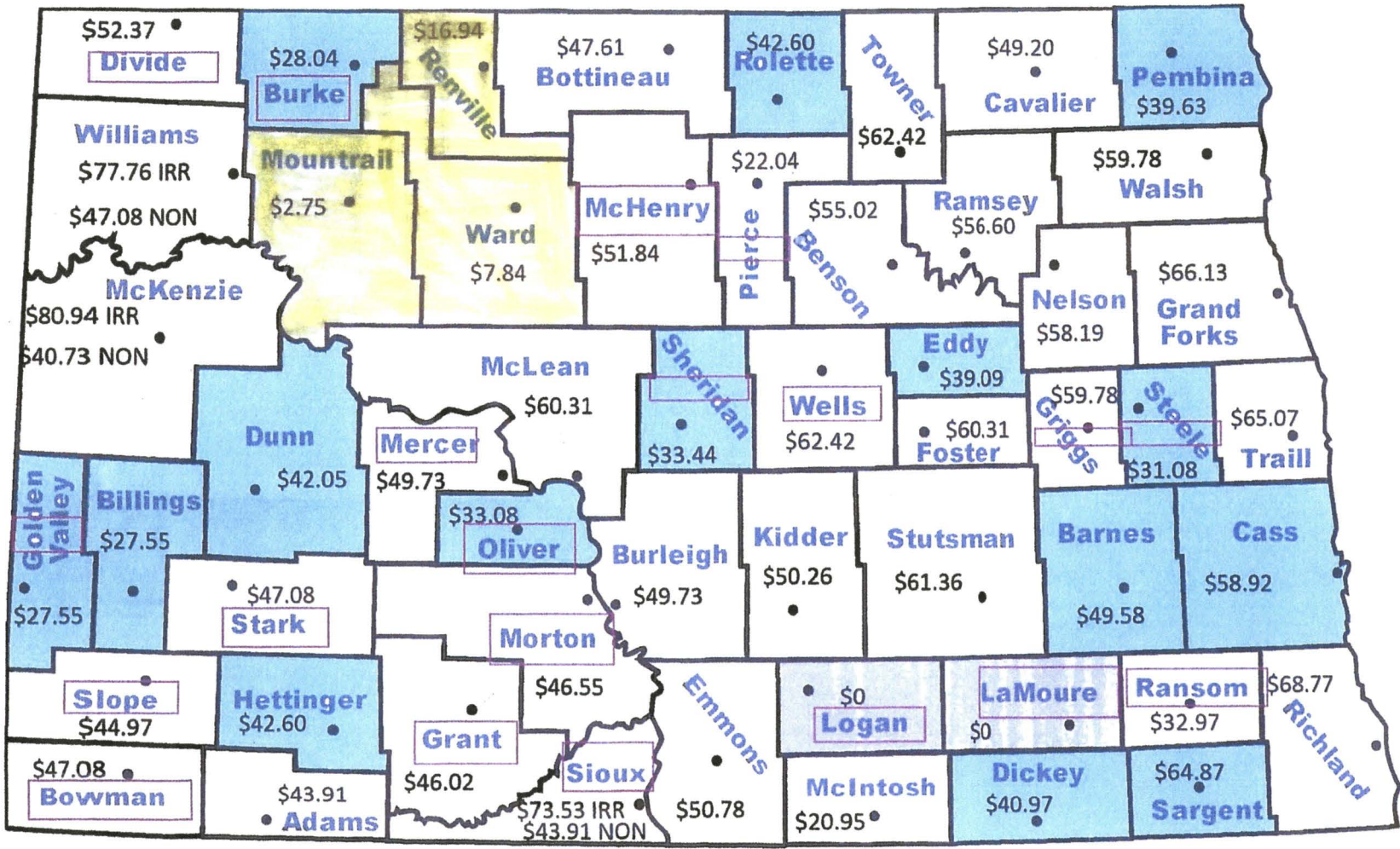
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2014 North Dakota ARC-CO Payments- Corn

HCR 3009 3/17 #1 pg. 4



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 Red Outline = Counties with No NASS Data
 * = No ARC-CO Payment Data

Corn - Logan county, North Dakota

*NAU Data
+Rain & Hail Data

Total		Total					Weighted			
Year	Type	Acres	Yield*	Acres*	%NAU	Acres+	Yield+	%R&H	Yield	Acres %
2009	Grain	22,268	85.1	8,701	39.0%	9,090	60	40.8%	72.2	79.8%
2010	Grain	22,852	85.7	14,639	64.0%	6,604	66	28.9%	79.5	92.9%
2011	Grain	36,100	87.6	19,353	53.6%	10,770	100	29.8%	92.0	83.4%
2012	Grain	60,250	92.5	35,091	58.2%	13,075	70	21.7%	86.4	80.0%
2013	Grain	66,737	92.9	37,783	56.6%	14,031	45	21.0%	79.9	77.6%

2014	Grain	39,020	89.7	26,141	67.0%	8,500	93	21.7%	90.0	88.7%
5 year Olympic		82.0 (09'-13')								
2014 Actual		90.0 (88.7% acreage data)								

Crop Insurance data supports the following in determining ARC-CO payments:

$82 \times \$5.29 = \$433.78 \times 10\% = \$43.37$ Max payment

$\$433.78 \times 86\% = \373.05

$90 \times \$3.70 = \333.00 ($373.05 - 333.00 = \$40.05$ payment)

NASS Calculations:

$86, 95, 99, 76, 57 = 86$ bu. Benchmark $\times \$5.29 = \454.94 or $\$45.49$ Max Payment

NASS	Crop Insurance Actual	NASS Difference
2009 = 86 bu/ac	72.2 bu/ac	+16.1%
2010 = 95	79.5	+16.4%
2011 = 99	92.0	+ 7.1%
2012 = 76	86.4	- 12.1%
2013 = 57	79.9	- 28.7%
2014 = No NASS yield reported	90.0	??