

JAN 3 1 2003  
Agriculture

HOUSE FILE 108  
BY RAYHONS, LUKAN, and DOLECHECK

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act establishing the assessment of fees and the creation of a  
2 fund to support producers of corn and soybeans suffering  
3 losses due to contamination of their crops and appropriating  
4 moneys from the fund.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 108

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 SUBCHAPTER 1

2 DEFINITIONS

3 Section 1. NEW SECTION. 175B.101 DEFINITIONS.

4 As used in this chapter, unless the context otherwise  
5 requires:

6 1. "Commodity organization" means the Iowa soybean  
7 promotion board established pursuant to section 185.3 or the  
8 Iowa corn promotion board created in section 185C.3.

9 2. "Contamination" means the presence of a plant or plant  
10 part that causes a producer a loss as provided in section  
11 175B.403.

12 3. "Corn" means the same as defined in section 185C.1.

13 4. "Department" means the department of agriculture and  
14 land stewardship.

15 5. "Excise tax" means the assessment of an excise tax  
16 imposed on a producer and collected for the benefit of a  
17 commodity organization as provided in section 185.21 or  
18 185C.21.

19 6. "First purchaser" means any of the following:

20 a. A first purchaser as defined in section 185.1 who  
21 purchases soybeans from a producer for the first time in the  
22 same manner as provided in chapter 185.

23 b. A first purchaser as defined in section 185C.1 who  
24 purchases corn from a producer for the first time in the same  
25 manner as provided in chapter 185C.

26 7. "Grain" means corn or soybeans.

27 8. "Grain integrity indemnity board" or "indemnity board"  
28 means the grain integrity indemnity board established pursuant  
29 to section 175B.201.

30 9. "Grain integrity indemnity fund" or "indemnity fund"  
31 means the grain integrity indemnity fund created in section  
32 175B.402.

33 10. "Producer" means any of the following:

34 a. A producer as defined in section 185.1.

35 b. A producer as defined in section 185C.1.

- 1 11. "Record" means the same as defined in section 516E.1.  
2 12. "Soybeans" means the same as defined in section 185.1.

3 SUBCHAPTER 2

4 ADMINISTRATION

5 Sec. 2. NEW SECTION. 175B.201 GRAIN INTEGRITY INDEMNITY  
6 BOARD -- ESTABLISHED; COMPOSITION.

7 The grain integrity indemnity board is established in the  
8 department. The indemnity board is composed of all of the  
9 following members:

- 10 1. The secretary of agriculture or a designee who shall  
11 serve as chairperson.
- 12 2. The commissioner of insurance or a designee.
- 13 3. The treasurer of state or a designee.
- 14 4. Six representatives of the grain industry appointed by  
15 the governor, subject to confirmation by the senate pursuant  
16 to section 2.32. Appointments of members are subject to the  
17 requirements of sections 69.16 and 69.16A. In addition, the  
18 appointments shall be geographically balanced. The appointed  
19 members shall serve three-year terms beginning and ending as  
20 provided in section 69.19. However, the governor shall  
21 appoint some initial members to serve for less than three  
22 years to ensure members serve staggered terms. A member is  
23 eligible for reappointment. A vacancy on the indemnity board  
24 shall be filled for the unexpired portion of the regular term  
25 in the same manner as regular appointments are made. Of the  
26 six members, four shall represent producers and two shall  
27 represent first purchasers.
- 28 a. Of the four members representing producers, two shall  
29 represent corn producers and two shall represent soybean  
30 producers. In order to qualify for appointment, a producer  
31 must have derived a substantial portion of the person's  
32 income, wages, or salary from selling grain on a premium basis  
33 due to intrinsic characteristics of the use of identity  
34 preserved methods or systems. At least one producer shall be  
35 a member of the organic standards board created pursuant to

1 section 190C.2.

2 b. Of the two members representing first purchasers, one  
3 shall represent first purchasers of corn and one shall  
4 represent first purchasers of soybeans. Both members shall be  
5 licensed as grain dealers under section 203.3 and warehouse  
6 operators as provided in section 203C.6. In order to qualify  
7 for appointment, a first purchaser must have experience in  
8 purchasing grain on a premium basis due to its intrinsic  
9 characteristics or the use of identity preserved production  
10 methods or systems, and storing such grain.

11 Sec. 3. NEW SECTION. 175B.202 GRAIN INTEGRITY INDEMNITY  
12 BOARD -- TERMS, PROCEDURE, AND COMPENSATION.

13 1. The indemnity board shall meet on a regular basis and  
14 at the call of the chairperson or upon the written request to  
15 the chairperson of three or more members.

16 2. Appointed members are entitled to receive compensation  
17 or reimbursement of expenses as provided in section 7E.6.

18 3. Five voting members constitute a quorum and the  
19 affirmative vote of a majority of the voting members present  
20 is necessary for any substantive action to be taken by the  
21 indemnity board. The majority shall not include any member  
22 who has a conflict of interest and a statement by a member  
23 that the member has a conflict of interest is conclusive for  
24 this purpose. A vacancy in the membership does not impair the  
25 duties of the indemnity board.

26 Sec. 4. NEW SECTION. 175B.203 GRAIN INTEGRITY INDEMNITY  
27 BOARD -- POWERS AND DUTIES.

28 1. The grain integrity indemnity board, in consultation  
29 with the department, shall administer this chapter. The  
30 indemnity board shall do all of the following:

31 a. Provide for its organization and procedures, including  
32 but not limited to procedures for determining claims as  
33 provided in section 175B.404.

34 b. Establish and adjust the indemnity assessment and its  
35 rate as provided in section 175B.302.

1 c. Provide for the administration of the grain integrity  
2 indemnity fund as provided in subchapter 4, including but not  
3 limited to the payment of claims from the indemnity fund and  
4 the payment of administrative costs from the indemnity fund.

5 2. The indemnity board shall approve rules adopted by the  
6 department as provided in section 175B.204 necessary to  
7 administer its duties under this chapter.

8 Sec. 5. NEW SECTION. 175B.204 DEPARTMENT -- POWERS AND  
9 DUTIES.

10 1. The department shall perform the administrative  
11 functions necessary for the operation of the indemnity board  
12 and the management of the grain integrity indemnity fund as  
13 provided in section 175B.302. The department shall act in a  
14 manner necessary to minimize the risk of loss to the indemnity  
15 fund while protecting interests of depositors and sellers of  
16 grain.

17 2. Administrative costs approved by the indemnity board  
18 shall be paid from the grain integrity indemnity fund. Prior  
19 to July 1, the department shall determine the balance of  
20 moneys available to administer this chapter for the next  
21 fiscal year by calculating the ending balance of the indemnity  
22 fund on June 30, and report the amount to the indemnity board  
23 together with its estimate of the amount required by the  
24 department to administer this chapter. Not more than three  
25 percent of the ending balance of the indemnity fund as of June  
26 30 shall be used to pay for administrative costs of the  
27 department for the fiscal year beginning on the following July  
28 1 and ending on June 30.

29 3. The department, upon approval by the indemnity board,  
30 shall adopt all rules necessary for the administration of this  
31 chapter.

32 Sec. 6. NEW SECTION. 175B.205 COOPERATION BY COMMODITY  
33 ORGANIZATIONS.

34 The indemnity board and existing commodity organizations  
35 and their affiliated associations shall cooperate with the

1 indemnity board and the department in administering this  
2 chapter.

3 SUBCHAPTER 3

4 GRAIN INTEGRITY INDEMNITY ASSESSMENT

5 Sec. 7. NEW SECTION. 175B.301 GRAIN INTEGRITY INDEMNITY  
6 ASSESSMENT -- ESTABLISHMENT.

7 1. A grain integrity indemnity assessment is established  
8 to be imposed and collected as provided in section 175B.302.

9 2. a. Except as provided in paragraph "b", the indemnity  
10 assessment shall be imposed upon producers of the commodities  
11 as provided in this section and collected by the first  
12 purchasers of the commodities in the same manner as excise  
13 taxes, regardless of whether an excise tax is actually being  
14 collected pursuant to a referendum or whether the excise tax  
15 has been suspended pursuant to a federal Act.

16 b. Notwithstanding procedures used for the collection of  
17 excise taxes for the sale of grain to consumers or first  
18 purchasers in other states, as provided in chapters 185 and  
19 185C, the indemnity board may exempt these transactions, or  
20 provide for other collection procedures including but not  
21 limited to requiring payment directly by the producer or  
22 executing agreements with first purchasers from outside this  
23 state for the payment of the indemnity assessment.

24 c. An indemnity assessment shall not be imposed upon grain  
25 that is produced outside this state.

26 Sec. 8. NEW SECTION. 175B.302 GRAIN INDEMNITY ASSESSMENT  
27 -- RATES.

28 1. The grain integrity indemnity assessment shall be  
29 assessed as follows:

30 a. For soybeans that are subject to an excise tax levied  
31 on producers and collected by first purchasers, as provided in  
32 chapter 185, the indemnity assessment shall be collected by  
33 the first purchasers at a rate of not more than one-quarter of  
34 one percent of the net market price of the soybeans marketed  
35 in this state and sold to a first purchaser, in the same

1 manner as provided in section 185.21.

2 b. For corn that is subject to an excise tax levied on  
3 producers and collected by first purchasers, as provided in  
4 chapter 185C, the indemnity assessment shall be collected by  
5 the first purchasers at a rate of not more than one-quarter of  
6 one cent per bushel upon corn marketed in this state and sold  
7 to a first purchaser, in the same manner as provided in  
8 section 185C.21.

9 2. An indemnity assessment is not refundable.

10 3. The indemnity board shall review annually the debits of  
11 and credits to the indemnity fund and shall make any  
12 adjustments in the rates of the indemnity assessment that are  
13 necessary to maintain the indemnity fund within the limits  
14 established under this section. Not later than the first day  
15 of May of each year, the indemnity board shall determine the  
16 proposed rate of the indemnity assessment based on the  
17 expected volume of grain on which the indemnity assessment is  
18 to be collected. The rates for the indemnity assessment shall  
19 be established and adjusted by rule adopted by the department  
20 that shall be effective on July 1 of each year. The rates  
21 shall expire on the following June 30. Notwithstanding  
22 section 17A.5, a rule adopted under this section to establish  
23 rates for the indemnity assessment or increase the rates shall  
24 not be effective immediately upon filing and shall not be made  
25 retroactively applicable.

26 4. The indemnity board may charge interest on any amount  
27 of an indemnity assessment that is delinquent. The rate of  
28 interest shall not be more than the current rate published in  
29 the Iowa administrative bulletin by the department of revenue  
30 and finance pursuant to section 421.7. The interest amount  
31 shall be computed from the date the indemnity assessment is  
32 delinquent, unless the department designates a later date.  
33 The interest amount shall accrue for each month in which there  
34 is delinquency calculated as provided in section 421.7, and  
35 counting each fraction of a month as an entire month. The

1 interest amount due shall become a part of the amount of the  
2 indemnity assessment due.

3 5. The amount of an indemnity assessment, including any  
4 delinquency penalty, shall constitute a debt due the state and  
5 become the basis of a judgment against the first purchaser in  
6 arrears.

7 Sec. 9. NEW SECTION. 175B.303 GRAIN INTEGRITY INDEMNITY  
8 ASSESSMENT -- SUSPENSION.

9 If, at the end of any three-month period, the assets of the  
10 indemnity fund exceed twenty-five million dollars, less any  
11 unencumbered balances or pending or unsettled claims, the  
12 indemnity board shall suspend the grain integrity indemnity  
13 assessment. The indemnity assessment shall not be due or  
14 owing during the period of the suspension. The indemnity  
15 board shall reinstate the indemnity assessment if the assets  
16 of the indemnity fund, less any unencumbered balances or  
17 pending or unsettled claims, are fifteen million dollars or  
18 less.

19 Sec. 10. NEW SECTION. 175B.304 RECORDS.

20 1. A first purchaser shall provide records as required by  
21 the indemnity board in order to notify producers of the grain  
22 integrity indemnity assessment and account for revenues from  
23 the indemnity assessment remitted to the treasurer of state  
24 pursuant to section 175B.401.

25 2. The records shall include all of the following:

26 a. A receipt returned to the producer that includes the  
27 rate for the indemnity assessment imposed and the total amount  
28 of the indemnity assessment.

29 b. An invoice which shall be delivered to the indemnity  
30 board within a period established by rules adopted by the  
31 indemnity board in order to audit the amount of the indemnity  
32 assessments owed, due, and collected. The invoice shall at  
33 least include all of the following:

34 (1) The name and address of the producer.

35 (2) The name and address of the first purchaser.



1 (3) The type of grain subject to the indemnity assessment.

2 (4) The number of bushels of the grain purchased as  
3 required in order to calculate the amount collected from the  
4 indemnity assessment.

5 c. The date of the grain's delivery or purchase.

6 3. The first purchaser shall authenticate the invoice as  
7 required by the indemnity board. The department may require  
8 that the first purchaser submit a separate invoice for each  
9 purchase.

10 4. The department may provide for different forms of  
11 records based on the grain purchased or may use joint records,  
12 including but not limited to invoices, for use by commodity  
13 organizations and the department on single forms.

14 5. A first purchaser shall provide the indemnity board  
15 with any information required by the indemnity board to  
16 administer the provisions of this subchapter. For the purpose  
17 of ascertaining the correctness of any information provided to  
18 the indemnity board, the indemnity board may examine the first  
19 purchaser's records.

20

#### SUBCHAPTER 4

21

#### GRAIN INTEGRITY INDEMNITY FUND -- INDEMNIFICATION

22

Sec. 11. NEW SECTION. 175B.401 GRAIN INTEGRITY INDEMNITY

23

ASSESSMENTS -- DEPOSIT IN THE GRAIN INTEGRITY INDEMNITY FUND.

24

1. A first purchaser shall remit amounts collected from  
25 the grain integrity indemnity assessments to the treasurer of  
26 state as required by the treasurer of state for deposit in the  
27 indemnity fund.

28

2. The treasurer of state may require that indemnity  
29 assessments be remitted in the same manner, at the same time,  
30 and according to the same procedures as the excise taxes.

31

However, the indemnity assessments shall not be commingled

32

with any other moneys, including excise taxes.

33

Sec. 12. NEW SECTION. 175B.402 GRAIN INTEGRITY INDEMNITY

34

FUND.

35

1. A grain integrity indemnity fund is created in the

1 state treasury under the control of the indemnity board. The  
2 indemnity fund is separate from the general fund of the state.

3 2. The fiscal year of the indemnity fund begins July 1.  
4 The finances of the indemnity fund shall be calculated on an  
5 accrual basis in accordance with generally accepted accounting  
6 principles.

7 3. The indemnity fund is composed of moneys deposited into  
8 the fund from moneys collected by the imposition of the grain  
9 integrity indemnity assessment.

10 4. The moneys deposited in the indemnity fund are  
11 appropriated to the indemnity board for the exclusive purpose  
12 of satisfying claims as provided in this subchapter and  
13 providing moneys for paying the department for costs related  
14 to administering the provisions of this chapter. Moneys in  
15 the indemnity fund shall not be subject to appropriation or  
16 expenditure for any other purpose than provided in this  
17 section.

18 5. The treasurer of state shall act as custodian of the  
19 indemnity fund and disburse amounts contained in the indemnity  
20 fund as directed by the indemnity board. The treasurer of  
21 state may invest the moneys deposited in the indemnity fund.  
22 Notwithstanding section 8.33, any unexpended balance in the  
23 indemnity fund at the end of the fiscal year shall be retained  
24 in the fund. Notwithstanding section 12C.7, subsection 2,  
25 interest, earnings on investments, or time deposits of the  
26 moneys in the indemnity fund shall be credited to the fund.

27 Sec. 13. NEW SECTION. 175B.403 CLAIMS AGAINST FUND --  
28 CONTAMINATION.

29 A producer may file a claim with the indemnity board for a  
30 loss based on the diminution of value of the producer's grain  
31 due to contamination. Contamination occurs when there is a  
32 presence of a plant or plant part, including but not limited  
33 to a crop's seed, on property in which the producer holds a  
34 legal or equitable interest, if the plant or plant part was  
35 intentionally or unintentionally transferred from a location

1 other than property in which the producer holds a legal or  
2 equitable interest, and its presence alters the genetic  
3 characteristics of a plant growing on the producer's property  
4 or is commingled with grain stored on the producer's property.  
5 Contamination includes but is not limited to the transfer of  
6 seeds or the pollination of crops or other plants inhabiting  
7 the producer's property.

8 Sec. 14. NEW SECTION. 175B.404 PROCEDURE FOR FILING AND  
9 DETERMINATION OF CLAIMS.

10 1. A claim by a producer shall be filed in the manner  
11 prescribed by the indemnity board.

12 2. The indemnity board shall determine a claim to be  
13 eligible for payment from the indemnity fund if the board  
14 finds all of the following:

15 a. The claim was timely filed according to procedures  
16 required by the indemnity board. However, a claim shall not  
17 be timely filed if the claim is filed later than twelve months  
18 after a crop subject to the claim has been harvested.

19 b. The claimant qualifies as a producer.

20 c. The claim derives from a loss due to contamination of  
21 the producer's grain.

22 d. The producer's loss was not due to the reckless  
23 disregard of sound management practices required to prevent  
24 contamination of the producer's crop or grain.

25 e. There is adequate documentation to establish the  
26 existence of a claim and to determine the amount of the loss.  
27 The indemnity board may require that the producer provide  
28 invoices provided for the first purchaser.

29 3. The indemnity board shall determine the dollar value of  
30 a claim incurred by a producer eligible to file a claim under  
31 this section based on the producer's loss.

32 a. The value of the claim shall be the difference between  
33 the grain's fair market price as if the contamination had not  
34 occurred and the fair market price of the contaminated grain.

35 (1) The indemnity board shall determine the fair market

1 value for the grain as if the contamination had not occurred  
2 based on the market price that grain of a similar type and  
3 condition, and with the same intrinsic characteristics  
4 received by sellers on the date that the producer sold the  
5 grain to the first purchaser. However, if the producer  
6 executed a contract for the sale of the grain prior to the  
7 contamination, the indemnity board shall determine the fair  
8 market value for the grain as if the contamination had not  
9 occurred based on the contract price.

10 (2) The indemnity board shall presume that the fair market  
11 price for the contaminated grain is the same price accepted by  
12 the producer of the grain from the first purchaser who  
13 purchased the grain with knowledge of the contamination.

14 b. A producer filing claims under this section shall be  
15 bound by the value determined by the indemnity board. The  
16 value of the loss is the outstanding balance on the validated  
17 claim at the time of payment from the indemnity fund.

18 4. Upon a determination that a claim is eligible for  
19 payment, the indemnity board shall provide for payment of  
20 ninety percent of the loss, but not more than one hundred  
21 fifty thousand dollars per claimant.

22 5. The indemnity board shall provide for notice to a  
23 claimant of the indemnity board's determination of eligibility  
24 and value of the producer's loss. The notice shall be  
25 delivered by restricted certified mail. Within twenty days of  
26 the delivery of the notice, the producer may request a hearing  
27 for the review of either determination. The request shall be  
28 made in the manner provided by the indemnity board. The  
29 hearing and any further appeal shall be conducted as a  
30 contested case subject to chapter 17A. A producer whose claim  
31 has been refused by the indemnity board may appeal the refusal  
32 to either the district court of Polk county or the district  
33 court of the county in which the producer resides.

34 6. If at any time the indemnity board determines that  
35 insufficient moneys are contained in the indemnity fund to

1 make payment of all claims, the indemnity board may order that  
2 payment be deferred on specified claims. The indemnity board  
3 shall hold those claims for payment until the indemnity board  
4 determines that the indemnity fund again contains sufficient  
5 moneys.

6 Sec. 15. NEW SECTION. 175B.405 SUBROGATION.

7 In the event of payment of a loss under section 175B.404,  
8 the indemnity fund is subrogated to the extent of the amount  
9 of any payments to all rights, powers, privileges, and  
10 remedies of the producer against any person regarding the  
11 loss. The producer shall render all necessary assistance to  
12 aid the indemnity board in securing the rights granted in this  
13 section. An action or claim initiated by a producer and  
14 pending at the time of payment from the indemnity fund shall  
15 not be compromised or settled without the consent of the  
16 indemnity board.

17 Sec. 16. NEW SECTION. 175B.406 NO OBLIGATION OF STATE.

18 This chapter does not imply any guarantee or obligation on  
19 the part of the state of Iowa, or any of its agencies,  
20 employees, or officials, either elective or appointive, in  
21 respect of any agreement or undertaking to which this chapter  
22 relates.

23 Sec. 17. NEW SECTION. 185.22A COOPERATION WITH THE GRAIN  
24 INTEGRITY INDEMNITY BOARD.

25 The board shall cooperate with the grain integrity  
26 indemnity board as created in section 175B.201. The grain  
27 integrity indemnity board in cooperation with the board may  
28 require the use of joint records, including but not limited to  
29 invoices as provided in sections 175B.304 and 185.22, on  
30 single forms.

31 Sec. 18. NEW SECTION. 185C.22A COOPERATION WITH THE  
32 GRAIN INTEGRITY INDEMNITY FUND BOARD.

33 The council shall cooperate with the grain integrity  
34 indemnity board as created in section 175B.201. The grain  
35 integrity indemnity board in cooperation with the council may

1 require the use of joint records, including but not limited to  
2 invoices as provided in sections 175B.304 and 185C.22, on  
3 single forms.

4

EXPLANATION

5 This bill provides for the indemnification of producers of  
6 corn and soybeans from an indemnity fund supported from moneys  
7 collected from assessments on the producers in the same manner  
8 as excise taxes are assessed against producers for the benefit  
9 of promotional activities by the Iowa soybean promotion board  
10 and the Iowa corn promotion board. The fund is managed by a  
11 grain integrity indemnity board created under the bill.

12 The bill establishes a grain integrity indemnity fund  
13 composed of moneys from the indemnity assessments. The moneys  
14 deposited in the indemnity fund are appropriated to the  
15 indemnity board for the exclusive purpose of satisfying claims  
16 by producers whose crops have been contaminated. A producer  
17 may file a claim with the indemnity board for a loss based on  
18 the diminution of value of the producer's corn or soybeans due  
19 to contamination. Contamination occurs when there is a  
20 presence of a plant or plant part, including but limited to a  
21 crop's seed, on property in which the producer holds a legal  
22 or equitable interest. The plant or plant part must have been  
23 transferred from a location other than property in which the  
24 producer holds a legal or equitable interest, and its presence  
25 must alter the genetic characteristics of a plant growing on  
26 the producer's property or is commingled with crops or grain  
27 stored on the producer's property.

28 The indemnity board must make a determination of the  
29 producer's loss based on criteria established in the bill.  
30 Upon a determination that a claim is eligible for payment, the  
31 indemnity board must provide for payment of 90 percent of the  
32 loss, but not more than \$150,000 per claimant.

33

34

35